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Ms A O'Kane  
East Ayrshire Council  
Sent By E-mail

Our ref: LDP-190-4

20 December 2023

Dear Ms Alison O'Kane

**EAST AYRSHIRE LOCAL DEVELOPMENT PLAN 2  
THE TOWN AND COUNTRY PLANNING (DEVELOPMENT PLANNING) (SCOTLAND)  
REGULATIONS 2008**

**SUBMISSION OF THE REPORT OF THE EXAMINATION**

We refer to our appointment by the Scottish Ministers to conduct the examination of the above proposed plan. Having satisfied ourselves that the planning authority's consultation and engagement exercises conformed with their participation statement our examination of the proposed plan commenced on 11 May 2023. We have completed the examination and now submit our report.

In our examination we considered all 45 issues arising from unresolved representations identified by yourselves to the Proposed Local Development Plan. In each case we have taken account of the original representations, as well as your summaries of the representations and your responses to these, and we have set out our conclusions and recommendations in relation to each issue in our report.

The examination process included site inspections and 13 requests for additional information from the yourselves and other parties. We did not require to hold any hearing or inquiry sessions.

We note that the proposed plan was prepared, and representations on it were submitted, after the publication of the draft NPF4 in November 2021, but prior to the publication of the final version in February 2023. The Chief Planner's letter dated 8 February 2023 states that "it may be that there are opportunities to reconcile identified inconsistencies with NPF4 through the examination process. However there are clear limitations to this. The scope of an examination is limited to issues raised in representations and the process must remain proportionate and fair".

In that context we reviewed the issues and representations to identify areas where there were significant disparities between the draft and finalised versions of NPF4 and where these had an obvious bearing on the matters covered by representations. This process resulted in the issue of a number of further information requests inviting parties who had submitted representations to make any further comments on the issues they had raised now they were aware of the final form of national policy. This put those parties on the same

footing as the council which had been able to draft its responses in light of the approved version of NPF4.

We accept that the proposed plan has been produced under transitional arrangements and recognise that a final dovetailing of policies between the two tiers of the development plan will not take place until the council carries out the next review of the plan.

Whilst we consider that an ideal position would be removal of duplication between the two parts of the development plan, the role of this examination was limited to presenting conclusions and recommendations on issues raised in representations. Our focus has therefore been to ensure consistency with NPF4 even when this involves some duplication. The reporters hope that, by taking this approach, where appropriate, they have been able to recommend modifications to the plan which provide the best alignment possible at this time. This is also intended to be consistent with the council's approach of seeking to incorporate policies on the range of topics covered by NPF4 into the proposed plan.

We consider there would be benefits in the council carrying out an early review of the plan in order to fully resolve the relationship with NPF4.

Subject to the limited exceptions as set out in Section 19 of the Town and Country Planning (Scotland) Act 1997 (as amended) and in the Town and Country Planning (Grounds for Declining to Follow Recommendations) (Scotland) Regulations 2009, you are now required to make the modifications to the plan as set out in our recommendations.

You should also make any consequential modifications to the text or maps which arise from these modifications. Separately, you will require to make any necessary adjustments to the final environmental report and to the report on the appropriate assessment of the plan.

All those who submitted representations will be informed that the examination has been completed and that the report has been submitted to yourselves. We will advise them that the report is now available to view at the DPEA website at:

<https://www.dpea.scotland.gov.uk/CaseDetails.aspx?id=123129>

and that it will also be posted on your website at:

<https://www.east-ayrshire.gov.uk/PlanningAndTheEnvironment/development-plans-and-policies/ldp2/ldp2-information.aspx>

The documents relating to the examination should be retained on your website for a period of six weeks following the adoption of the plan by yourselves.

**It would also be helpful to know when the plan has been adopted and we would appreciate being sent confirmation of this in due course.**

*Stephen Hall*  
Reporter

*Steve Field*  
Reporter

*Andrew Fleming*  
Reporter

**REPORT TO EAST AYRSHIRE COUNCIL ON THE  
PROPOSED EAST AYRSHIRE  
LOCAL DEVELOPMENT PLAN 2 EXAMINATION**

Reporters: Mr Stephen Hall BA(Hons) BPI MRTPI  
Mr Steve Field BA(Hons) MRTPI  
Mr Andrew Fleming BA(Hons) BTP MRTPI

Date of Report: 20 December 2023

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## Proposed East Ayrshire Local Development Plan 2 2022

### Examination of Conformity with the Participation Statement

1. Section 19(4) of the Town and Country Planning (Scotland) Act 1997 (as amended) states that a person appointed to examine a proposed local development plan “is firstly to examine ... the extent to which the planning authority’s actions with regard to consultation and the involvement with the public at large as respects the proposed plan have conformed with (or have been beyond the requirements of) the participation statement of the authority which was current when the proposed plan was published under section 18(1)(a).” Paragraph 243 of the Scottish Government’s Local Development Planning Guidance indicates that in this assessment the appointed person is only expected to refer to existing published documents such as the participation statement, the authority’s statement of conformity with this and any representations relating to the authority’s consultation and public involvement activities.

2. The proposed East Ayrshire Local Development Plan 2 was published in May 2022. The development plan scheme current at that time was published in March 2022, and has been sent to us by the planning authority. It includes, at paragraphs 5.12 to 5.28, the authority’s participation statement.

3. The participation statement includes the various measures the authority proposed to take to involve stakeholders in the development plan process. These include actions relating to:

- The publication of the plan;
- Press releases;
- Social media engagement;
- Contacting Council Depute Chief Executives and Heads of Service, the Health and Social Care Partnership and Locality Planning Groups together with all community councils, and attending meetings with individual community councils if requested;
- Consulting key agencies and other interested organisations and stakeholders;
- Contacting all persons/ bodies/ organisations that made representation on or lodged objections to earlier LDPs;
- Holding and advertising workshop sessions;
- Making copies of the documentation available; and
- Notifying neighbours of specific proposal sites.

4. A statement of conformity with the participation statement was submitted to Ministers along with the proposed plan. It sets out the manner in which the council considers its actions in regard to the participation conformed with, or went beyond the requirements of, the proposals (listed above) contained in the participation statement. It also mentions the use of leaflets and posters as an additional consultation and publicity activity the council carried out beyond those listed in the participation statement.

5. The statement of conformity also mentions a number of representations that criticise the council’s approach to consultation. Among these criticisms were:

- Lack of formal public meetings. Particular concern over lack of a public meeting in Mauchline. Short notice given for meetings.
- Limitations of 15 minute meeting slot system used in Stewarton
- Only those residents directly adjoining proposed sites were consulted by letter. Limitations of the neighbour notification process means the community at large have not been informed.
- An authority-wide campaign is needed for ideas on how to develop within East Ayrshire.
- Difficulty in accessing documents on the Council website, and lack of knowledge of consultation among villagers.

6. Without commenting on the extent to which some of these criticisms may be warranted, my role in this context is limited to assessing whether the council has carried out the commitments it set out in its participation statement. Having considered the report on conformity, I found that the authority did consult on the plan and involve the public in the way it said it would in its participation statement, in accordance with section 19(4) of the Act. Being satisfied, I, together with colleagues, therefore proceeded to examine the issues raised in representations on the proposed local development plan. This is not to say that it might not have been possible for the council to carry out some of its consultation activities in a better or more comprehensive way.

Stephen Hall  
11 May 2023

Issue 1	Vision and aims of the Plan	
Development Plan reference:	Volume 1, Paragraphs 19 - 21	Reporter: Stephen Hall
Body or person(s) submitting a representation raising the issue (including reference number):		
EPC-UK (101) Scottish Wildlife Trust (110) Hugh McKee (115) Homes for Scotland (128) Persimmon Homes (141)	Michael Evans (143) Gladman Developments (146) SSE Renewables (153) Barratt Homes (195) NHS Ayrshire and Arran (270)	
Provision of the development plan to which the issue relates:	The content and wording of the LDP vision and aims	
Planning authority's summary of the representation(s):		
<p><b>Vision of the Plan</b></p> <p><u>EPC-UK (101)</u></p> <p>There should be additional clarity within the plan relating to protecting communities and managing development around hazard sites. In that regard reference to matters such as community safety would be recommended, alongside additions within the aims on driving the economy in relation to supporting and protecting existing enterprises within and adjacent to East Ayrshire.</p> <p><u>Scottish Wildlife Trust (110)</u></p> <p>Add wording to paragraph 20 of PLDP2 Volume 1 relating to biodiversity.</p> <p><u>Homes for Scotland (128), Persimmon Homes (141) and Barratt Homes (195)</u></p> <p>The proposed Vision states that there should be access to high quality services but does not make any specific reference to housing. To promote East Ayrshire as a place to live, whilst addressing the population decline, the Vision should seek to provide access to high quality housing as well as services.</p> <p><u>SSE Renewables (153)</u></p> <p>The reference to the Climate Emergency and the inclusion of reference to the Scottish Government's emissions reductions targets in Paragraph 6 are welcomed. These are significant and legally binding commitments, which must be central to planning policy.</p> <p>This should be strengthened by the inclusion of a statement, which specifically</p>		



acknowledges how EAC will contribute to achieving these ambitious and challenging targets through LDP 2.

Whilst it is acknowledged that the Vision reflects the language of SPP and NPF3, it is considered that the LDP Vision should be strengthened in recognition of the vital role the planning system must play in tackling climate change and achieving net-zero by 2045. This is acknowledged at Paragraph 23, but should be elevated so as to be central to the vision and aims of the plan.

The commitment to achieving net zero at paragraph 23 of the Plan is welcomed. This commitment should be central to the vision and aims of the Plan and be reflected in relevant policies

### **Aims of the Plan**

#### Hugh McKee (115)

The aims are great and aspirational, but should also include good housekeeping / repair and maintenance of what we have. For example; (i) there is an invasive spread of Mare's Tail/Horsetail in North Kilmarnock, which fosters an appearance of neglect; (ii) slab paving around Onthank/Knockinlaw (north Kilmarnock) is in a poor state or repair; and (iii) St John's church looks to be dilapidated and needs an intervention rather than waiting until later to fix.

#### Homes for Scotland (128) and Gladman Developments (146)

Aim 3 and 4 are supported. It is vital that the Proposed plan is suitably ambitious and plans for growth across the Plan period. To combat a potential population decline, enough homes require to be delivered to support the wider aims of the Plan, but also to enable the significant social and economic benefits of home building to be felt across East Ayrshire. It is positive that the provision of good quality housing is a fundamental aim of this Plan. It is vital the accompanying policies best seek to deliver this. An overarching issue with this Proposed Plan is the frequency with which the draft NPF4 is referred to, and, often, text is lifted from the draft Framework verbatim. NPF4 is in draft form and a final draft has not yet been laid before Parliament. As announced recently, the date for laying a revised draft before Parliament has been delayed. NPF4 currently has no weight, is likely to change (perhaps significantly) and should not be used as the foundation of the Plan, and many of its Policies, in such a rigid manner.

#### Michael Evans (143)

The Proposed LDP2 contains no specific aim for countryside areas as a whole, which would confirm the Council's intention to, at least stabilise population levels.

#### NHS Ayrshire and Arran (270)

The emphasis on tackling the climate and nature emergencies is welcomed. However, to avoid unintended consequences, it will be important to ensure that this work also takes into account health, wellbeing, and inequalities.

Much will depend on how the aims are realised, and in particular, how they are co-ordinated. It is recommended that greater consistency and co-ordination across the Plan is needed to ensure that all the aims are achieved and to avoid unintended consequences. For instance, proposals to increase tourism opportunities must be coordinated with efforts to ensure sufficient provision of good quality housing and sustainable transport infrastructure; and efforts to support population stabilisation and growth must be accompanied by sufficient provision of active & sustainable travel infrastructure; facilities for education, recreation, and community gathering; and services for health care and social care. Similarly, proposals to support economic recovery must not conflict with efforts to address climate change. In particular, there is concern that proposals to expand the road network at specific sites contradict the overall aspirations of LDP2 and compromise efforts to address the negative health and wellbeing impacts of private car usage.

(270) has submitted Appendices as supporting documents (RD112 and 113).

### **Modifications sought by those submitting representations:**

#### **Vision of the Plan**

EPC-UK (101) do not explicitly suggest specific modifications to the Vision and Aims, however it is assumed that it is suggested that a reference to community safety is added to the Vision and a reference regarding driving the economy in relation to supporting and protecting existing enterprises within and adjacent to East Ayrshire should be added to the Aims.

Scottish Wildlife Trust (110) request that the following wording "...and recovering biodiversity" is added to the end of the first sentence of paragraph 20 on page 17 of PLDP2 Volume 1.

Homes for Scotland (128) and Barratt Homes (195) suggest that the Vision is amended to read as follows:

"East Ayrshire will be a low carbon place with a thriving and diverse environment. We will have strong, healthy and resilient communities that benefit from high quality places, multi-functional green spaces and access to high quality services *and homes* that are well located to maximise sustainable travel choices. Our economy will have recovered and be fairer, greener and more inclusive, with all East Ayrshire citizens able to benefit from greater economic opportunities."

Persimmon Homes (141) does not explicitly suggest any modifications concerning the Vision.

SSE Renewables (153) suggests amending the Vision to read as follows:

"East Ayrshire will be a net zero, nature-positive place, with climate change and nature recovery as the primary guiding principles for our local development plan and all our planning decision-making".

Suggest that the commitment to net zero should be central to the vision and aims of the

Plan and reflected in relevant policies.

### **Aims of the Plan**

Hugh McKee (115) suggests the aims should be amended to include reference to the repair and maintenance.

Homes for Scotland (128) and Gladman Developments (146) do not explicitly suggest any modifications to Aims 3 and 4.

Michael Evans (143) recommends that the Plan include a specific 'aim' in the Plan that encourages the revival of countryside areas.

NHS Ayrshire and Arran (270) recommends that two additional guiding principles are added to the LDP and all planning decision-making alongside climate change and nature recovery as follows:

1. Tackling inequalities, and
2. Improving health and wellbeing

This will ensure that efforts to tackle these environmental crises are aligned with local and national commitments to a just and healthy transition, and to avoid unintended consequences.

### **Summary of responses (including reasons) by planning authority:**

#### **Vision of the Plan**

##### Inclusion of community safety (101)

The Council does not agree that there is any need to modify the Vision and aims to include a reference to community safety and to supporting and protecting existing enterprises within and adjacent to East Ayrshire. This is sufficiently addressed by PLDP2 policies, including SS2, SS4, IND1 and IND2. All development proposals will be required to be assessed against Overarching Policy SS2, which states that development should '(ii) Be **fully compatible with surrounding established uses** and have no unacceptable impacts on the environmental quality of the area.' Should an occasion arise that a development is proposed in close proximity to an operational site with hazardous processes or materials, this policy would safeguard against any new development that may result in a conflict.

##### Inclusion of recovering biodiversity (110)

(110) request that wording should be added to the end of the first sentence of paragraph 20 of PLDP2 Volume 1. The Council does not agree that there is any need to modify the Vision to include a reference to recovering biodiversity. Reference is made to a 'thriving and diverse environment' in the first sentence of paragraph 20 and this encompasses all aspects of the natural and built environment. The recovery of biodiversity is sufficiently addressed by the PLDP2 Spatial Strategy, specifically in relation to sustainability and green recovery and by policies, including SS2, OS1, NE4, NE5 and NE6.

Inclusion of reference to homes within the vision (128), (141), (195)

The Council amended the Vision of the Plan in light of comments received to the MIR (CD1). It is therefore of the view that the Vision as currently worded is appropriate.

As per the Development Planning Circular (6/2013) (CD2), a vision statement “is a broad statement of how the development of the area could and should occur and the matters that might be expected to affect the development”. All matters that the Plan addresses cannot be contained within the vision.

It is of the opinion of the Council, that the Vision as contained in the Proposed Plan implicitly refers to housing by explicitly highlighting that East Ayrshire will be a low carbon place and that communities will benefit from well-located high quality places. Housing is very much at the core of this vision. In addition, Aim 4 specifically relates to securing the provision of good quality housing. The aims of the Plan underpin and relate directly to the Vision of the Plan.

Commitment to net-zero (153)

Chapters 2 and 3 of the Proposed Plan contain sufficient information as to how the Council will contribute to achieving the Scottish Government’s emission reduction targets and in tackling climate change and achieving net-zero by 2045. The vision sets the aspiration that East Ayrshire will become a low carbon place, whilst the first aim of the Plan is to contribute to net zero. In addition, how the Council will contribute to achieving the targets and tackling climate change is embedded throughout the Plan through, for example, the Spatial Strategy, Policies including SS1, SS2, NE4, T1, RE1 and RE2 as well as Proposals including PROP5 and PROP6.

**Aims of the Plan**

Reference to repair and maintenance (115)

The Council recognises the importance of maintenance in terms of the natural and built environment, but is of the view that it would not be appropriate for the aims to include such a reference. The aims of the Plan are intended to be high level and relate to the vision statement, which is a statutory requirement of the Plan. The role of the proposed plan, to which the aims have been written to underpin, is described in paragraph 78 of Planning Circular 6/2013 Development Planning (CD2) as to ‘*address the spatial implications of economic, social and environmental change, be clear about the scale of that anticipated change and in particular identify opportunities for development and set out the authority’s policies for the development and use of land.*’ It is not considered that repair and maintenance issues, as suggested by 115, fall within the overall scope of the Proposed Plan.

Ability of the plan to deliver on the aim of providing good quality housing (128), (146)

In response to the request that the accompanying policies of the Plan deliver on the aim of providing good quality housing, the Council is of the view that the Proposed Plan does this, primarily through allocating a generous supply of housing sites, sitting

alongside supportive and robust residential policies (RES1 – RES7 and RH1 – RH5).  
Relationship between LDP2 and NPF4 (128), (146)

The Scottish Government published the draft NPF4 (CD3) in November 2021. The NPF4, when finalised, will sit alongside the Local Development Plan as part of the statutory development plan. Therefore, further work was undertaken and amendments made to the Proposed Plan to ensure that it was broadly in accord with the draft NPF4. Draft NPF4 also directed much of the policy direction in the Plan, and the site selection, due to its eventual status in planning decision-making. In November 2022, the revised draft NPF4 was published. The vision and aims align with the recently published revised draft NPF4.

The East Ayrshire LDP2 is being prepared in line with the Town and Country Planning (Scotland) Act 1997 and Planning etc. (Scotland) Act 2006 within the requirements of the Transitional Arrangements set out by the Scottish Government. However, at the same time it needs to take into account the emerging planning system reform and the new Planning (Scotland) Act 2019 where appropriate. The Council is therefore of the view that it was correct to prepare the Proposed Plan to accord with the draft NPF4. This matter is addressed in more detail in issue 45.

Revival of the countryside (143)

The Proposed Plan's vision and aims apply to the whole of East Ayrshire including rural as well as its urban areas. Specific reference is made to rural areas throughout the Spatial Strategy ranging from supporting rural placemaking with a particular emphasis on southern parts of East Ayrshire to supporting housing development in the rural area that is sensitive to rural character and the surrounding landscape. The LDP2 policy framework seeks to support new development in the rural area where appropriate and protect its natural environment and assets. LDP2 supports the key principles of draft NPF4 (CD3) and the adopted NPF4 (CD4), in terms of supporting East Ayrshire's rural areas. For these reasons, the Council is of the opinion that there is no need to add a new aim to the Plan, which specifically encourages the revival of countryside areas.

Inclusion of health and wellbeing matters within the Plan (270)

The Plan's Aim 2 specifically relates to the creation of good quality and accessible places, which support health and wellbeing of all of East Ayrshire's citizens. In addition, the majority of the aims implicitly seek to tackle inequalities and improve health and wellbeing, for example securing the provision of good quality housing, delivering new and improved infrastructure, including green infrastructure and driving economic recovery and growth. These aims are embedded throughout the rest of the Plan, in terms of its policies and proposals, for example Policy DES1 of the Proposed Plan seeks to: promote active, healthy and inclusive lifestyles and choices and ensure development is designed to be inclusive and adaptable, maximising accessibility regardless of age and/or ability (See also issue 8). The Council is of the opinion that the aims adequately address health and inequalities.

In terms of ensuring that all aims of the Plan are achieved and unintended consequences are avoided, the Plan's suite of policies sufficiently address all of the Aims ensuring that these are realised. Policies SS1 and SS2 will apply to all new

development proposals and the policies are written in such a way as to complement each other and not cause conflict. For example, policy TOUR1 states that the Council will support appropriate tourism development proposals that are compatible with surrounding uses and do not adversely impact on communities. Policy RES1 supports the development for new housing on housing opportunity sites, which have been identified as a result of a robust site assessment process and which support the Plan's Vision, Aims and Spatial Strategy. In addition, policy DES1 seeks to ensure that all new development is of the highest design quality and policy T1 applies the sustainable travel hierarchy to all new development and requires developers to adhere to strict criteria to ensure this hierarchy is integral to new development. However, it is not always possible to achieve this fully in some development, for example where there will be a need for new or enhanced road infrastructure to support a specific type of economic development although active travel measures and indeed the sustainable travel hierarchy as set out in the National Transport Strategy 2 (CD5) will play a significant part in the design of any new development.

### **Reporter's conclusions:**

#### **Vision of the Plan**

##### Community safety and support of existing enterprises

1. The Vision and Aims section of the plan is by necessity selective in terms of the topics it can cover. Not all of the wide range of matters that are covered by the planning system can be included in what is intended as a headline statement of main priorities and direction of travel.
2. Community safety, including the issue of new development close to established hazardous sites, is undoubtedly an important matter that should be covered in the plan. In this regard I note that Policy SS2 requires development to be fully compatible with surrounding established uses. But I consider it reasonable for the council to have largely selected as the focus for its vision and aims, considerations more closely tied with the climate emergency, placemaking, economic growth, and matters of particular local concern such as population stabilisation.
3. Policy SS2 appears to be an adequate hook on which to hang any concerns about development close to hazard sites that may arise in connection with particular proposals. Furthermore, Policy RES1 directs new housing development to allocated sites, which allows for the full and proper assessment of sites' potential impact on existing uses through the plan-making process. Development on unallocated sites is severely restricted.
4. Some reference to support for existing enterprises is already present in the sixth of the proposed aims, which seeks to ensure that there is access to employment opportunities. But the focus of the plan is inevitably in new development. In this context, Policy IND1 supports new business and industrial development on allocated sites and other sites where the use is compatible with surrounding uses. Policy IND2 allows for extensions to existing businesses and industrial developments on identified sites in rural areas. For these reasons I do not consider that any modification is required.

Inclusion of recovering biodiversity

5. As noted above, the proposed plan's vision is by necessity a high-level statement. In this context, I consider that its reference to a thriving environment adequately encompasses the concept of recovering biodiversity. The Vision is of course supplemented by a suite of more detailed policies in the plan which address biodiversity directly, including Policy NE4: Nature Crisis which directly refers to biodiversity enhancement. I consider these references to be sufficient and that no modification is required.

Inclusion of reference to homes within the vision

6. As noted above, the proposed plan's vision is by necessity a high-level statement. Housing is the dominant urban land use, and housing areas are a focus of community life. I therefore consider that the Vision's references to 'strong, healthy and resilient communities', and to 'high quality places' must encompass an important role for housing in the council's vision for the future.

7. The Vision is supported by eleven aims, the second of which refers to the creation of accessible places, and the fourth of which refers directly to the securing of good quality housing. All-in-all, I consider that these statements adequately reference the importance of housing, and the need for this to be built in sustainable locations. No modification is required.

Commitment to net-zero

8. The national spatial strategy embedded within National Planning Framework 4 (NPF4) states that Scotland's future places will be net zero, nature-positive places. The proposed plan's vision refers to East Ayrshire being a low carbon place, but this is a slightly different concept, and arguably a less challenging one. Clearly there are significant hurdles along the path to net zero both across Scotland and in East Ayrshire. But in the context of a vision statement it seems reasonable to be ambitious, as well as to tie in to national aims and objectives. I note that the plan's aims include contributing to net zero targets, so this does appear to be a concept that the council is signed up to. For these reasons I consider that it would be appropriate to refer in the Vision to East Ayrshire becoming a net zero place, rather than a low carbon place, and I accordingly make this recommendation below.

9. I also note that the phrase 'thriving and diverse environment' differs from the wording 'nature-positive' used in the NPF4 national spatial strategy. However in this case it is less apparent that there is any real contradiction in approach. I also consider that a 'thriving and diverse environment' may better describe how it is hoped a place will be in the future, whereas 'nature positive' encapsulates more the process of how to achieve that aim. I am therefore comfortable with the use of the words 'thriving and diverse environment' in the context of a vision statement.

10. The representee suggests further changes to the Vision that would serve to elevate climate change and nature recovery as the primary guiding principles of the plan. While these matters are undoubtedly of crucial importance, the spatial strategy of



NPF4 sets them alongside the delivery of liveable places and productive places. I therefore do not find this proposed change to be appropriate.

## **Aims of the Plan**

### Reference to repair and maintenance

11. The planning system concerns itself principally with new development. Matters relating to repair and maintenance may from time to time be relevant to planning decisions (for instance agreements to secure maintenance bonds), but in the main the issues of concern to the representee relating to the maintenance of the historic public realm fall outside the scope of the planning system. There are other plans and processes of the local authority that are better equipped to address these matters, including, for instance, the community planning process. No modification is required.

### Ability of the plan to deliver on the aim of providing good quality housing

12. The extent to which the policies of the plan succeed in securing the delivery of good quality housing is addressed under Issues 16, 17 and 18.

### Relationship between LDP2 and NPF4

13. Since the consultation period for the proposed plan closed, the Scottish Government has, in February 2023, published the final adopted version of NPF4. NPF4 and the LDP will sit alongside each other as the two components of the development plan, and as such it is important that the two documents are complementary. In this context I consider it to be appropriate for the plan to include cross-references to NPF4, particularly where these serve to explain the background to a particular policy approach or to point to relevant policy material in the national document.

14. I appreciate that the representations on this topic have been somewhat overtaken by events, but in the current circumstances I find the general approach of the plan referring to NPF4 to be appropriate. This matter is discussed further under Issue 45.

### Revival of the countryside

15. From my visits to East Ayrshire, it is apparent to me that it is a diverse area with its constituent parts having different qualities and being affected by different pressures. For the Vision and Aims of the plan to have reflected this geographical diversity might have been more in keeping with the aspiration for more place-based plans. I therefore have some sympathy for the idea that the introductory parts of the plan could have picked out particular aims for the rural areas of the authority.

16. However, I do not consider it would be appropriate for me to impose a particular vision for the countryside into the plan. I also note that the particular concern of the representee appears to be around the stabilisation of population levels, and that this matter is already captured broadly at Aim 3. Specific rural issues are also captured later in the plan, including via the distinction between the Rural Protection Area and the Rural Diversification Area within the spatial strategy, the spatial strategy's support for rural placemaking, and the qualified support for some rural housebuilding in Policies



RH1 to RH5. For these reasons I am content that the plan as a whole has addressed rural-specific matters, and that no modification is required.

#### Inclusion of health and wellbeing matters within the Plan

17. Although the Vision and Aims of the plan do not refer specifically to tackling inequality, I agree with the council that several references in the proposed text do implicitly address this concern. For instance, the Vision refers to strong and resilient communities, and the Aims mention supporting the wellbeing of all our citizens, housing to meet a wide range of needs, and driving economic recovery and growth in an inclusive manner.

18. As regards health and wellbeing, again there are references in the Vision to healthy communities, and Aim 2 is specifically to 'create good quality and accessible places, which support the health and wellbeing of all our citizens'. I am satisfied that these references adequately embed the representee's concerns regarding inequality, health and wellbeing into the Vision and Aims of the plan.

19. The representee is also concerned about achieving consistency across different part of the plan to ensure these aims are delivered. Much will depend on how the plan is used in practice, but I am satisfied that the form and structure of the proposed document does lend itself to ensuring that a properly holistic approach is taken to decision-making. The Vision itself, and the grouping together of the plan's aims serve in some way to achieve this, as does the inclusion of overarching Policy SS2, that will apply to all developments.

20. Without getting into the detail of other relevant individual policies (some of which are listed by the council above), I am satisfied overall that there is evidence of policies being worded with an awareness of cross-cutting effects on other policy areas. For these reasons I conclude that no modification is required.

#### **Reporter's recommendations:**

I recommend that the words 'low carbon' in the first sentence of the LDP Vision be replaced with 'net zero'.

Issue 2	Spatial strategy – overarching policies SS1 and SS2	
Development plan reference:	Volume 1, Chapter 3 Spatial Strategy - paragraph 23, Policy SS1 – Climate Change and Policy SS2 – Overarching Policy	Reporter: Stephen Hall
Body or person(s) submitting a representation raising the issue (including reference number):		
EPC-UK (101) SEPA (106) Scottish Wildlife Trust (110) Homes for Scotland (128) Persimmon Homes (141) REG/ESB (145)		Gladman Developments (146) SSE Renewables (153) AN Other (192) Barratt Homes (195) Scottish Power Renewables (196) NHS Ayrshire and Arran (270)
Provision of the development plan to which the issue relates:	The content and wording of the overarching policies of the Plan and supporting paragraphs (paragraph 23, policies SS1 and SS2)	
Planning authority’s summary of the representation(s):		
<p><b>Paragraph 23</b></p> <p><u>REG/ESB (145)</u></p> <p>REG/ESB welcomes the statement in paragraph 23 of the LDP. These aspirations reflect the content of Draft National Planning Framework 4 (NPF4). While NPF4 may be subject to change before adoption, it is unlikely that these twin objectives will be subject to significant change. In some areas, the wording of draft LDP planning policies should be changed to ensure that the local planning policy framework is truly rebalanced and fit for purpose for the next 10-year LDP period. The likely timing of the next version of NPF4 before the end of 2022 should allow local East Ayrshire planning policies to align with national planning policies (noting that NPF4 will have Development Plan status in the future), thus avoiding any anomalies between local and national planning policies.</p> <p><u>Homes for Scotland (128), Gladman Developments (146), Barratt Homes (195)</u></p> <p>(128, 146, 195) are of the view that the climate and nature crises be recognised as vitally important, alongside the housing crisis.</p> <p><b>Policy SS1: Climate Change</b></p> <p><u>SEPA (106)</u></p> <p>It is unclear how different development options within the proposed plan were assessed to minimise carbon emissions. No mention is made of assessment criteria or</p>		

use of the SPACE tool. We recommend that clarification is provided setting out how the Spatial Strategy was assessed to promote patterns of development that minimise carbon emissions.

Homes for Scotland (128), Persimmon Homes (141), Gladman Developments (146) and Barratt Homes (195)

It is important that the Council does seek to give weight to the Global Climate Emergency in the decision-making process. 89% of all new homes built by Homes for Scotland members met at least an EPC grade 'B' standard. In terms of carbon reduction, surveys show that, increasingly homebuilders are embedding zero emissions heating systems and enhanced energy-efficiency measures into their developments. As the new technology is proven, there will be scope to retrofit some of it onto existing housing stock. There are social and economic benefits from delivering new homes as well as environmental benefits. Increasing the scale of well-designed, energy-efficient homes also plays a key role in delivering improvements to health, education, regeneration and carbon reduction outcomes as well as housing access for all.

The Climate Change Act 2019 commits Scotland to net-zero emissions of all greenhouse gases by 2045. New homes are measured against building standards, which outline a number of criteria, which all developments must meet in order to gain a building warrant. With respect to environmental sustainability, homebuilders must comply with reducing carbon emissions through minimising both the waste of energy and the use of carbon based energy systems. In addition to the expansive social and economic benefits of home building, the delivery of a higher number of new homes would provide increased environmental benefits.

Increasing the scale of well-designed, energy efficient homes also plays a key role in delivering improvements to health, education, regeneration and carbon reduction outcomes as well as housing access for all. Modern building standards and the delivery of high-quality neighbourhoods also support this ambition: ensuring new homes will continue to be adaptable and sustainable for future generations.

Policy SS1 requires, however, that "significant weight" is given to the Global Climate Emergency. Such wording represents an inflexible approach, and risks creating a Plan and decision-making process that is too rigid to adapt to changes, particularly when considering the long-term nature of the Plan, Building Control Regulations and the need to ensure future proofing.

There is also significant ambiguity regarding that the Council may request further information from developers to assess how the climate emergency has been taken into account in a proposal. When will this information be required and what will be required? What are the mechanisms that would trigger the request for additional information? There are so many unknowns here, and certainty is important for the timely and consistent delivery of the homes needed across East Ayrshire. Consideration should be given to producing a checklist of what is expected to allow this to form part of initial submissions.

### SSE Renewables (153)

The inclusion of overarching Policy SS1, and particularly the commitment that the Climate Emergency will be given significant weight in the decision making process is welcomed. It is considered that this policy could be further strengthened by the inclusion of specific support for renewable energy, for example by including the text set out in the first sentence of Paragraph 249.

### Scottish Power Renewables (196)

The inclusion of an overarching policy on climate change and the stated need for EAC to give significant weight to the global climate emergency when considering all development proposals is welcomed. This reflects the increasing urgency for action to address the climate emergency and the direction of travel for global and national policy.

The policy criteria are useful but should include an additional criterion to “Delivering net zero and low carbon infrastructure” to provide explicit policy support for this essential infrastructure in the determination of all relevant consenting applications.

In addition, whilst presented as an overarching policy, it is unclear how Policy SS1 would be used to balance planning decisions in practice. The status of this overarching policy needs to be elevated and further clarity is required regarding how “significant weight” will be afforded to the climate emergency and how this can be implemented in practice and in parallel with the statutory Development Plan. This will facilitate consistency and predictability for all involved in the planning decision process and ensure the climate emergency is appropriately embedded into decision-making.

The policy should clarify that significant weight should always be afforded to an identified positive contribution of development towards emissions reduction in decision-making. Policy SS1 should also make clear that the acceptability of any adverse impacts should be judged in the context of the need to respond urgently and effectively to the climate emergency. Impact acceptability should, therefore be assessed in the context of the predicted scale of a positive contribution towards emissions reduction balanced appropriately against impacts, rather than these factors being considered separately.

### **Policy SS2: Overarching Policy**

#### EPC-UK (101)

Additional clarity within the plan is sought relating to protecting communities and managing development around hazard sites. In that regard reference to matters such as community safety would be recommended, alongside additions within the aims on driving the economy in relation to supporting and protecting existing enterprises within and adjacent to East Ayrshire.

#### Scottish Wildlife Trust (110)

The wording of criterion (iv) should be amended.

AN Other (192)

It appears the overarching policy is set out to address much that is statutorily required in National Planning Frameworks 3 & 4 and Scottish Planning policy, as well as setting local provision to address climate change legislation, net zero carbon emissions and grow a green economy. However, there is nothing in this overarching planning policy, which addresses the provision of essential infrastructure and services such as schools, GP/health services and expansion of recreational facilities when consenting additional housing developments. This is a particular problem for northern urban areas in East Ayrshire, such as in Stewarton and Fenwick, which have seen rapid increases in housing and population, compared to decreasing populations and loss of rural housing particularly in southern and eastern East Ayrshire.

The spatial portrait of East Ayrshire (page 16) makes clear that the population is ageing with more than 27% of the adult population with physical or mental health problems. It is imperative that health provision is integrated into the overarching policy and further expansion of housing numbers and increasing population, if the goals of inclusivity and fairness for east Ayrshire's population are to be achieved.

Planning must take a holistic approach to the ability of a town or village to accept a significant increase in population and housing without impacting on the delivery of essential services to existing residents. Whilst the Draft LDP2 Developer Contributions supplementary guidance specifically requires contributions from developers to fund additional associated services, it is clear that in reality, this does not happen or the funds provided are not used appropriately. Although there is an aim in the LDP2 for a 20 minute neighbourhood, reality must prevail that in northern East Ayrshire, many householders will be commuters to Glasgow. Until local employment prospects improve and there is a sustainable economic basis to support a 20 minute neighbourhood, consideration must be given to the suitability of road infrastructure when consenting large housing developments in dormitory towns particularly in northern East Ayrshire. LDP2 ignores this and this needs to be addressed urgently.

Homes for Scotland (128), Gladman Developments (146) and Barratt Homes (195)

Part (ii) of Policy SS2 states that development proposals are required to be "fully compatible with surrounding established uses and have no unacceptable impacts of the environmental quality of the area". Whilst it is accepted that development proposals should attempt to align with surrounding uses and patterns, there is insufficient flexibility here to allow for the approval of otherwise suitable proposals.

There is also insufficient flexibility here with regards to the mitigation of any potential environmental impacts. Part (iii) states that development proposals are required to be "located in accessible locations that reduce the need to travel". It is suggested that the word "unsustainably" is added to the end of this sentence. It represents a practical impossibility for all development to reduce the net need to travel. Simply by existing, a development will incur with it a need to travel to and from the development. The important factor is the sustainability of this travel (i.e. located near to public transport opportunities, active travel links, existing services/amenities, etc.).

Part (v) represents too onerous of a barrier to development. There is a lack of flexibility

here, and a failure to recognise that all decisions must be made whilst considering and applying a planning balance. It should not necessarily hold that a development is automatically refused if it does not meet all of the requirements of all statutory consultees and the Ayrshire Roads Alliance. Whilst it is accepted that failing to meet the requirements of a statutory consultee (and the Ayrshire Roads Alliance) would be factor in the decision-making process, this Policy does not currently allow for other material matters to be considered and potentially outweigh any shortcomings.

#### Persimmon Homes (141)

Part (v) of this policy states that proposals are to “Meet with the requirements of all statutory consultees and the Ayrshire Roads Alliance”. On occasion, some consultee responses are at odds with each other and it is for Planning to make a judgement of whether or not the proposals can advance without meeting the requirements of the consultees in full. It is suggested that the policy is re-written so that all decisions are made whilst considering and applying a planning balance given that there may be other material considerations that potentially outweigh any shortcomings.

#### NHS Ayrshire and Arran (270)

As it will not always be possible to reduce the need to travel - Policy SS2 should also refer to access by public transport and active travel.

(270) have submitted Appendices as supporting documents (RD112 and 113).

### **Modifications sought by those submitting representations:**

#### **Paragraph 23**

REG/ESB (145) do not explicitly seek any modifications, however make a general statement that some local draft LDP planning policies should be changed to ensure that the local planning policy framework is truly rebalanced and fit for purpose for the next 10-year LDP period. (145) do not indicate what policies should be changed.

Homes for Scotland (128), Gladman Developments (146), Barratt Homes (195) suggest amending paragraph 23 to read as follows:

“To achieve a net zero, nature-positive East Ayrshire, *where everyone has access to good quality housing to meet a wide range of needs*, we must rebalance our planning system so that climate change, *the housing crisis* and nature recovery are the primary guiding principles for our local development plan and all our planning decision-making. This is echoed in the first, *third and fourth* Aims of the Plan.”

#### **Policy SS1: Climate Change**

Homes for Scotland (128), Gladman Developments (146) and Barratt Homes (195)

Modify text of policy SS1 by deleting the word ‘*significant*’ from the first sentence.

Add the following sentence to the end of the last paragraph of policy SS1: “*Further*

*information regarding when additional information would be required, and what type of information would be required will be provided in future Supplementary Guidance."*

#### SEPA (106)

Clarification should be provided setting out how the Spatial Strategy was assessed to promote patterns of development that minimise carbon emissions.

#### SSE Renewables (153)

Add the following text to policy SS1 as follows: "The LDP supports all forms of renewable energy and aims to ensure East Ayrshire plays its part in tackling the climate emergency and reducing greenhouse gas emissions".

#### Scottish Power Renewables (196)

Add a new criterion to policy SS1 to read: "Delivering net zero and low carbon infrastructure" to provide explicit policy support for this essential infrastructure in the determination of all relevant consenting applications.

### **Policy SS2: Overarching Policy**

#### EPC-UK (101)

Policy SS2 should include a reference to the importance of ensuring that the Plan addresses community safety and protects hazard sites from encroaching development.

#### Scottish Wildlife Trust (110)

The wording at the end of criterion (iv) should be amended to read:

"....previously used land where this is compatible with protecting existing biodiversity".

#### Homes for Scotland(128), Gladman Developments (146) and Barratt Homes (195) and Persimmon Homes (141)

Amend policy SS2 criteria (ii), (iii) and (v) to read as follows:

(ii) Be compatible (*so far as is practical and considered appropriate*) with surrounding established uses and have no unacceptable impacts on the environmental quality of the area *that cannot be suitably mitigated*;

(iii) Be located in accessible locations that reduce the need to travel *unsustainably*;

(v) Meet with the requirements of all statutory consultees and the Ayrshire Roads Alliance, *unless the proposal can be demonstrated to be otherwise acceptable*;

#### AN Other (192)

Although no suggested modifications are explicitly suggested, it is assumed that policy SS2 should address the provision of essential infrastructure and services such as schools, GP/health services and expansion of recreational facilities when consenting



additional housing developments.

### NHS Ayrshire and Arran (270)

Amend policy SS2 by adding: *“Be located in accessible locations that reduce the need to travel as far as possible, and are well-connected by public transport and active travel where travel is required”*.

## **Summary of responses (including reasons) by planning authority:**

### **Paragraph 23**

#### Ensuring policies of the Plan are fit for purpose for the Plan period (145)

The Council is of the opinion that all policies relevant to the content of paragraph 23 are entirely fit for purpose and it unclear which policies would need revised in this respect. It is also pointed out that LDP2 will be a 5 year Plan, having been prepared as under Transitional Arrangements. It is also considered that the Plan aligns with the principles and direction of NPF4 and therefore no changes are required. Further consideration of the link between LDP2 and NPF4 is set out in Issue 45.

#### Reference to housing in paragraph 23 (128), (146)

Paragraph 23 is an introductory paragraph to the Plan’s Spatial Strategy, which generally reflects the importance of achieving a net zero and nature positive East Ayrshire. This applies to all aspects of the planning system, including housing. The Council is of the opinion that no changes are therefore required to paragraph 23.

### **Policy SS1: Climate Change**

#### Approach to minimising carbon emissions (106)

The PLDP2 spatial strategy, policies, proposals and development opportunity sites have been subject of a Strategic Environmental Assessment (SEA), as required by the provisions of the Environmental Assessment (Scotland) Act 2005 (CD6). This assessment identifies any significant environmental impacts of the Plan and if appropriate, mitigation measures that can be implemented to reduce or offset any adverse impacts. In addition, PLDP2 has been subject of a Habitats Regulations Appraisal (CD7). Sites allocated as residential development opportunity sites in the Plan were, in addition to SEA, assessed against a site methodology (CD8) to determine suitability, in terms of access, sustainability of location etc. Policy SS1 is an overarching policy, which supports other detailed policies, which address climate change, such as SS12, SS13, DES1, RES1, OS1 and T1.

The Council is therefore, of the opinion that the PLDP2 has been adequately assessed to determine impacts on the environment and that there are sufficient policies in the Plan to promote patterns of development that minimise carbon emissions.

It should be noted that it is not a statutory requirement to assess local development plans using the SPACE tool or similar criteria, except criteria associated with SEA and



the Habitats Regulations Appraisal to assess how the Plan will minimise carbon emissions. Since submitting their representation, SEPA has confirmed that the SPACE tool is no longer in use. The SPACE tool was not referred to in any previous correspondence or in SEPA's representation (CD18) to the LDP2 Main Issues Report. It was also not accessible online hence the reason why the Council did not consider its use in assisting the preparation of PLDP2.

Reference to giving significant weight to the climate emergency (128), (141), (146), (195)

Reducing the effects of climate change and contributing to climate change targets is part of the national strategy for addressing the global climate emergency. It is a key principle of the new Planning (Scotland) Act 2019 and planning system reform. The Council is therefore of the opinion that the use of the word 'significant' in policy SS1 is appropriate and relevant, making clear that the climate emergency will not just be given 'weight', but 'significant weight'.

Guidance on demonstrating compliance with SS1 (128), (141), (146), (195)

Compliance with SS1 will very much depend on the nature and scale of the proposal in question. SS1 gives flexibility for a developer to apply the principles correctly to their development. This is considered important and avoids an overly restrictive approach.

In addition, it is proposed to prepare various pieces of supplementary guidance, which, although not strictly meeting the suggested amendment, will go some way to providing advice on this matter. This will include guidance on energy and EV charging, design, local heat and energy efficiency and green and blue infrastructure and non-statutory planning guidance, such as Woodland Creation and Peatland guidance will be prepared in 2022/23. Thematically, these guidance documents will provide more detailed policy guidance on climate emergency and what would be required of developers to demonstrate how this has been taken into account in a proposal.

If the reporter is minded to accept that further information should be required in policy SS1 then the Council would suggest that the last paragraph of policy SS1 be amended to read as follows:

'Where necessary, the Council may request further information from developers to assess how the climate emergency has been taken into account in a proposal. This information should demonstrate what measures will be put in place to address the climate emergency. "

Reference to renewable energy in SS1 (153)

Given policy SS1 is an overarching policy of the PLDP and that there are more detailed policies relating to renewable energy, the Council is of the opinion that there is no need to add wording similar to that as set out in paragraph 249 of Volume 1 of the Plan. However, if the Reporter is minded to amend policy SS1 to include the wording suggested as per the first sentence of paragraph 249 in Volume 1 of the PLDP then the Council would have no objection to this. However it is suggested that, in a policy context, the following wording would be more appropriate:

"The LDP supports all forms of renewable energy, *subject to all relevant LDP policies*, and aims to ensure East Ayrshire plays its part in tackling the climate emergency and reducing greenhouse gas emissions".

#### Scottish Power Renewables (196)

The Council does not agree that Policy SS1 should make clear that the acceptability of any adverse impacts should be judged in the context of the need to respond urgently and effectively to the climate emergency. Nor does the Council agree that impact acceptability should be assessed in the context of the predicted scale of a positive contribution towards emissions reduction balanced appropriately against impacts, rather than these factors being considered separately. Any proposals submitted to the Council require to be assessed against all relevant planning policies and a planning judgement arrived at. Whilst SS1 will ensure that the climate emergency is given significant weight and consideration in all determinations, considered critical in planning for a sustainable future, it will be balanced against all other impacts and benefits of a proposal.

Policy SS1 is an overarching policy and will therefore be used to assess all planning applications submitted for consideration by the Council. However, proposals will be subject to assessment of all relevant planning policies. Policy SS1 will not receive greater weight than other relevant policies in the Plan but a balanced view will be taken with regard to all policies relevant, on a case by case basis.

The suggested additional criteria suggested by 196 is not considered appropriate, on the basis that SS1 is intended to be a very high level policy, putting in place a required for the climate emergency to considered in planning proposals and decisions. More detailed requirements in are set out other more detail policies of the Plan.

### **SS2: Overarching Policy**

#### Reference to community safety (101)

The Council does not agree that there is any need to modify policy SS2 to include a reference to community safety and to supporting and protecting existing enterprises within and adjacent to East Ayrshire. This is sufficiently addressed by PLDP2 Policies including SS2, SS4, IND1 and IND2. All development proposals will be required to be assessed against Overarching Policy SS2, which states that development should '(ii) **Be fully compatible with surrounding established uses** and have no unacceptable impacts on the environmental quality of the area.' Should an occasion arise that a development is proposed in close proximity to an operational site with hazardous processes or materials, this policy would safeguard against any new development that may result in a conflict.

#### Previously developed land (110)

The Council does not agree that the wording at the end of criterion (iv) should be amended to read:

"....previously used land where this is compatible with protecting existing biodiversity".

National planning policy encourages the re-use of previously developed land, which can cover vacant or derelict land; land occupied by redundant or unused building(s) and developed land within a settlement boundary where further intensification of use is considered acceptable. Scottish Planning Policy requires spatial strategies within development plans to promote a sustainable pattern of development appropriate to the area. To do this decisions should be guided by considering the re-use or re-development of brownfield land before new development takes place on greenfield sites.

Policy SS2 adheres to SPP (CD26), in terms of encouraging the re-use of previously developed land. It is an overarching policy with more detailed policy requirements set out in other policies in the Plan and in supplementary guidance. Given it is an overarching policy for the whole of the Plan; the Council is of the opinion that it contains sufficient detail, and 'where possible' can account for matters related to diversity. The Plan's Spatial Strategy and policies within the Plan, including OS1, NE4, NE5, NE6, NE9 and NE12 will ensure biodiversity matters are addressed. Any proposals on previously developed land would be considered on a case-by-case basis and assessed against all relevant LDP policies. Which policies will be dependent on location of the site itself. In line with Policy 9 of NPF4 (CD4), in determining whether the reuse is sustainable, the biodiversity value of brownfield land, which has naturalised will be taken into account through these other policies.

#### Consideration of infrastructure requirements (152)

Policy SS2 is an overarching policy with more detailed policy requirements set out in other policies in the Plan and in supplementary guidance. Given it is an overarching policy for the whole of the Plan; the Council is of the opinion that it contains sufficient detail. Other policies within the Plan, such as OS1, INF1, INF4 and T1 sufficiently address infrastructure requirements in new development.

Developer contributions monies are currently collected and aligned with relevant projects. Balances are assigned to the appropriate project accounts, which are closely monitored, and any decisions to spend these monies are scrutinised. This protocol will continue with the new proposed policy approach.

Road infrastructure considerations in large housing development are fully scrutinised by the Ayrshire Roads Alliance and any impacts in light of proposed site allocations in a local development plan are assessed in detail through a Transport Appraisal in relation to a specific site. PLDP2 Policy T1 sets out the detailed requirement in relation to sustainable transport. The Transport Appraisal associated with the Proposed LDP2 (CD19) sets out impacts, which site allocations may have on the existing road infrastructure and sets out appropriate mitigation measures where it is relevant.

#### Suggested amendment to criterion (ii) (128), (140), (146), (195) and (141)

Policy SS2 clearly states that development proposals are required to meet the criteria **in so far as they are relevant, or otherwise demonstrate how their contribution to sustainable development would outweigh any departure** from the criteria listed in policy SS2. For this reason, the Council does not agree that policy SS2 is inflexible, does not allow for a balanced planning view and would result in automatic refusal of

planning permission.

Criterion (ii) is contained in LDP1's overarching policy OP1, which has already been scrutinised through the Examination process, is an effective criterion of LDP1 policy OP1 and conforms with national planning policy. The Council is therefore of the opinion that it is not unreasonable for policy SS2 to contain such a criterion.

Suggested amendment to criterion (iii) (128), (140), (146), (195) and (141)

Criterion (iii) supports NPF4 (CD4) in that the PLDP2 Spatial Strategy reflects the sustainable travel hierarchy as set out in the National Transport Strategy 2 (CD5), to make best use of existing infrastructure and services and help to deliver 20-minute neighbourhoods. The sustainable travel hierarchy promotes the prioritisation of sustainable transport by maximising the extent to which travel demands are met first through walking and wheeling, then cycling, then public transport, then taxis and shared transport and finally through the use of private cars. This criterion is therefore reasonable and a key principle of the Proposed LDP2 is to direct new development to more sustainable locations that are accessible.

Suggested amendment to criterion (v) (128), (140), (146), (195) and (141)

In terms of criterion (v), the Council does not agree that this is too onerous a requirement. Again, this criterion is contained in the LDP1 overarching policy OP1, which has previously been scrutinised through the local development plan preparation process and is an effective policy criterion.

Inclusion of sustainable travel within SS2 (270)

The recommendation is adequately dealt with under criterion (iii) which conforms to existing and emerging national planning policy. This criterion requires development to be located in accessible locations that reduce the need to travel. This relates to locations where there is access to a public transport and active travel network.

**Reporter's conclusions:**

**Paragraph 23**

1. The representation from REG/ ESB highlights the possible need to amend some policies of the proposed plan to reflect the final version of National Planning Framework 4 (NPF4) (representations on the plan having been submitted when NPF4 was still in draft form). Where compliance with NPF4 has been raised as a matter in relation to any individual policy, this has been considered under the relevant issue of this report. In a number of policy areas, the reporters have also invited additional commentary from parties on the implications of the final wording of NPF4 for plan policies. Again, responses to these requests have been considered under the relevant issue.

2. I note that this individual representation does not seek any particular amendment to any policy. Given this, and that individual policies are considered elsewhere in this report, I do not consider that any modification is required in respect of this representation.

3. Paragraph 23 of the plan picks out climate change and nature recovery as primary guiding principles for the LDP. These principles appear to reflect the headline statement of the national spatial strategy as expressed on page 7 of NPF4, which refers to Scotland's future places being 'net zero, nature-positive places'. Clearly, the LDP concerns itself with the range of future land uses, including housing. But it does not seem necessary to pick out housing in this introductory paragraph which is setting out to establish the broad approach that will be applied to all land uses.

4. The importance of housing to the overall aims and strategy of the plan is already clearly established, including through the inclusion of Aim 4 to secure the provision of good quality housing across East Ayrshire, and the Spatial Strategy for Place and Environment (part B) to encourage new housing. I consider these references suffice to demonstrate the importance of housing, and that therefore no modification to paragraph 23 is required.

### **Policy SS1: Climate Change**

#### Approach to minimising carbon emissions

5. Generally I do not consider it to be always necessary for the proposed plan to 'show its working', for instance by explaining how different options were assessed. This may have been a more relevant consideration at the main issues report stage. That said, regarding the assessment of the climate change implications of the plan, I note that the plan has been subject to strategic environmental assessment. This is a legal requirement, and is explained in the introductory chapter of the plan at paragraph 15.

6. I am not aware that the use of the SPACE tool is a legal or national policy requirement. It is apparent from the authority's response above that this tool has not been used by the council in the preparation of this plan. Whatever the rights and wrongs of that decision, it is impractical to introduce the use of the tool at this stage in the plan-making process. No modification is required.

#### Reference to giving significant weight to the climate emergency

7. Policy 1 of NPF4 states that, when considering all development proposals, significant weight is to be given to the global climate and nature crises. LDPs are required to address the global climate emergency through their spatial strategies. In this context, the statement in Policy SS1 that the council will give significant weight to the global climate emergency appears reasonable. No modification is required.

#### Guidance on demonstrating compliance with SS1

8. A wide range of development types may affect or be affected by climate change, and a wide range of actions can be taken to mitigate or adapt to climate change. I can therefore appreciate that it is difficult to accurately specify the occasions when further information on this topic may be required, or the type of information that be requested. A degree of flexibility appears reasonable.

9. The council suggests that it is willing to include some additional wording, which would serve to confirm that any information sought would be to demonstrate what

measures were proposed to be put in place to address the climate emergency. I doubt that this would fully meet the concerns of the representees, but I agree that the proposed additional wording would provide some additional clarity and I have therefore recommended its inclusion.

10. The suggestion that the plan should commit the council to producing further supplementary guidance on the topic of information requirements for planning applications in relation to the climate emergency may have some merit. This could increase the predictability of the planning service for developers. However I am unwilling to make a change requiring the council to do this work, which is not currently part of its work programme, when this does not appear to be essential.

11. I note that the council is already proposing to prepare various separate pieces of supplementary guidance which may provide some further advice on this topic. Generally, it may be better for advice on information requirements for planning applications to be embedded in this within the various pieces of guidance on different topics or classes of development, rather than in a stand-alone climate change guideline. Overall, and on balance, I consider for these reasons that it is unnecessary to include a commitment to prepare new guidance on this topic.

#### Reference to renewable energy

12. Policy SS1 contains a short, broad and high level list of ways in which development should support tackling the global climate emergency. Item (iii) on the list is 'mitigating the impacts of climate change'. Broadly, I consider that the development of renewable energy proposals could normally be said to fall within this criterion. However, I appreciate that the delivery of net zero and low carbon infrastructure is central to the mitigation of climate change. I therefore consider it would be useful to include a broad reference to this technology in the policy. This would also serve to adjust the focus of the policy from merely avoiding harm to include delivering climate change benefits. Furthermore, because the policy is intended to apply to all development, such a modification could act to encourage the inclusion, where possible, of net zero and low carbon infrastructure into a wider range of proposals.

13. SSE Renewables and Scottish Power Renewables propose alternative ways of including a reference to renewable energy/ low carbon infrastructure into Policy SS1. I broadly prefer Scottish Power Renewables' suggestion as potentially encompassing a wider range of types of infrastructure, and fitting better into the existing structure of the policy. I therefore have based my recommended modification below on their wording.

14. It is a well-established principle that development plans are to be read as a whole, and that the determination of individual planning applications may require decision-makers to balance compliance with certain policies against conflicts with others. In this context, proposed Policy SS1 already gives a strong steer that significant weight should be given to the global climate emergency. It seems to me that this wording gives decision-makers a clear and useful direction as to how to apply this policy and balance it against others in the plan.

15. As the opening policy of the plan, and forming part of the plan's spatial strategy, SS1 has been given a high degree of prominence. However the plan is to be read as a

whole, and the policies within them have equal status. I therefore consider it unnecessary to 'elevate' Policy SS1 in any way.

16. Policy SS1 makes clear that significant weight is to be given to the global climate emergency when considering all development proposals. Taken together with Policy RE1, I consider that this statement already provides an appropriate context for considering potential adverse effects of proposals that may nevertheless deliver wider benefits in terms of tackling climate change. No further change to the policy is required.

## **Policy SS2: Overarching Policy**

### Reference to community safety

17. Policy SS2 establishes as a criterion that all new development should be fully compatible with surrounding established uses (or demonstrate why an exception should be allowed). This provision would appear to allow inappropriate proposals to be resisted if necessary close to hazard sites or other established businesses where this would cause a public safety or nuisance issue. On this basis I do not consider that any additional text is required in Policy SS2 relating to community safety of the protection of existing enterprises.

### Previously developed land

18. NPF4 states that LDPs should set out opportunities for the sustainable reuse of brownfield land. Policy 9 of NPF4 also supports the sustainable reuse of brownfield land, but states that in determining whether the reuse is sustainable the biodiversity value of land which has naturalised will be taken into account. I therefore consider that the plan should acknowledge the potential biodiversity value of previously used land in some way.

19. However, proposed Policy SS2 is intended as an overarching introductory policy, and it is not necessary or appropriate for it to enter into all of the policy nuance that may be encountered in the detailed topic policies later in the plan. The LDP is after all to be read as a whole.

20. I note that the redevelopment of vacant and derelict land is a particular priority for the council, as evidenced by its dedicated coverage at part A of the Spatial Strategy for Place and Environment, and the inclusion of Policy SS4. The Scottish Wildlife Trust has made a similar representation regarding that part of the plan, which I consider at Issue 4. It may be that that more detailed policy is the best place to capture the concerns of this representee.

21. As regards Policy SS2, I note that this states that vacant buildings and previously used land should be reused 'where possible'. This appears to allow for circumstances where such reuse may not be appropriate, and such circumstances can be described in more detail elsewhere in the plan. On this basis I am satisfied that there is no need to amend this aspect of Policy SS2.



Consideration of infrastructure requirements

22. Policy SS2 is clearly intended as an introductory overarching policy that does not set out to cover every matter of importance in planning decision-making. Its focus appears to be on cross-cutting issues that may be relevant across a range of individual topic areas.

23. I have some sympathy with the view that infrastructure requirements to support development are such a cross-cutting issue that could usefully have been included in Policy SS2. It is certainly an important consideration that can be key to the success of many types of development. NPF4 promotes an infrastructure first approach as a basis for LDPs.

24. However, it is not my task to make the plan as good as it can be, but merely to address those parts that are clearly insufficient or inappropriate. The plan is to be read as a whole, and in this case, I note that the issue of infrastructure is extensively covered in chapter 7 of the plan, including through Policies INF1-4 and T1-T4. On this basis I am content that it is not essential to amend Policy SS2 to include additional references to infrastructure, and I therefore decline to make a modification on this matter.

Suggested amendment to criterion (ii)

25. The opening sentence of Policy SS2 sets out that development proposals are expected to meet the various following criteria unless their contribution to sustainable development would outweigh any departure. Criterion (ii) relates to compatibility with established uses and avoiding unacceptable environmental impacts.

26. While I find the use of the word ‘unacceptable’ to be rather vague in this context and unhelpful to prospective developers, it does serve to confirm that minor impacts may be found to be acceptable. It is also clear from the policy introduction that sustainable proposals (which I would take to potentially include well-located and designed housing development) may be found to be acceptable even if there is some incompatibility with surrounding uses, or other negative environmental effects, if their benefits outweigh any harm done.

27. I therefore consider that this part of the policy contains adequate flexibility to allow a range of development to proceed, including those that may have some individual negative impacts. No modification is required.

Suggested amendment to criterion (iii)

28. Similar considerations apply in relation to criterion (iii), which seeks to direct development to accessible locations that reduce the need to travel. However in this case I have some sympathy with the representees who point out that most development will increase the need to travel to some degree. The important point is that any additional travel brought about by new development should be over short distances where possible, kept to a minimum and/or utilise sustainable modes of transport. In this context I note the promotion of local living and 20 minute neighbourhoods in NPF4.



29. I therefore consider, for the reasons stated, that criterion (iii) would be improved by the adoption of wording based on that suggested by Homes for Scotland and others, and refer to minimising the need to travel by unsustainable modes. I recommend this modification below.

Suggested amendment to criterion (v)

30. I do not find it unusual that development proposals should normally be expected to meet the requirements of statutory consultees and the council's professional roads consultants. These are the council's expert advisors on their respective specialisms. However, it is also the case that occasions arise where a departure from the advice of one of these consultees may be justified. As the decision-maker, the planning authority is best placed to balance all relevant considerations and judge whether such a departure is called for. In a plan-led system, the LDP should reflect this position.

31. Policy SS2 sets up the default position that statutory consultees' requirements should be adhered to, but notes the circumstances in which a departure from this approach can be taken. These circumstances are, where the contribution of a proposal to sustainable development would outweigh the consultee's requirement.

32. It seems to me that, in this regard, Policy SS2 strikes the appropriate balance between highlighting to developers that statutory consultees' requirements should generally be adhered to, and still applying some appropriate degree of flexibility. On this basis I conclude that no modification is required.

**Reporter's recommendations:**

1. I recommend that criterion (iii) of Policy SS1: Climate Change be modified to read:

'(iii) Mitigating the impacts of climate change, including through the delivery of net zero and low carbon infrastructure'.

2. I recommend that the following sentence be added at the end of Policy SS1:

'This information should demonstrate what measures will be put in place to address the climate emergency.'

3. I recommend that criterion (iii) of Policy SS2: Overarching Policy be amended to read:

'Be located in accessible locations and minimise the need to travel by unsustainable modes'.

Issue 3	Spatial strategy – sustainability and green recovery	
Development plan reference:	Volume 1 - Policy SS3 and paragraph 34	Reporter: Stephen Hall
Body or person(s) submitting a representation raising the issue (including reference number):		
Scottish Wildlife Trust (110) Scottish Power Renewables (196) Kilmaurs Community Council (236) R MacDonald (244)		
Provision of the development plan to which the issue relates:	The content and wording of the Green Recovering and Sustainability part of the Spatial Strategy, specifically policy SS3 and paragraph 34	
Planning authority's summary of the representation(s):		
<p><b>Paragraph 34 - What is our strategy for tackling biodiversity loss?</b></p> <p><u>Scottish Wildlife Trust (110)</u></p> <p>As set out in paragraph 34, the strategy for tackling biodiversity loss talks of promoting and restoring peatlands and promoting woodland creation, but says little about increasing biodiversity in a more proactive way e.g. identifying new Local Nature Reserves. An additional bullet point should be added to recognise that brownfield sites that are returning to a more natural state may have greater biodiversity potential than the surrounding land.</p> <p><u>Scottish Power Renewables (196)</u></p> <p>The principle of the LDP to address biodiversity loss, as set out in paragraph 34, is supported. Climate change is likely to become a major contributor of biodiversity loss and it is therefore essential that the twin crises of biodiversity loss and the climate emergency are addressed in tandem. The strategy for tackling biodiversity loss should be strengthened by amending the bullet points 5 and 7 to make reference to 'unacceptable' impacts. As drafted, this presumption is disproportionate. The acceptability of these impacts/losses should be a balanced judgement, considered alongside the wider statutory Development Plan</p> <p><b>Policy SS3: Central Scotland Green Network</b></p> <p><u>Scottish Wildlife Trust (110)</u></p> <p>The CSGN has an important role to play, but this tends to be in more urban areas. The safeguarding, enhancement and creation of nature networks is as important in the wider environment</p>		

R MacDonald (244), Kilmaurs Community Council (236)

The Plan approach should re-think how green space is delivered. Joined-up, strategic masterplanning over a long period is required, with larger long term sites identified, creating green networks and green space corridors, rather than the development of small piecemeal pockets of green space.

(244) suggests off-site contributions for green space should be required for all new developments to allow larger parks/woodlands to be created or a masterplan approach needs to be taken to link up existing and new area of green space.

(244) suggests there should also be requirement for a minimum number of trees on each new site dependent on number of houses or bedroom, reflecting the many benefits of trees. Rather than grass, wildflower planting should be considered.

**Modifications sought by those submitting representations:**

**Paragraph 34 - What is our strategy for tackling biodiversity loss?**

Scottish Wildlife Trust (110)

Add an additional bullet point to paragraph 34 – ‘recognising that brownfield sites that are returning to a more natural state may have greater biodiversity potential than the surrounding land.’

Scottish Power Renewables (196)

Amend bullet point 5 to read: ‘Presuming against development which may have an unacceptable adverse impact on the integrity of sites of local, national and international importance, employing the precautionary principle.”

Amend bullet Point 7 to read ‘Presuming against the unacceptable loss of trees, woodland, forestry and hedgerows.”

**Policy SS3 Central Scotland Green Network**

Scottish Wildlife Trust (110)

Scottish Wildlife Trust does not explicitly suggest any modifications to policy SS3, however makes the point that the creation of nature networks is important to the wider environment, not just urban areas.

R MacDonald (244), Kilmaurs Community Council (236)

R MacDonald and Kilmaurs Community Council do not explicitly suggest any modifications to policy SS3, however, wishes to see a more planned, joined up approach to green infrastructure provision to achieve larger, more valuable areas of open space.

R MacDonald (244) suggests: (i) a requirement of a minimum number of trees in a

development; and (ii) consideration for wildflower planting rather than grass.

**Summary of responses (including reasons) by planning authority:**

**Paragraph 34 - What is our strategy for tackling biodiversity loss?**

Biodiversity value of brownfield (110)

The Council does not dispute the point that brownfield sites can have important biodiversity value. Should development be proposed in such an instance, biodiversity value of such sites would need to be balanced against the economic and community benefit of re-developing them. The policies of the Plan, as currently drafted, allow for such considerations to be taken into account and a balanced judgement arrived at. However, the Council does not consider it necessary to add into the spatial strategy that brownfield sites may have more biodiversity value than surrounding land. The spatial strategy is not intended to be all encompassing; rather it highlights key strategic priorities, with detailed considerations left to the policies of the Plan. The biodiversity value of brownfield is adequately covered and brought into the planning application assessment process, through policies NE4 and NE5, which do not differentiate between brownfield and greenfield land.

Inclusion of 'unacceptable' within paragraph 34 (196)

The council does not agree that it is necessary to insert 'unacceptable' within bullet points 5 and 7 of paragraph 34. The strategy set out in paragraph 34 is high level; it identifies the broad principle that will be followed to tackle biodiversity loss. The current wording in terms of '*Presuming against development which may have an adverse impact on sites of local, national and international importance, employing the precautionary principle*' and '*presuming against the loss of trees, woodland, forestry and hedgerows*' is entirely reasonable in so far as they are broad principles to be followed. In principle, the Council does not see the current wording as disproportionate; whilst in practice and on the basis of a policy assessment a balanced judgment will be taken on any planning application, it is reasonable in a spatial strategy to set out the ambition that the Council does not wish to see any adverse impact on nature conservation sites or trees, woodland, forestry and hedgerows.

**Policy SS3: Central Scotland Green Network**

Nature networks in rural areas (110)

That Council supports the view of SWT in so far as the need for nature network creation extends beyond urban boundaries. The Central Scotland Green Network, supported by policy SS3, is a large scale, strategic project which aims to transform the environmental quality of Central Scotland. The CSGN area covers just under 10,000 sq. km, taking in both urban and rural areas. The CSGN vision (CD20), clearly states that one of the 5 components of the CSGN is a '*Network of natural or semi-natural habitats, such as woodlands, hedgerows and peatland, in the countryside and linking into the urban areas.*' The Council therefore disagrees that the role of the CSGN tends to be in urban areas. Policy SS3, which supports the enhancement of our green and blue network, is not specific to settlements or urban areas. Conversely, clear support is

given in the policy for the enhancement opportunities outlined in Figure 4 of LDP2, with many of the opportunity areas located across the rural area. In addition, the spatial strategy is supported in more detail by the environmental policies of the Plan, specifically NE4 Nature Crisis, which will be applied equally across rural East Ayrshire. On this basis, the Council does not consider that any changes are required to policy SS3.

#### Strategic approach to the provision of open space (244), (236)

The Council recognises the value in taking a joined up approach to creating larger areas of open space. The value of green infrastructure is an overarching principal, which has guided the development of the Plan, demonstrated by its inclusion within both the vision and aims of the Plan (Page 17). Policy OS1 sets out how green and blue infrastructure should be considered at the outset of the design process and, among other matters, requires that green infrastructure should enhance and link to existing open spaces and create new green infrastructure, which positively contributes to the wider CSGN. The detail of how the Plan will guide green infrastructure within new development, is set out in detail in Schedule 1: Public and Private Green Infrastructure/Open Space Standards and, through the flow chart contained therein, ensures a proportionate approach is taken, which fully reflects a sites context. The council is of the view that no further modifications are required to ensure joined up approach to green infrastructure.

#### Tree and wildflower planting (244)

The council does not agree that the Plan should prescribe the number of new trees to be located within a new development. Whilst the policies of the Plan are fully supportive of tree planting and habitat creation, a prescriptive approach does not take into account location, landscape and surrounding context. This is more appropriately guided at the planning application stage. Similarly, whilst wildflower planting is supported by the policies of the Plan, and would fall under the category of amenity green infrastructure in terms of Schedule 1, the Council does not consider it necessary or appropriate for the Plan to prescribe wildflower planting, which may not be appropriate in every location.

### **Reporter's conclusions:**

#### **Paragraph 34 - What is our strategy for tackling biodiversity loss?**

##### Biodiversity value of brownfield

1. National Planning Framework 4 (NPF4) encourages the sustainable reuse of brownfield land, while requiring that the biodiversity value of brownfield land which has naturalised to be taken into account. I therefore consider that the plan should acknowledge the potential biodiversity value of previously used land in some way.
2. However it is clear from Section 3.2A of the plan, and Policy SS4 that the strategic priority of the council for vacant and derelict land is its reuse and redevelopment. Therefore, while there may be a case for acknowledging the potential biodiversity value of brownfield land somewhere in the plan (a matter I consider further under Issue 4), I

consider it is reasonable for the council to have focussed its biodiversity strategy elsewhere. No modification is required.

3. The council does not address, above, a separate point made by the Scottish Wildlife Trust that the strategy should say more about increasing biodiversity in a more proactive way. On this point I note that several of the listed actions at paragraph 34 are positive and proactive, including: identifying opportunities for the enhancement of the green network; promoting, enhancing and restoring peatland habitats; and promoting woodland creation. It seems reasonable for the council to have picked out certain identifiable actions such as these for the biodiversity strategy, rather than making broader positive statements that are harder to pin down. I also note that as a land use planning document, the LDP will inevitably be focussed on development proposals, and have only a partial role within the wider suite of the council's broader strategies and actions to promote biodiversity. For these reasons I do not consider any modification required to address this point.

#### Inclusion of 'unacceptable' within paragraph 34

4. Bullets 5 and 7 of the biodiversity strategy contain the phrase 'presuming against'. At least in this planning context, I take this phrase to indicate what the authority's starting position will be, in this case to avoid adverse impacts on important biodiversity sites and the loss of trees and hedgerows etc.. This seems appropriate within a high level strategy statement focussed on biodiversity loss. I do not take the implication to be that loss or damage to these assets will be resisted in all cases.

5. The plan is to be read as a whole, and it will be for the decision-maker in individual cases to balance potential impacts against the benefits of development. Detailed consideration of biodiversity matters in relation to individual sites and proposals will be carried out in the context of the relevant policies of the plan, including NE5: Protection of Areas of Nature Conservation Interest, and NE8: Tress, Woodland, Forestry and Hedgerows.

6. I am not attracted by the suggestion that this paragraph should be reworded to refer to 'presuming against unacceptable' impacts or losses. The word 'unacceptable' provides only a vague and subjective test, and it seems tautological and self-evident to state that unacceptable losses or impacts will not be acceptable. For all these reasons I consider that no change to the plan is required.

### **Policy SS3: Central Scotland Green Network**

#### Nature networks in rural areas

7. I note from the Central Scotland Green Network (CSGN) Vision (CD020) that the entirety of East Ayrshire is included within the CSGN Activity Area. It is stated that the CSGN will be made up of a number of elements including 'networks of natural or semi-natural habitats, such as woodlands, hedgerows and peatland, in the countryside and linking into the urban areas'. The principles supporting the CSGN include working at scale across the CSGN area.

8. Policy SS3 refers to the CSGN Opportunity Areas identified on Figure 4 of the plan,

many of which appear to be in rural areas. All these references indicate to me that Policy SS3 does not limit its coverage to urban areas, and nor is the CSGN an exclusively urban programme. No modification is required.

Strategic approach to the provision of open space

9. Via the CSGN and Policy OS1, the plan makes some attempt to both support the strategic open space planning that is already happening and embed green and blue infrastructure into placemaking and new development. It may be that the plan could have embraced a more visionary strategic approach to identifying and delivering the open space needs of the area (for instance in connection to its major development proposals). However, it is simply not possible to introduce such an approach at this late stage in the plan-making process, especially in the absence of specific suggestions.

10. I agree that the pooling of contributions towards larger more meaningful off-site areas of open space may sometimes be more effective than the piecemeal provision of smaller spaces. This approach is allowed for in Schedule 1 of the plan: Public and Private Green Infrastructure/ Open Space Standards. This allows for contributions to be made towards off-site provision from the developers of sites of fewer than 200 houses. I therefore consider that this matter is already adequately covered in the plan.

11. I consider that the requiring of a set number of trees per house, or for wild flower planting, would be excessively detailed and prescriptive for inclusion in a LDP.

**Reporter's recommendations:**

No modifications.



Issue 4	Spatial strategy – vacant and derelict land	
Development plan reference:	Policy SS4 and paragraphs 43-46	Reporter: Stephen Hall
Body or person(s) submitting a representation raising the issue (including reference number):		
EPC-UK (101) Scottish Wildlife Trust (110) Homes for Scotland (128) Gladman Developments (146)		Barratt Homes (195) Mr and Mrs Marriot (204) NHS (270) Historic Environment Scotland (271)
Provision of the development plan to which the issue relates:	The content and wording of the spatial strategy in relation to vacant and derelict land (policy SS4 and paragraphs 43-46).	
Planning authority's summary of the representation(s):		
<p><b>Policy SS4: Vacant and Derelict land and supporting policies 43-46</b></p> <p><u>EPC-UK (101)</u></p> <p>The principle of the policy is supported, however, concern is expressed with regards to a vacant or derelict site within the consultation zone of a hazard site. The policy should make clear that this may not be acceptable due to a safety risk. If approved, such a proposal could make the ability of a neighbouring site to store hazardous goods unviable, resulting in the closure of an existing operation.</p> <p><u>Scottish Wildlife Trust (110)</u></p> <p>While redeveloping vacant and derelict land may in many cases be the most appropriate course of action, it may be that the land in question has in some way 'rewilded' itself and gained biodiversity potential. Safeguarding and enhancing this potential is a legitimate end use.</p> <p><u>Homes for Scotland (128), Gladman (146), Barratt Homes (195)</u></p> <p>The reasoning behind the policy is understood, however, it is considered there is a risk that by allowing certain sites to bypass necessary developer contributions, it will place a burden on other sites to over-provide for these services.</p> <p><u>Barratt Homes (195), Gladman (146) and Homes for Scotland (128)</u></p> <p>It will be practically impossible for all new development to be limited to vacant and derelict land. A blended approach to land allocation is needed, with greenfield, brownfield and vacant and derelict land all playing a part; the Plan should acknowledge this.</p>		



Barratt Homes (195)

How the policy will work in terms of affordable housing, is questioned, as well as how off-site affordable housing will be delivered if brownfield sites are exempt from providing affordable housing. Barratt Homes would like to see a justification for the policy and evidence that it will not render other sites unviable and undeliverable.

Mr and Mrs Marriot (204)

Policy SS4 should be expanded to incorporate support for the development of brownfield sites outwith settlement boundaries, to allow brownfield developments to come forward in preference to greenfield development. Development would still be subject to all other policies of the Plan and would be in accordance with the aims of the Rural Protection Area.

Historic Environment Scotland (271)

The policy does not support the aims of policy HE3. The policy states that the exemptions may apply to derelict buildings within settlement boundaries on a case-by-case basis, but this will not apply to listed buildings or buildings within conservation areas. Policy HE3 states that *'the Council will seek to preserve and protect as far as possible other non-designated historic environmental assets and areas of historic interest that do not have statutory protection but that are nonetheless of important heritage value.'* By excluding only listed buildings and conservation areas from exemption under clause (ii) of policy SS4, the policy does not support the preservation, protection and re-use of non-designated historic assets.

NHS (270)

In addition to housing, incentives to re-purpose vacant and derelict land should include community uses, such as civic spaces, greenspace, play, growing spaces and nature based solutions for climate adaptation. LDP2 should ensure that where incentives are provided, landowners/developers should work closely with communities to ensure developments meet their needs and aspirations. The Plan should also detail how local communities will be supported to become involved in land management, especially in relation to vacant and derelict plots.

**Supporting paragraphs 43 – 46**

Barratt Homes (195)

In relation to supporting paragraphs 43 – 46, it is requested that the Plan identify the interventions required to bring forward development on vacant and derelict land. The respondent also expects the Plan to acknowledge that the development process can be lengthy and not all sites will come forward by 2032. The difficulties in developing brownfield land (contamination, ownership, viability issues etc.) are not recognised by the Plan and it is critical that such delays over such matters should not impact on viable alternative sites coming forward.

**Modifications sought by those submitting representations:**

**Policy SS4: Vacant and derelict land**

EPC-UK Group (101)

A modification is not explicitly stated, however, it is requested that SS4 be redrafted to make reference to occasions where conflicts with existing (hazardous) uses would not be found to be acceptable.

Scottish Wildlife Trust (110)

It is unclear what modification to the policy is required.

Homes for Scotland (128), Gladman (146)

The first sentence of the second paragraph of policy SS4 should be amended to read; 'To encourage development on such sites, **where the absence of contributions would not affect the viability of other sites**, proposals will benefit from....'

Barratt Homes (195)

The first sentence of the second paragraph of policy SS4 should be amended to read; 'To encourage development on such sites, **where the absence of contributions would not affect the viability of other sites or put unacceptable pressure on existing infrastructure**, proposals will benefit from....'

It is unclear the precise changes required to supporting paragraphs 43 – 46. In general terms, the point is expressed that development should not be unduly focussed on vacant and derelict land and the expense of more viable sites.

Mr and Mrs Marriot (204)

A modification is not explicitly stated, however, it is requested that SS4 be amended to allow the stated exemptions to apply to brownfield sites outwith settlement boundaries.

Historic Environment Scotland (271)

A modification is not explicitly stated, however, it is assumed by the Council that HES wish to see the final sentence of paragraph 4 of SS4 amended to state that the policy will not apply to non-designated historic environmental assets and areas of historic interest that do not have statutory protection but that are nonetheless of important heritage value

NHS (270)

A modification is not explicitly stated, however, it is recommended that the Plan incentivises the take up of vacant and derelict land for non-housing purposes, including growing space, play, civic spaces etc. In addition, further detail is requested on how the Plan can give communities greater input into the redevelopment of vacant and derelict

land.

**Summary of responses (including reasons) by planning authority:**

**Policy SS4: Vacant and Derelict land**

Proximity to hazardous sites (101)

The Council does not agree that there is any need to modify policy SS4 to safeguard against areas of vacant land adjacent to hazard sites or sites containing hazardous materials. Policy SS4 explicitly states that the policy will support development on Vacant and Derelict sites only where such development meets all other relevant policies of the Plan. SS4 will not be the only policy test a proposal is required to meet. Overarching policy SS2 (Page 20), against which all development proposals will need to be assessed, states that development should '(ii) Be **fully compatible with surrounding established uses** and have no unacceptable impacts on the environmental quality of the area.' Should an occasion arise that a development is proposed in close proximity to an operational site with hazardous processes or materials, this policy would safeguard against any new development that may result in a conflict. The suggested inclusion to SS4, would result in duplication and is considered unnecessary.

Biodiversity value of vacant and derelict land (110)

The Council acknowledges that vacant and derelict land can become valuable for biodiversity. Policy SS4 is intended to encourage the uptake of these sites in settlements for development purposes, however, any proposal will still have to be assessed against all other relevant policies of the Plan, including those that safeguard and encourage biodiversity. The policy is also linked to the regular vacant and derelict land survey; this is carried out annually and where any site is noted as re-wilding to such an extent that it would no longer be suitable for development, it would be removed from the register. It is therefore the council's view that it is not necessary to amend SS4 in this regard.

Impact of SS4 on viability of other sites (128), (146), (195)

The inclusion of policy SS4 is an attempt, through the LDP, to incentivise the re-development of vacant and derelict sites, many of which have been vacant for a significant length of time and have a significant impact on the environment and wellbeing of local communities. By their nature, the VDL sites are often more complex and expensive to develop, which again, provides part of the rationale for the policy.

The exemptions set out in the policy will not result in additional burdens being placed on other sites. In terms of developer contributions, the mechanisms for this are detailed in INF4 and the draft Supplementary Guidance on Developer Contributions (CD21). Depending upon the location of the site and the surrounding services, developer contributions may be sought for (i) education; (ii) healthcare; (iii) community facilities; (iv) public realm and/or (v) transport infrastructure. Whilst INF4 indicates locations where a contribution is likely to be required, it is not possible at plan-making stage to identify all such instances; this will be done on a site-by site basis when an application

is made. As per the methodologies set out in the SG, developer contributions are calculated on a per house basis for a particular site, depending on need. **Whether or not an adjacent or nearby site pays a developer contribution, will not impact on the sum the site in question is required to pay.** By comparison, sites solely for affordable housing are not required to pay a developer contribution; again, this will not mean other sites paying higher, per house sums.

In response to Barratt Homes' question about the provision of off-site affordable housing, the Council notes that the exemptions do not apply to all brownfield sites, only those included on the V&DL register, which must meet certain criteria for inclusion. If a site on the VDL register is identified as a suitable location for affordable housing, policy SS4 will not prevent this happening; SS4 is there to encourage and incentive development to come forward, which otherwise may not happen.

It is the Council's view that policy SS4 is entirely appropriate as currently written. However, given its links to developer contributions and affordable housing in particular, if the Reporter sees merit, the Council would be willing to add additional text into the Plan to state that Supplementary Guidance will give greater clarity over the rationale behind SS4 and its implementation in the context of developer contributions, affordable housing and open space provision. If such text is deemed to be required, we would suggest:

*Supplementary guidance will provide clarity over how contributions will be calculated or waived in line with Policy SS4.*

#### Application of SS4 to the rural area (204)

It is noted by the Council that SS4, as currently worded, applies exemptions to sites included on the Vacant and Derelict Land (VDL) register. This is intentionally limited to sites within settlement boundaries. East Ayrshire has a large number of VDL sites within the rural area, primarily relating to former mining and industrial operations. In many instances, these are not sustainable locations to direct new development and their development would not be in accordance with the spatial strategy of the Plan. Long term naturalisation is a more appropriate end use. Notwithstanding this, Policy RH2 gives sufficient and proportionate support for small scale rural housing on brownfield sites in the Rural Diversification Area. Given that SS4 is essentially incentivising the take up of certain sites, the Council does not consider it acceptable to apply these incentives to the sites in the rural area.

#### Application of SS4 to non-designated historic environment assets (271)

Policy SS4 states that the redevelopment of vacant and derelict sites and buildings will be subject to assessment against all other relevant policies of the Plan. It also states that the exemptions will be applied to derelict buildings on a case-by-case basis. Therefore any proposal being assessed against SS4, must also be assessed against HE3 where applicable. If a proposal is not supported by HE3 because, for example, it will negatively impact on a non-designated historic environment asset, it will not therefore, meet the requirements of SS4. If, however, a proposal can satisfy HE3, SS4 could be applied, depending on the particular merits of the case. The Council does not agree that there is a conflict between the policies and does not therefore consider it

necessary to amend policy SS4 in this respect.

#### Incentives for non-housing uses (270)

SS4 of the Plan, and the supporting paragraphs (43 – 46) support, in general terms the re-use of vacant and derelict land for all uses. In addition, Policy PLAY1 supports the temporary use of vacant or under used sites, for open space, green space or play space. The exemptions included in SS4 are not solely geared towards housing, rather they make use of the tools available to the Plan. Developer contributions, open space provision, (neither of which is applicable only to housing) and affordable housing requirements are all within the remit of the Plan, so through the Plan, the Council is able to build in these exemptions to incentivise development. The Council is unclear as to how the Plan, acting within its statutory remit, could incentivise other uses.

#### Community involvement in vacant and derelict land (270)

The Council is fully supportive of community empowerment and encourages all communities to take active roles in land management. However, the Council does not believe it is the role of the LDP to set out the detail of how local communities will be supported in this way. The Council supports communities through the LDP through other means, including local place plan and community wealth building policies (policies LPP1, LPP2 and SS10). The Council does not agree that the LDP should be amended to include detail on this.

### **Paragraphs 43 – 46**

#### Complexities involved in developing brownfield land (195)

In relation to paragraphs 43 – 46, the Council is of the view that the text contained in the paragraphs describe a sensible approach to encouraging the uptake of vacant and derelict land. The Plan encourages this through policy SS4 and the allocation of opportunity sites, where appropriate, on vacant and derelict land. However, being mindful of viability and effectiveness, the allocation of sites, particularly housing sites, has included the identification of a significant number of greenfield sites and in this respect, the Plan fully demonstrates that a mix of housing land is needed to meet housing requirements. Whilst the Council agrees that the process to develop housing sites can be lengthy, especially for brownfield sites, it is not necessary for this to be stated in the Local Development Plan.

### **Reporter's conclusions:**

#### **Policy SS4: Vacant and Derelict land**

##### Proximity to hazardous sites

1. The plan is to be read as a whole, and Policy SS4 also specifically states that the redevelopment of vacant and derelict sites and buildings will be subject to assessment against all other relevant policies of the plan. One of those relevant policies will be SS2, which states that development proposals must be fully compatible with surrounding established uses. This provision would appear to allow the council to

resist, if necessary, proposals that could make the ability of a neighbouring site to store hazardous goods unviable.

2. I consider that the existence of this statement in Policy SS2 renders it unnecessary to include a similar provision in Policy SS4. The representee has not given any reasons why there is a particular need to reiterate this or a similar statement in Policy SS4. I therefore conclude that no such change is necessary.

#### Biodiversity value of vacant and derelict land

3. I have already noted in my conclusions at Issues 2 and 3 of this report that National Planning Framework 4 (NPF4) requires the biodiversity value of brownfield land which has naturalised to be taken into account, and that the plan should therefore acknowledge the potential biodiversity value of previously used land in some way.

4. I acknowledge that the plan is to be read as a whole, and that a suite of policies already exist in the plan to address nature conservation and biodiversity. Most relevantly, Policy NE4 supports proposals that contribute to the enhancement of biodiversity, and Policy NE5 seeks for development to protect and enhance nature and biodiversity. Policy NE6 requires an ecological appraisal to be submitted where there is likely to be an adverse impact on biodiversity. Policy DES1 requires development proposals to safeguard and enhance features of sites including the natural environment. However, it is clear from NPF4 and Scottish Wildlife Trust's representation that there is a particular issue, that does not appear to be currently referenced in the plan, around the biodiversity value of some vacant land.

5. I note the council's statement that sites that have rewilded to such an extent that they would no longer be suitable for development would be removed from the vacant and derelict land register. However this commitment sits outside the LDP, and also would not address sites where some redevelopment remained desirable alongside measures to safeguard or enhance residual biodiversity features.

6. I appreciate that the council's understandable focus in this part of the plan is on bringing vacant and derelict land back into use. However, for the reasons stated, it nevertheless seems appropriate to me to include some reference to potential biodiversity value in the policy. The form of words I recommend below is based on wording in Policy 9 of NPF4 but does not undermine the policy's clear emphasis on the general desirability of re-use and redevelopment.

#### Impact of SS4 on viability of other sites

7. The concern that exempting certain sites from the requirement to provide developer contributions could place an additional burden on other sites is understood. However there is nothing in the policy that indicates that 'lost' funds that would otherwise have been accrued from the developers of vacant and derelict sites is to be recouped from other developers in this way. Indeed, Policy INF4: Developer Contributions is explicit that contributions will relate to the development concerned, including in nature, scale and kind. This reflects the national policy position as expressed in Circular 3/2012: Planning Obligations and Good Neighbour Agreements, which states at paragraph 14 that planning obligations should only be sought where they fairly and reasonably relate



in scale and kind to the proposed development. For these reasons I do not consider that any modification to this aspect of the policy is required.

8. As regards affordable housing specifically, I note that the policy does not exempt all brownfield sites from making an on-site provision, but only those included in the vacant and derelict land survey. The exemption also only extends to removing the requirement provide land on-site: commuted sums are still expected to be paid to support the provision of affordable housing off-site. Finally, the policy does not prevent the use of vacant and derelict land for affordable housing, for instance direct development by housing associations, it merely does not require on-site provision. There is also no suggestion in the plan that provision on greenfield sites should be increased to compensate for any lower contribution from vacant and derelict sites. For these reasons I conclude that any knock-on impacts on greenfield developers will be minimal and that no modification to this aspect of the policy is required.

#### Application of SS4 to the rural area

9. It is clear that Policy SS4's support for the redevelopment of vacant and derelict land deliberately excludes such land in rural areas. The reasoning behind this approach, as set out by the council above is persuasive.

10. It would not be a sustainable strategy to direct new development to the many former mining and industrial sites located in the wider countryside. Such sites will not generally be as accessible as urban sites or contribute to local living and 20 minute neighbourhoods as sought by NPF4. Such sites are less likely to directly blight existing communities. Long term naturalisation will often be a more appropriate end use for such land. Other provisions in the plan (Policy RH2) do make some limited provision for new housing on brownfield/ derelict sites in parts of the countryside.

11. For these various reasons I do not support any widening of the scope of Policy SS4 to encompass land outside settlement boundaries.

#### Application of SS4 to non-designated historic environment assets

12. Most of Policy SS4, including its reference to listed buildings and conservation areas, is concerned with the offering of exemptions from developer contributions, rather than the principle of when the redevelopment of sites will be supported. I therefore consider the particular suggested change put forward by Historic Environment Scotland to be somewhat misdirected.

13. I note the council's arguments that the plan is to be read as a whole, that Policy SS4 specifically requires assessment against other relevant policies of the plan, and that the safeguard therefore exists of Policy HE3 being also applicable. I agree with those arguments to the degree that it is generally not necessary to include extensive caveats and cross-references within the plan. So long as topics are covered adequately somewhere within the plan, that should normally suffice, and any balancing between competing policies can be carried out by the decision-maker in individual cases.

14. However, as with my discussion of biodiversity above, I find that some specific

cross-references in policies to other topics can be useful where there is an obvious and particular connection to be made. In the case of Policy SS2, derelict building are particularly likely to be older and to therefore have some heritage interest. While it is wholly correct for the policy to emphasise the council's general support for re-use and redevelopment, I do therefore consider that it would be appropriate to include a reference to taking account of heritage value in the part of the policy that deals with the principle of development. I recommend a suitable form of words below.

#### Community involvement in vacant and derelict land

15. Policy SS4 and its supporting text do not limit the redevelopment of vacant and derelict land to housing uses. It may be that community uses would form an equally beneficial use for some such sites, and there is nothing in the policy that would prevent this.

16. As regards developers of vacant and derelict sites working with communities, planning legislation requires there to be a level of public engagement ahead of planning applications for major developments, including requirements for pre-application consultation and reporting. Opportunities also exist for local people to get involved in the preparation of new-style local place plans, as supported by Policy LPP2 of the plan, and in community planning more generally. Policy SS10 specifically supports the use of vacant sites which have been acquired by the community for community uses.

17. I am not convinced that any compelling case has been made for the plan to say more on this topic, or that it would be reasonable to compel the development of vacant sites to always meet the needs and aspirations of communities. No modification is required.

#### **Paragraphs 43 – 46**

18. I note that there are various comments from Homes for Scotland, Gladman and Barratt Homes relating to these paragraphs that the council has not fully addressed above.

19. SS4 itself is a largely positively worded policy that sets out to incentivise the development of vacant and derelict land. It is silent on the use of greenfield sites, and it is apparent from the land allocations made in Volume 2 of the plan that the spatial strategy has in fact allowed for significant greenfield release. In practice it therefore appears that the plan does adopt the 'blended approach' favoured by representees.

20. Paragraph 46 comprises the plan's strategy for vacant and derelict land. The first bullet states that the council will 'require that in the first instance development utilises existing buildings and previously developed land in preference to greenfield land'. This is a far-reaching statement that appears to imply some form of sequential test. But I do not find this approach to be reflected in the policies themselves.

21. Policy SS4 positively encourages the redevelopment of vacant and derelict land without itself restricting development elsewhere. The various topic policies such as RES1: New housing development and IND1: Business and industrial development



direct development to allocated sites, but not specifically to vacant and derelict land ahead of greenfield land.

22. One interpretation may be that the first bullet of paragraph 46 has been implemented through the pattern of land allocations made in the plan. However in my view this bullet expresses a more radical approach than is in fact evident in the plan. I consider that it is necessary to soften this statement to instead state that development utilising existing buildings and previously developed land, in preference to greenfield land, will be encouraged (rather than required). This will serve to bring the plan's strategy into better alignment with its policies, and largely address the concerns raised by representees. It will also reflect the wording of NPF4, which states the intent of Policy 9 to be 'to encourage, promote and facilitate the reuse of brownfield, vacant and derelict land and empty buildings, and to help reduce the need for greenfield development'.

23. In the absence of any suggested wording, I have not included any further wording to identify the interventions required to bring forward vacant and derelict land for development. I acknowledge that the process of bringing such sites forward for development can be long and complex. The range of actions that may be required will be many and various, and are also likely to be individual to each particular site. All-in-all I consider the action programme to be a better vehicle to identify such interventions than the plan itself.

#### **Reporter's recommendations:**

1. I recommend that the first bullet point of paragraph 46 be amended to read:

'Encourage development to utilise existing buildings and previously developed land in preference to greenfield land.'

2. I recommend that the penultimate sentence of Policy SS4: Development of Vacant and Derelict Land be amended to read:

'The redevelopment of vacant and derelict sites and buildings should take the biodiversity and built heritage value of the land or buildings into account, and will be subject to assessment against all other relevant policies of the plan.'

Issue 5	Spatial strategy – economy and employment	
Development plan reference:	Volume 1 - Policies SS9, SS10, SS11 and paragraph 79	Reporter: Stephen Hall
Body or person(s) submitting a representation raising the issue (including reference number):		
EPC-UK (101) Homes for Scotland (128) Persimmon Homes (141) Gladman Developments (146)		Barratt Homes (195) Scottish Power Renewables (196) J Murphy (230) NHS (270)
Provision of the development plan to which the issue relates:	The content, wording and general approach of the Economy and Employment part of the Spatial Strategy, specifically policies SS9, SS10, SS11 and paragraph 79.	
Planning authority’s summary of the representation(s):		
<p><b>Spatial Strategy – general approach to the Economic Expansion of Kilrnarnock</b></p> <p><u>J Murphy (230)</u></p> <p>There is a lack of available industrial property in Kilrnarnock, which is not adequate to meet demand. Lack of supply is putting up rent and increasing costs to businesses. Because of the lack of supply, it is unclear how the overall LDP2 vision of ‘Driving economic growth’ will be realised through the spatial strategy of the Plan.</p> <p>Industrial units have been occupied by non-industrial uses (accountants, florists, beauty salons etc.). This contributes to the lack of available industrial space. Non-industrial businesses should be directed to the high street/town centre, to help revive these areas. This could release industrial properties back to businesses.</p> <p>The most obvious solution is to supply the type of commercial property currently in demand, which is industrial property.</p> <p><b>Policy SS9: Ayrshire Growth Deal and supporting text</b></p> <p><u>EPC-UK (101)</u></p> <p>A Planning Framework that enables new development that brings jobs and economic growth, but also protects existing businesses from adjacent development that may impact on the viability of the existing businesses, needs to be more clearly set out within the draft policies.</p> <p><u>NHS (270)</u></p> <p>LDP2 must include more detail on how the Ayrshire Growth Deal (AGD) will be</p>		

consistent with the aims of the LDP2, in particular, (1) reducing the effects of climate change and contributing to net zero targets; (2) creating good quality and accessible places; and (3) delivering new and improved infrastructure. Without this, there is a risk of unintended consequences around inclusive economic development, employability, improved public realm and tackling climate change.

Homes for Scotland (128), Gladman Developments (146), Barratt Homes (195)

It is essential that the Policies contained within this emerging LDP allow for the Local Authority to fully utilise the benefits of the Ayrshire Growth Deal. There is scope to further increase the housing capacities of the allocated housing sites, to allow for the households required to accommodate the volume of new jobs the growth deal could create.

### **Community wealth building – policy SS10 and supporting text (paragraph 79)**

Homes for Scotland (128), Gladman Developments (146), Barratt Homes (195)

There is a lack of clarity over what is meant by community wealth building. Additional information would be welcome.

NHS (270)

Proposals for community wealth building should also include a requirement that, prior to making a decision to close or demolish existing premises and facilities, local communities must be involved and supported in decision making to determine if they could be sustained and maintained as civic spaces. The council should consider what additional incentives could be included in policy SS10 to encourage and enable local communities to take ownership of local assets including existing buildings and vacant sites.

### **Policy SS11: Skills and Employment**

Homes for Scotland (128), Persimmon Homes (141), Barratt Homes (195), Scottish Power Renewables (196)

The principle and rationale behind the policy are generally supported. However, greater clarity is required over what a skills and employment plan should include. The LDP should provide greater guidance over what should be included in the plan.

NHS (270)

Policy SS11 could be strengthened by making reference to the specific groups who may benefit from a development, such as people with a history of justice involvement, long-term unemployment, disability, or other barriers to workforce participation

### **Links between policies**

NHS (270)

Clearer links should be made between proposals to support Town Centres and other policy areas of LDP2, namely: active and sustainable transport, green and blue infrastructure, and housing as part of mixed use developments. Clearer links should also be made between land use policies and the food system, particularly food production.

**Modifications sought by those submitting representations:**

**General spatial strategy approach to industrial land in Kilmarnock**

J Murphy (230)

No specific modifications are set out, however, it is assumed the respondent would like further industrial sites to be allocated, specifically within Kilmarnock in order deliver the vision and spatial strategy of the Plan.

**Policy SS9: Ayrshire Growth Deal**

EPC-UK (101)

It is unclear the modification that is suggested. In general terms, it is suggested that policies of the Plan require to be re-drafted to ensure any new development, does not impact on the viability of existing development.

NHS (270)

No specific modification is set out, however, it is suggested that the Plan include more detail on how the development of the Ayrshire Growth Deal sites will be consistent with the aims of LDP2.

Homes for Scotland (128), Gladman Developments (146), Barratt Homes (195)

No specific modification is suggested, however, it is suggested that there is scope to increase the housing capacities of the allocated housing sites, to reflect economic growth and new jobs as a result of the Ayrshire Growth Deal.

**Policy SS10: Community wealth building and supporting text (paragraph 79)**

Homes for Scotland (128) Gladman Developments (146), Barratt Homes (195)

In reference to paragraph 79, it is requested that further information be added to explain what is meant by community wealth building.

NHS (270)

No specific modification is set out, however, it is suggested that the Plan should include a requirement that, prior to making a decision to close or demolish existing premises and facilities, local communities must be involved and supported in decision making to determine if they could be sustained and maintained as civic spaces. Additional incentives could be included in policy SS10 to encourage and enable local

communities to take ownership of local assets including existing buildings and vacant sites.

### **Policy SS11: Skills and Employment**

Homes for Scotland (128), Persimmon Homes (141), Barratt Homes (195), Scottish Power Renewables (196)

Information to be included in the LDP on what should be included within a Skills and Employability Plan.

NHS (27)

Reference to be included in the LDP as to particular groups that may benefit from a development e.g. people with a history of justice involvement, long-term unemployment, disability, or other barriers to workforce participation.

### **Links between policies**

NHS (270)

No specific modifications are proposed, beyond “clearer links be made”.

### **Summary of responses (including reasons) by planning authority:**

#### **General spatial strategy approach to industrial land in Kilmaronock**

Provision of Business and industrial sites (230)

The council does not agree that further sites are required for business and industrial use within East Ayrshire in order to implement the spatial strategy and meet the vision of the Plan. Taking account of the Review of Employment Land (February 2021) (CD50) carried out to inform the preparation of the Plan, the business and industrial sites were fully reviewed as part of the process. In order to ensure a range of sites, both safeguarded and opportunity sites were allocated. Large new sites, associated with the Ayrshire Growth Deal but giving opportunity for development beyond the growth deal projects, have been identified at Moorfield (KK-A1) and Bellfield (RU-A1 & RU-B2), whilst significant business land is also available at Rowallan (KK-B6). Aside from the land allocations, it is pointed out that the AGD will physically provide new business/industrial properties, helping to address the issue raised by the respondent in terms of available property. Also, a number of established sites in Kilmaronock have been safeguarded in the Plan; whilst much of these sites are built out there remains capacity in several for additional, smaller scale developments (e.g. KK-B3(s) and KK-B4(s))

In addition, policy IND1 supports business and industrial development within settlements but outwith identified sites, when they can be developed without resulting in unacceptable impacts on the surrounding area and surrounding land uses. In respect, the Plan gives greater flexibility than the current adopted Plan EALDP 2017), which directs class 4, 5 and 6 uses to allocated sites only. This has been intentionally

widened out, to increase scope for business and industrial uses on new sites in settlements that may come forward over the Plan period.

#### Use of industrial sites for non-industrial uses (203)

In terms of the use of industrial properties for non-industrial uses, policy IND3 gives some flexibility for this, but with the caveat that any such non-class 4, 5 or 6 use should be employment generating and should not dilute the primary business and industrial function of the area. There must also be adequate alternative industrial land available. This approach is considered entirely sensible, in terms of supporting the retention of business and industrial land, but at the same time allowing other employment generating uses where they are proportionate and complimentary.

In relation to reviving the High Street, it is noted that Policy TC2 already directs all footfall generating uses to the town centres. Through the sequential approach embedded in TC2, such uses will only be supported outwith town centres where it can be demonstrated that they cannot reasonably be located within a town centre, or where they fall within a category of small scale development, detailed in TC3. It is considered that the town centres policies are robust in this respect.

### **Policy SS9: Ayrshire Growth Deal**

#### Compatibility of adjacent uses (101)

The Council does not agree that there is any need to modify policy SS9 or indeed redraft any of the policies of the Plan in line with the objection raised. Overarching policy SS1, as drafted, includes provision for compatibility with existing uses to be taken into consideration in the assessment of all development proposals. This includes ability of the existing development to have ongoing continuity. As an additional safeguard, policy RES2 (page 97) does not permit new residential developments in locations where existing, established uses are likely to have an unacceptable impact on the amenity of future resident. This is intended to avoid future problems of residential occupiers being impacted by adjacent operations and land uses and gives comfort that the existing operators will not encounter complaints and problems down the line. The above policies are therefore considered entirely sufficient to address the point raised by the respondent.

#### Relationship between the aim of the Plan and the Ayrshire Growth Deal (270)

Policy SS9 gives in principle support for developments that contribute to the vision, aims and projects of the Ayrshire Growth Deal. In addition, four specific sites are safeguarded within the maps in Volume 2 (CN-A1, RU-A1, KK-A1 and KK-A2), for AGD projects. Support for the AGD is considered critical to achieving parts of the LDP2 vision, in so far as it will be a key driver over the coming years for helping the Ayrshire economy recover and grow, in a fair and green manner. However, the development of these sites will still require to meet with all other relevant policies of the Plan, when being assessed at planning application stage. Therefore key policies on climate change (SS1), creating good quality and accessible places (DES1 and OS1) and infrastructure (INF1 – INF4) will still be applicable to these sites. In addition, criteria (i) of policy SS2, ensures the vision and aims of the Plan are fully embedded in policy and means all

planning applications will be required to take into account the vision, aims and spatial strategy of the Plan. On this basis, it is therefore considered by the Council that it is not necessary for the Plan to be modified to demonstrate how the development of the AGD sites will meet with the aims of the Plan.

Provision of additional housing land to support the Ayrshire Growth Deal (128), (146), (195)

It is recognised that the Ayrshire Growth Deal (AGD) may lead to an increase in the number of households in East Ayrshire. Ayrshire Manufacturing Investment Corridor (AMIC), HALO Kilmarnock, Community Renewable Energy (CoRE) and other Ayrshire Growth Deal (AGD) projects will encourage inward migration and thereby spur demand for new homes. The AGD as a whole has the potential to create 2,100 jobs in East Ayrshire as a consequence of 7000 jobs overall being created and with a 31% share of funding and employment for the East Ayrshire area. In this respect the calculations which informed the MATHLR response (CD22a) the household projections were adjusted to allow the Local Authority area to meet its ambitions and attract people from outside of East Ayrshire to live and work in the area. In addition, the MATHLR has a 0.3 flexibility allowance. The Council agrees that the housing numbers have to accommodate growth as a result of the AGD, however, such projected growth has already been taken into account in the MATHLR calculations and therefore the Council does not agree that housing capacities on individual sites require to be adjusted: that would be double counting.

Notwithstanding, the capacity set out for each housing opportunity site is not binding; actual house numbers will depend on house type/size, layout and approach to open space. This will be determined at planning application stage. Taking this on board, the Council does not see any need to increase the housing capacities stated in the Plan for allocated sites.

**Policy SS10: Community wealth building**

Request for additional clarity on community wealth building (128), (146), (195)

In response to the request that additional information be added at paragraph 79 to explain what is meant by community wealth building, it is noted by the Council that paragraphs 85 – 89 explain in considerable detail the community wealth building approach to economic development. It is unclear what additional information would be useful, over and above this. Being mindful of the need for succinct development plans as required by through paragraph 8 of Circular 6/2013 Development Planning (CD2), it is considered that additional detail on this matter would be disproportionate and unnecessary.

Suggested additional wording on community wealth building (270)

Community wealth building is key priority for the Council and is embedded within the Ayrshire Growth Deal. The purpose of SS10 is to ensure that, where it is applicable and relevant to the role and purpose of Planning, community wealth building principles can be supported by the Plan. It is the view of the Council that the suggested additions by NHS fall outwith the remit of the Local Development Plan. It is not for the Plan to



provide policy on decisions to close or demolish public services/buildings, as these are matters that would not be considered as part of any land use planning process. Similarly, whilst the Council supports the principle of encouraging and incentivising communities to take ownership of assets, it is not the role of the development plan to set out these incentives, which relate more to ownership and community capacity issues, than to land use matters.

### **Policy SS11: Skills and Employment**

#### Request for additional clarity on Skills and Employment Plan (128), (141), (195), (196)

Policy SS11 states that a skills and employment plan must demonstrate how developers '*will look to provide training/skills and employment opportunities for residents within East Ayrshire.*' The Council is of the view that this gives adequate flexibility for developers to provide the level and detail of information that best reflects their proposal, taking account of the type and scale of development. However, if greater guidance is needed, the Council would be willing to prepare a short piece of non-statutory planning guidance to support policy SS11, which will suggest key matters that should be included within a Skills and Employment Plan. If the Reporter is minded that this is necessary, the Council would suggest additional wording:

'Non-statutory Planning Guidance will be prepared to provide information on what should be included within a Skills and Employment Plan'

#### Suggested additional wording on Skills and Employment Plan (270)

In terms of the suggestion to include reference to particular groups that may benefit, the Council does not consider this level of detail is required, as there should be flexibility for developers to consider this matter on the basis of the particular nature, requirements and location of their application. Nevertheless, if as above, it is considered by the Reporter that non-statutory guidance would be useful to help expand on SS11, this guidance could suggest that particular groups be given specific consideration in the preparation of Skills and employment plans. Examples of these groups could be suggested within the guidance. If the Reporter is minded that this is necessary, the Council would suggest additional wording:

'Non-statutory Planning Guidance will be prepared to provide information on what should be included within a Skills and Employment Plan'

### **Links between policies**

#### Clearer links between Town Centre policies and transport, green infrastructure and housing; and between land use and food production (270)

The Council acknowledges the importance of the relationship between town centres and active and sustainable transport, green and blue infrastructure, and housing as part of mixed use developments.

It is also acknowledged that land uses have a significant impact on the food system



and food production. Although agricultural uses are largely beyond the scope of the Development Plan, given that agricultural use of land and buildings does not constitute development, the Plan aims to protect food security by virtue of policy NE10, and promote rural employment by virtue of policies RES7, RH1, RH4 and IND2.

The Plan covers multiple areas that are intimately interrelated; besides, the Plan is to be read as a whole in the assessment of planning applications; for these reasons, it is not considered necessary to cross reference every policy that relates to another.

### **Reporter's conclusions:**

#### **General spatial strategy approach to industrial land in Kilmarnock**

##### Provision of Business and industrial sites

1. The main points raised by James Murphy relate to the perceived shortage of industrial space, and the take-up of industrial space by non-industrial users who would be better located in the high street.
2. The council points to the Review of Employment Land, carried out for it by the consultants Avison Young in 2020. I note that this document identified a demand for new industrial space, and found many businesses could not find accommodation within East Ayrshire that suited their requirements and that this was forcing them to look outside of East Ayrshire. These findings appear to tally with the experience of the representee.
3. The proposed LDP represents an opportunity to address this matter. To this end I note that the plan proposes significant allocations of businesses industrial land in Kilmarnock, comprising the eight business and industrial locations identified in Schedule 4 of the plan, and two Ayrshire Growth Deal sites in Schedule 5. In total this amounts to 147 hectares of land, not including the 10 hectare AMIC site between Kilmarnock and Hurlford, or the 80 hectares of further opportunity sites to the south of this. While some of these sites are already occupied by industrial development, they also comprise significant areas of currently undeveloped land, notably at Rowallan to the north of the town, Moorfield to the west, and Kirklandside and Kaimeshill to the south-east. I therefore conclude that the plan is taking reasonable steps to maintain a good supply of land for new industrial development.
4. It may be that the representee is most concerned about the availability of industrial premises, rather than industrial land. On this matter I note that the LDP is mainly concerned with land use and the identification of suitable development sites. While the plan has a role in also facilitating the delivery of these sites, it will normally be the private sector, together with the economic development agencies, that are responsibility for delivering buildings on the ground.
5. In relation to non-industrial users taking up much-needed industrial space, I note that Policy IND3 of the plan safeguards designated business and industrial sites for class 4, 5 and 6 uses. If properly applied, this policy should act to prevent most 'high street' type uses becoming established in industrial areas. While I note that not all existing industrial sites are designated on the proposals map, the most significant

areas are identified as such. I recognise that the 'class 4' use class encompasses a range of business uses, including some offices, that the representee may still consider to compete with purely industrial uses. However class 4 has been defined nationally to allow a degree of flexibility for premises to move between different employment uses.

6. For these reasons I do not consider that any modification is required in relation to this representation.

## **Policy SS9: Ayrshire Growth Deal**

### Compatibility of adjacent uses

7. It is not wholly clear what change to the plan is being sought in the representation from EPC-UK. However, as regards the protection of existing businesses from incompatible adjacent development, I note that Policy SS2 requires all new development to be fully compatible with surrounding established uses. Policy RES3 resists new housing development in locations where existing established adjacent uses are likely to have an unacceptable impact on the amenity of future residents. These references would appear to address this aspect of the representee's concerns.

### Relationship between the aims of the Plan and the Ayrshire Growth Deal

8. The Ayrshire Growth Deal would appear to be self-evidently consistent with Aim 6 of the plan, which is to drive economic recovery and growth. As regards the range of other aims, the plan is to be read as a whole, and the clarity and readability of the document would not be well-served by excessive cross-referencing. It is the case that any development of the Ayrshire Growth Deal sites would have to be assessed against all relevant policies of the plan, including those relating to climate change, placemaking and infrastructure.

9. The merits of the individual sites that are proposed in the plan to support the Ayrshire Growth Deal are considered in more detail at Issues 36 to 39. However I do note that the four Ayrshire Growth Deal locations are situated in broadly accessible locations, on or close to public transport services. According to Volume 2 of the plan, developers of all four Growth Deal sites will be required to prepare transport assessments and provide the mitigation and/ or enhancement measures contained within the plan's environmental report. These latter measures include such items as requiring direct links to cycle routes, the use of zero carbon materials, the retention of trees and hedgerows, and the provision of open space. While it might have been preferable for some of these key measures to have been included in the plan itself, I consider overall that the plan does adequately address the need for the Ayrshire Growth Deal sites to meet the broader aspirations of the plan. No modification is required.

### Provision of additional housing land to support the Ayrshire Growth Deal

10. If the Ayrshire Growth Deal works as intended, it should increase levels of economic activity in East Ayrshire. This in turn should serve to encourage more people to remain in, or move to, the area. As such the Growth Deal should act to bolster Aim 3 of the plan to stabilise the population and stimulate population growth.

11. Housing land supply matters are discussed in more detail at Issue 17. However I note here that the council's submission to the Scottish Government regarding the appropriate level for the minimum all-tenure housing land requirement (CD022a) argued for a significant uplift in the requirement above the Scottish Government's initial default estimates. This argument was based on a number of reasons, but included the fact that the Ayrshire Growth Deal would encourage inward migration and thereby spur demand for new homes. It therefore appears that the potential impact of the Growth Deal has already been factored into the plan's assumptions for household growth.

12. Regarding the capacities of the allocated sites, I note that Volume 2 of the plan states that these are indicative. In my experience it is not unusual for the actual numbers of homes built on sites to vary somewhat from the capacities stated in LDPs, and this may be perfectly appropriate provided proper standards of placemaking and other planning considerations are still achieved. I therefore interpret the indicative capacities given in the plan as 'best guesses' at this stage, and do not consider there is any need for me to recommend any across-the-board increase in those capacities. Where a specific site capacity has been raised in respect of an individual site, this is addressed at the appropriate issue.

### **Policy SS10: Community wealth building**

#### Request for additional clarity on community wealth building

13. Beyond the reference at paragraph 79 of the plan, the plan explains the council's approach to community wealth building over two pages at paragraphs 85 to 89, and in Policy SS10. Here is explained the role of 'anchor institutions', the desire to grow economies from within, the funding available to support community wealth building through the Ayrshire Growth Deal, and the role of community organisations in repurposing derelict sites and buildings. I consider that this section of the plan provides a satisfactory overview of the thinking behind the community wealth building concept, and that no further explanation is required.

#### Suggested additional wording on community wealth building

14. The main focus of the planning system is to control new development (including changes of use) in the public interest. While I sympathise with NHS Ayrshire and Arran's concerns regarding the closure and demolition of existing premises and facilities, the planning system has only a limited role to play in such decisions. What the LDP can do is to influence how any such sites or buildings that are released from previous uses should be used. Policy SS10 sets out to support the use and adaptation of such sites or buildings for community or associated uses. I consider this to be an appropriate approach to this matter, and that no modification is therefore required.

### **Policy SS11: Skills and Employment**

#### Request for additional clarity on Skills and Employment Plan

15. Policy SS11 requires applicants for major developments to submit a skills and employment plan. This appears to be a new requirement that I suspect many developers may not have encountered before. I therefore expect that some further

guidance from the council as to what is expected in terms of the information required would be helpful. Such guidance could also assist the council to assess any such plans in a clear and consistent manner.

16. Above the council suggest that they are willing for a reference to the preparation of planning guidance on this topic to be included in the plan. For the reasons stated above, I agree that this addition would be useful and recommend such a modification below.

Suggested additional wording on Skills and Employment Plan

17. The suggestion to include references to particular groups who could benefit from this policy, such as people with a history of justice involvement, is interesting. However, I consider this to be a level of detail beyond what is necessary to include in the plan itself. Above, I concluded that a commitment should be added to Policy SS11 to prepare further planning guidance on what should be included within skills and employment plans. This guidance would also appear to be a suitable place to provide further information (if considered necessary) on this matter of how the policy could be applied to different groups. No further modification is therefore required.

**Links between policies**

Clearer links between Town Centre policies and transport, green infrastructure and housing; and between land use and food production

18. The plan is to be read as a whole, and it would be unnecessary and excessively longwinded to highlight every possible cross-reference between policies. To assist users of the plan, paragraph 14 already makes clear that the whole plan must be taken into account when assessing development proposals, and individual policies should not be 'cherry-picked'. Therefore, policies such as OS1: Green and Blue Infrastructure and T1: Transport requirements in new development will be applicable to town centre developments, whether or not a specific cross-reference is made at paragraph 91.

19. However, this is not to say that it may not be appropriate to highlight certain particularly important connections between policies within plan. Paragraph 91 of the plan sets out the LDP's strategy for supporting town centres, and highlights the guiding of footfall generating uses to these locations, encouraging town centre living, and defining a network of centres. It must be the case that important additional components of an effective town centres strategy must include active and sustainable transport, and green and blue infrastructure. I have therefore carefully considered whether references to these elements should be included in paragraph 91 as suggested by NHS Ayrshire and Arran.

20. However, ultimately I have concluded that these transport and environmental considerations are of more universal application, rather than applying particularly to town centres. I also note that the focus for this part of the spatial strategy is on 'better support [for] our town centres by encouraging a wide range of uses'. The focus here is therefore deliberately on land use issues rather than access or environmental improvement, important though those considerations doubtless are. Finally I note that the focus of National Planning Framework 4's policy on town centres (Policy 27) is also

on these land use issues and on town centre living, rather than on access or environmental improvement.

21. For these reasons I have decided, on balance, not to recommend any change to this part of the LDP.

22. As regards food production, I consider this matter to be important but to largely fall outwith the scope of the LDP. However I note the inclusion in the plan of various policies that could be said to be supportive of the agricultural sector, including RES7: Non-permanent dwellings, RH1: Housing in the Rural Protection Area, RH2: Housing in the Rural Diversification Area, RH4: Housing for agricultural workers, and IND2: Business and industrial development in rural areas. Overall I consider this matter is adequately covered in the plan.

**Reporter's recommendations:**

I recommend that the following sentence be added to Policy SS11: Skills & Employment:

'Non-statutory planning guidance will be prepared to provide information on what should be included within a skills and employment plan.'

Issue 6	Spatial strategy – Galloway National Park	
Development plan reference:	Volume 1, Policy SS7	Reporter: Stephen Hall
Body or person(s) submitting a representation raising the issue (including reference number):		
Muirhall Energy Ltd (166) Scottish Power Renewables (196) RWE (284) Scottish Government (310)		
Provision of the development plan to which the issue relates:	The principle of Policy SS7: Galloway National Park within the Plan and clarification of Figure 7.	
Planning authority's summary of the representation(s):		
<u>Muirhall Energy Ltd (166)</u> It is considered that the inclusion of this policy is premature given that no proposals have been formally identified or consulted upon by the Scottish Government. Therefore, it is not possible to say with any certainty that a Galloway National Park would be created. The application of this policy would significantly and unfairly restrict development as it gives the same level of protection as a national park, stymie potential development, have adverse economic impacts on investment and job creation and would not align with Scottish Government's statutory target of net zero by 2045.  This policy was not included in the Main Issues Report (MIR) and is potentially contrary to paragraph 80 of Planning Circular 6/2013 as the policy is considered to be new, controversial and inappropriate at this stage.  It is considered that if a Galloway National Park were to be designated following adoption of the Local Development Plan, suitable policy provision will be available through national planning policy, including the emerging National Planning Framework 4.  <u>Scottish Power Renewables (196)</u> The potential Galloway National Park has no formal status or boundaries and is simply a concept from interested groups and is therefore not appropriate for the Proposed Plan. SPR have particular concern with the vague and subjective text contained within the policy which applies to any perceived adverse impact (on land within the potential National Park area) rather than only applying to impacts on the integrity of specific "special qualities" which, once identified and evidenced, would underpin any National Park designation.  <u>RWE (284)</u> It is considered not appropriate to include this policy within the Plan when the process of designating a new national park is within the early stages. Development may be		

prohibited where it is not appropriate due to the additional protection that this policy affords to the area.

There is a requirement for further clarification on the “Transitional Area within Figure 7 as it is unclear what the implications for this form of development could be.

Scottish Government (310)

The process of establishing a new National Park in Scotland is at a very early stage with work underway to prepare draft proposals and evaluation framework expected to be consulted on during Summer 2022. It is neither appropriate nor necessary to have a specific safeguarding policy for Galloway National Park in the Plan at this stage, ahead of the required statutory process.

**Modifications sought by those submitting representations:**

Muirhall Energy Ltd (166)

The policy should be omitted from the Plan because it is premature, would significantly and unfairly restrict development and was not included in the Main Issues Report.

Scottish Power Renewables (196)

The policy should either be deleted or otherwise redrafted to focus on the identification and subsequent protection of specific special qualities of the potential Galloway National Park.

RWE (284)

It is not appropriate to include this policy within the Plan.

Further clarity on the purpose of the “Transitional Area” and its implications on future development.

Scottish Government (310)

Delete the policy from the Plan alongside all other references to “Proposed Galloway National Park” or “Galloway National Park”.

**Summary of responses (including reasons) by planning authority:**

Deletion of Policy SS7 and of reference to “Proposed Galloway National Park” or “Galloway National Park” (166, 196, 284, 310)

The aim of this policy is to highlight the Council’s support for the principle of the creation of a Galloway National Park and recognise the positive impact a National Park could have on local tourism and on protecting the special qualities of an area. The Council acknowledges that there is a statutory process undertaken when designating a new National Park and that no decision has yet been taken by Scottish Ministers.

This policy is similar in nature to Policies SS5 (Coalfield Communities Landscape Partnership) and SS6 (Galloway and Southern Ayrshire Biosphere), which also support the other spatially defined projects which capitalise on East Ayrshire’s natural environment, in a sustainable manner.



Representations to Policies SS5 and SS6 have given no indication that the principle of these policies are not appropriate and that this policy (SS7) has been objected to due to the fact that the successful National Park area has yet to be announced. The current Minerals Local Development Plan (CD78) contains similar policies (e.g. Policy MIN ENV14: Spireslack Canyon) as does Local Development Plan 1 (CD48) establishing a precedent for this type of policy. The difference in this case appears to be the legislative process for the establishment of a National Park. Considering the policy in detail, it states firstly that the Council supports proposals for a Galloway National Park. This is a factual position, established at Cabinet on 7 November 2018 (CD24), and through the approval of the Proposed Plan. The policy thereafter goes on to state that The Council will not support development which it judges would adversely impact upon the area meeting the conditions for designating a National Park. The Policy does not safeguard the Park, which does not exist at this stage, and may never exist, it safeguards from threats to the potential for conditions for a Park not being met, due to development, whilst the issue is under consideration. It is therefore not judged to be premature, or to contravene or preclude other legislation. Rather it allows due consideration of the question of the Park in the correct forums without threat of any proposal being thwarted during its consideration. This is a policy which reacts to current circumstance and is unlikely to endure into a further Plan and once a decision is made on the National Park any perceived uncertainty around development in this area will be removed. Therefore the Council feels strongly that it is entirely appropriate to include a policy of this nature within the Plan and if this policy were to be removed, this would allow for development which could potentially cause adverse impacts on the landscape characteristics and heritage value of the area which could result in the proposed area not meeting the conditions for National Park status.

In addition, policies SS5, SS6 and SS7 were not presented as “issues” within the Main Issues Report (MIR) (CD1) which was published by the Council in June 2020, however reference to the National Park was made within paragraph 3.25 on page 23. As per the Planning Circular 6/2013 (CD2), the “Main Issues Report is not a draft version of the plan” and instead focuses on the key planning and policy changes affecting East Ayrshire at present. In general, not all policies contained within a Proposed Plan would have been “issues” in the Main Issues Report (CD1) and therefore, on this principle, policy SS7 should not be considered as new or contrary to the Planning Circular and is therefore appropriate to be included within the Proposed Plan.

The Dumfries and Galloway’s Local Development Plan (adopted in October 2019) (CD76) includes a section on the proposed Galloway National Park (page 51, paragraph 4.62). The paragraph concludes with that if the designation was taken forward by the Southern Uplands Partnership that Dumfries and Galloway Council are of the view that it would become a consideration for LDP3 in which preparatory work is beginning in 2022 (as per Dumfries and Galloway Council Development Plan Scheme published November 2022) (CD77). While there is no policy within Dumfries and Galloway’s Local Development Plan 2, D+G have indicated that they feel it is appropriate for their next Local Development Plan to consider the designation of the National Park. It is clear, therefore, that this is an issue in which both Councils think should be a consideration for their LDPs.

Therefore, the Council is of the opinion that it is entirely appropriate to include this policy in the Plan in order to protect the landscape character of the area so that the



proposed area can have the best possible chance of meeting the conditions of National Park status.

#### Clarification of the “Transitional Area” within Figure 7 (284)

Figure 7 shows the boundaries of the Galloway and Southern Ayrshire Biosphere in addition to the proposed boundary of the proposed Galloway National Park. The proposed Galloway National Park is shown as the blue hatched area, with the various green shadings depicting the complementary zones of the Galloway and Southern Ayrshire Biosphere. The “Transitional Area” refers to the Galloway and Southern Ayrshire Biosphere and a definition of this zone is included within the bullet points of paragraph 58.

#### **Reporter’s conclusions:**

##### Deletion of Policy SS7 and of reference to “Proposed Galloway National Park” or “Galloway National Park”

1. Policy SS7 states that the council will not support development that it judges would adversely impact upon the area meeting the conditions for designation as a national park. Above, the council argues that there is a substantive difference between this approach and the safeguarding of a national park itself, because the park does not exist at this stage, and the policy guards against threats to the designation happening, rather than threats to the park itself. However, I consider this to be a somewhat academic distinction. The effect of the policy as drafted would appear to be very similar to a policy setting out to protect an established designation.
2. National park status brings with it a significantly more restrictive policy approach as set out at Policy 4(c) of National Planning Framework 4 (NPF4). It also introduces a restriction on new wind farms (Policy 11(b) of NPF4). While I am not aware of what the conditions for designating a national park may be (no such criteria have been submitted to the examination), it seems to me at least probable that Policy SS7 could be interpreted as justifying the refusal of any proposal that would be unlikely to be approved in an extant national park.
3. Such an approach is premature at this stage when the process for designating Scotland’s third national park is at a very early stage, and there is no indication of Scottish Government support for any Galloway bid. The policy as drafted could act to severely restrict otherwise acceptable development in a way that is disproportionate and unjustifiable at the current time. I therefore conclude that this policy, together with the associated text within paragraph 62, should be removed from the plan.
4. I also note that the policy approach at SS7 is substantively different from that put forward at Policies SS5 and SS6 because the Coalfield Communities Landscape Partnership and the Galloway and Southern Ayrshire Biosphere are active established initiatives and not merely proposals. The Biosphere in particular has the status of a UNESCO designation and is highlighted in NPF4 as a crucial environmental asset. I can find no policy in the adopted LDP referring to a proposed national park.
5. Paragraph 61 of the plan contains supporting text regarding the background to the

national park proposal, and states the council's support for the principle of this initiative. I am comfortable that this paragraph, and the accompanying Figure 7, contain only contextual information, and not policy material. It is similar to the type of information contained in the adopted Dumfries and Galloway LDP. I am therefore content that this paragraph and figure are useful and may remain part of the plan.

Clarification of the "Transitional Area" within Figure 7

6. I understand the meaning of Figure 7, and of the council's explanation of it above. It is clear to me that the 'transitional area' referred to is one of the zones of the Galloway and Southern Ayrshire Biosphere. However I find there would be no detriment in further clarifying this figure by explaining in the key (as well as in the title as at present) that the core area, buffer zone and transitional area notations refer to zones of the Biosphere. I recommend such a modification below.

**Reporter's recommendations:**

I recommend that:

1. A heading reading 'Biosphere Zones' be inserted immediately below the word 'Key' in the key to Figure 7.
2. Policy SS7: Galloway National Park be deleted.;
3. The following words from the second bullet point of paragraph 62 be deleted:  
'or would have a detrimental impact upon the designation of a National Park'

Issue 7	Spatial strategy – miscellaneous	
Development plan reference:	Paragraphs 32, 95, 114-116 and 124, Figure 12.	Reporter: Stephen Hall
Body or person(s) submitting a representation raising the issue (including reference number):		
Scottish Wildlife Trust (110) Homes for Scotland (128) Gladman Developments (146) Barratt Homes (195) Scottish Power Renewables (196)		Kilmaurs Community Council (236) Dunlop & Lugton Community Council (240) RWE (284)
Provision of the development plan to which the issue relates:	The principles and content of key parts of the Spatial Strategy, specifically paragraphs 32, 95, 114-116 and 124, Figure 12.	
Planning authority's summary of the representation(s):		
<b>Strategy for reducing the need to travel unsustainably and promoting compact growth (paragraph 32 and 95)</b>  <u>Homes for Scotland (128), Gladman (146)</u>  The inclusion of the focus on travelling unsustainably is positive, however, there is concern that the paragraph (32) fails to recognise that 20 minute neighbourhoods are unlikely to be universally workable and will depend on urban form and surrounding area. Greenfield sites can often be better able to deliver these 20 minute neighbourhoods.  <u>Barratt Homes (195)</u>  Bullet point 1 is supported, but it should be noted there are many ways in which developing in sustainable locations can be achieved. Bullet point 2 of paragraph 32, which supports 20 minute neighbourhoods, is supported, however, it is suggested that some facilities and services should be supported if they are within a 10 minute walk or cycle; it will not always be reasonable to require facilities, such as a high school, to be within a 10 minute walk.  <u>Dunlop &amp; Lugton Community Council (240)</u>  Paragraph 95 bullet point 3 should include specific reference to the creation of a Dunlop/Stewarton cycle route.		
<b>Energy and climate resilience</b>  <u>Scottish Wildlife Trust (110)</u>		

The first bullet point of paragraph 116 should read ‘Protect and enhance our existing peatland habitats’. An extra point should also be added ‘iv. Encourage the sympathetic management of existing peatland sites.’

Figure 12 – Whilst the investment in bog restoration is commendable, the majority of raised bogs have not benefitted from restoration. Many are subject to drainage, overgrazing, tree regeneration and development. There should be a commitment to identify these as Local Nature Conservation Sites in the future and to promote management to safeguard and enhance the peatland habitat.

#### RWE (284)

At ‘B: Protecting and Enhancing Peatlands’ section (Paragraphs 114 – 116) any policy should not prohibit wind farm development. Wind farms can be developed in conjunction with important peatland restoration activity and can often offer important peatland restoration works as part of a habitat management plan.

### **Approach to land allocation**

#### Kilmaurs Community Council (236)

Rather than tacking onto existing, particularly historic settlements ruining their character, a new settlement should be created in the area.

### **Implementation of the spatial strategy**

#### Scottish Power Renewables (196)

The second bullet point of paragraph 124 should be amended to read, ‘Ensuring through the planning process, all development is appropriately planned and assessed, in accordance with the policies of the LDP and national policies’

### **Modifications sought by those submitting representations:**

#### **Strategy for reducing the need to travel unsustainably and promoting compact growth (paragraph 32 and 95)**

(128), (146) and (195) do not explicitly request any modifications be made to the Plan

#### Dunlop & Lugton Community Council (240)

At the end of the third bullet point of paragraph 95 the following be added: “and specifically including the implementation of a Dunlop / Stewarton cycle route”.

### **Energy and climate resilience**

#### Scottish Wildlife Trust (110)

Amend the first bullet point of paragraph 116 to read ‘Protect and enhance our existing peatland habitats’. Add an additional point, ‘iv. Encourage the sympathetic

management of existing peatland sites.'

It is requested that a commitment be made to identifying peatland habitats as Local Nature Conservation Sites in the future and promote management to safeguard and enhance them.

RWE (284)

An explicit modification is not stated, however, it is suggested that the policies of the Plan should not prohibit wind farm development on peatlands.

**Approach to land allocation**

Kilmaurs Community Council (236)

No explicit modification is requested, rather it is suggested, in general terms, that a new settlement be created.

**Implementation of the spatial strategy**

Scottish Power Renewables (196)

Amend the second bullet point of paragraph 124 to 'Ensuring through the planning process, all development is appropriately planned and assessed, in accordance with the policies of the LDP and national policies.'

**Summary of responses (including reasons) by planning authority:**

**Strategy for reducing the need to travel unsustainably and promoting compact growth**

Paragraph 32 (128), (146), 195)

The Council notes the concerns regarding paragraph 32 and the interpretation of the 20 minute neighbourhood concept. This is carried forward into the first bullet point of paragraph 95 (incorrectly noted as paragraph 93 by 146). The Council notes that a description of 20 minute neighbourhoods has been included within the Glossary on page 162 of the Plan. This description, in the view of the Council, gives adequate flexibility to ensure that the aim of achieving 20 minute neighbourhoods is not overly restrictive, and, as sought by 128, takes account of context. It also, does not stipulate the requirement for facilities to be within 10 minute, as suggested by (195), instead the glossary refers to a reasonable walk, wheel or cycle. This is considered entirely appropriate and no modifications are therefore required, in the Council's view, to paragraph 32.

It is pointed out that residential density is addressed in Issue 16 Communities and Housing.

Paragraph 95 (240)

A cycle route between Dunlop and Stewarton would fall very comfortably within the scope of “the creation of new and improved active travel routes to connect our towns and villages, in particular connecting our smaller rural communities with nearby towns”. As such, it is not deemed necessary and may in fact create confusion, to amend the text to specifically single out the support for a route between Stewarton and Dunlop.

**Energy and climate resilience**

Paragraph 116 – peatland enhancement (110)

The Council does not agree that it is necessary to add ‘and enhance’ into the first part of paragraph 116. The first bullet, and three numbered points that come after it, are all relative to protecting peatland habitats. It is the second bullet point that addresses enhancement and restoration. The council is therefore of the view, that the suggested modification would make the paragraph more confusing for the reader; at the moment it is clear that protection is covered first and then enhancement second. With regards to the suggested additional bullet point, the Council is of the view that the additional point is not necessary, as the approach to peatland, both protection and enhancement is sufficiently covered by the existing text. Whilst ‘management’ is a term that is not currently included as drafted, it is in the round adequately covered by support for ‘safeguarding our peatland and bog restoration sites which have undergone in-situ conservation or enhancement work’ and ‘long term enhancement’.

Paragraph 51 – Future Local Nature Conservation sites (110)

In terms of paragraph 51, in support of the implementation of LDP2, the Council has commissioned a comprehensive review of its existing Local Nature Conservation sites. This is a considerable undertaking and will ensure that the Council has confidence in the qualities and value of the sites it protects for their local nature value. This is significant step forward in terms of the level of detail held on East Ayrshire’s local nature conservation sites. Whilst in the future, the Council would anticipate adding to this list, this will require resources for further survey work etc. The Council will give full consideration to this process, in advance of preparing LDP3 and taking on board the emphasis in NPF4 on nature networks. However, it is considered that it would be unrealistic at this point in time, to put a commitment to this work within LDP2.

Wind farm development on peatlands (284)

In terms of the suggestion that no policy should prevent wind farm development on peatlands, the Plan puts in place a robust framework for assessing all new wind farm planning applications, with policy RE1 and renewable energy assessment criteria (Page 143) the prime applicable policy. Policy NE11 will also be applicable should a proposal impact on carbon rich soils, deep peat and peatland habitat is one of many considerations. Other policies of the Plan would also be applicable to wind farm developments, such as NE1 (Protecting and Enhancing Landscape and Features) and SS1 (Climate Change). Given the comprehensive suite of policies, it is considered that additional text with reference to wind energy within the spatial strategy is not required, particularly bearing in mind that the spatial strategy is not intended to encapsulate all

matters that are addressed within the policies of the Plan.

## **Approach to land allocation**

### Creation of a new settlement (236)

The Council is firmly of the view that the policies and land allocations of LDP2 have been prepared under the guiding principle of taking a sustainable approach to new development. A key part of this is consolidating development opportunities within existing settlements and locations where there are established services, transport links and opportunities to consolidate, support and extend community facilities and active travel provision. The Council is confident that by taking a balanced approach to land allocations across the authority, the character of settlements will not be unacceptably impacted and there is therefore no need for a new settlement to be established. In addition, no evidence is presented to suggest where such a new settlement could be accommodated.

## **Implementation of the spatial strategy (paragraph 124)**

### Paragraph 124 – inclusion of reference to national policies (196)

Paragraph 124 is intended to, in broad terms, outline how the spatial strategy of the LDP will be delivered. The spatial strategy, by its nature and purpose, is specific to East Ayrshire. Therefore each of the bullet points that set out how the spatial strategy will be delivered are specific to planning and service delivery in East Ayrshire. The Council does not therefore agree that the second bullet point should be amended to add reference to national policies. Development will, of course, be required to be planned and assessed in accordance with national policies as well as LDP policies; this will be ensured as NPF4 will be part of the development plan. But the purpose of paragraph 124 is not to state that; the purpose of paragraph 124 is to set out how the spatial strategy will be delivered. The policies of the Plan, have been specifically written to support the spatial strategy, therefore these are the policies that will help deliver the spatial strategy for East Ayrshire. To add 'national policies' to bullet point 2 would confuse the purpose of this paragraph.

## **Reporter's conclusions:**

### **Strategy for reducing the need to travel unsustainably and promoting compact growth**

#### Paragraph 32

1. Policy 15 of National Planning Framework 4 (NPF4) requires LDPs to support local living, including 20 minute neighbourhoods. It is therefore appropriate for the proposed plan to refer to this concept at paragraphs 32 and 95.

2. These paragraphs refer, respectively, to 'promoting the emergence of 20-minute neighbourhoods', and supporting 'the creation of networks of 20-minute neighbourhoods'. Neither of these references therefore appear to take the form of a prescriptive requirement. Rather, they are providing the strategic context for the plan's



suite of policies and proposals, which the council claims promote higher density living and a reduced need to travel unsustainably.

3. The definition of the 20-minute neighbourhood concept in the glossary of the proposed plan refers to neighbourhoods where people can meet the majority of their daily needs within a reasonable walk, wheel or cycle. There is therefore some acknowledgement that there will continue to be some needs that can only be met at more distant locations. It is also clear from this definition that a 10 minute cycling radius would fall within the definition of a 20-minute neighbourhood. This allows for greater distances between homes and facilities than would be the case if the definition was restricted to walking.

4. In these ways I consider that the concerns expressed by Homes for Scotland and Barratt Homes have been satisfactorily addressed in the plan, and that no modification is required.

#### Paragraph 95

5. The description of the spatial strategy for active travel at paragraph 95 of the plan is general and high level. It does not include any specific proposals, and I agree it would be incongruous to single out a reference to a Dunlop to Stewarton cycle route in this paragraph.

6. Paragraph 96 contains some more specific spatial proposals, and could conceivably be a more appropriate location to include any reference to specific cycle route proposals. However, whatever the merits and practicalities of a Dunlop to Stewarton route may be, these have not been set out in the Dunlop and Lugton Community Council representation. Without significantly more information on the justification for this proposal, it is not possible for me to include any reference to it in the plan.

7. That said, the general support offered by paragraph 95 to the creation of new active travel routes connecting smaller rural communities with nearby towns would appear to apply to any future proposals for a Dunlop to Stewarton route.

### **Energy and climate resilience**

#### Paragraph 116 – peatland enhancement

8. The second bullet point at paragraph 116 of the plan commits the council to working with partners to support peatland restoration and long term enhancement of peatland habitats. I therefore find that the enhancement of peatlands is already covered in the plan. There is no need to include any additional reference to enhancement in the first bullet point of paragraph 116, which deals with sites that have already been restored.

9. I also find that there is no need to add any additional bullet relating to the management of peatland sites. Management matters are already covered by paragraph 116's existing references to safeguarding peatland sites and to supporting peatland restoration and the long term enhancement of peatland. In any event, the



planning system's main potential role in securing peatland management is when this is associated with development. Given this partial level of involvement I do not consider any further references are necessary.

#### Page 51 – Future Local Nature Conservation Sites

10. I assume the correct references for the representation from the Scottish Wildlife Trust relating to bog restoration and local nature conservation sites are to Page 51 and Figure 12 of the proposed plan.

11. In its response above, the council confirms that a comprehensive review of its local nature conservation sites is underway. This seems the most appropriate means of determining which bogs would be suitable for this designation. I expect such a review will involve a full review of available information, survey work, and any appropriate consultation with stakeholders. It would not be appropriate for me to prejudge the outcome of this exercise by recommending the inclusion of any blanket commitment to identify all raised bogs as local nature conservation sites, especially given the very limited information available to me at this time. The improved management of raised bogs is an important matter, but one which the planning system will only get involved with on occasion, most notably when associated with new development.

12. As regards the promotion of management to safeguard and enhance peatland habitats, I have already found (above) that this matter is adequately covered at paragraph 116 of the plan.

#### Wind farm development on peatlands

13. Paragraph 116 of the plan includes, as part of the plan's strategy for protecting and enhancing peatlands, a presumption against the disturbance and removal of valuable peat. Policy NE11: Soils requires development to minimise disturbance to soils, and to minimise the adverse impacts of developing on peatland. Where peat is present, detailed surveys are to be required.

14. I do not interpret any of these references as amounting to a prohibition on development on land containing peat, whether for wind farms or any other use. I take paragraph 116's use of the words 'presumption against' to carry its normal planning meaning of being a default position unless acceptable arguments can be found for a departure. In any event, my colleague's recommended modification to Policy NE11 at Issue 14 would clarify that the generation of renewable energy could justify the disturbance of peatland.

15. In the case of wind farms, the principal policy for the assessment of proposals will be Policy RE1: Renewable Energy. This included impacts on peat among a list of assessment criteria, but my colleague's recommended modification to this policy at Issue 22 would remove this reference.

16. All-in-all I do not consider that any references in the plan could be interpreted as a prohibition on the use of peatlands for wind farm development. In any event, the plan is to be read as a whole, and the broadly positive position of Policy RE1 towards new wind farm development will inevitably be a powerful factor in the balancing of policy

considerations when assessing such proposals.

17. For these reasons I do not consider that any additional caveats are required in the plan to further clarify how impacts of wind farm proposals on peatland should be assessed.

## **Approach to land allocation**

### Creation of a new settlement

18. The creation of new settlements may be a valid spatial strategy in certain circumstances. However, the council's approach of consolidating development in and around existing settlements is also reasonable, and carries with it the advantages of making use of, and potentially providing opportunities to enhance, established services and transport links.

19. The creation of a new settlement proposal at this stage in the plan-making process would be a radical departure from the currently proposed strategy. The representee does not suggest any location for any such settlement, or any further details or justification for this approach. Such a strategy has not been subject to the consultation and level of assessment that would be required before a major proposal of this scale could be contemplated. This suggestion would effectively require the plan to be withdrawn and prepared anew. For these reasons I cannot agree that such a major change to the spatial strategy should be introduced at this late stage.

## **Implementation of the spatial strategy (paragraph 124)**

### Inclusion of reference to national policies

20. All planning decisions must, by law, be determined in accordance with the development plan unless material considerations indicate otherwise. Since the coming into force of the Planning (Scotland) Act 2019, the development plan incorporates the national planning framework. The national policies contained in National Planning Framework 4 (NPF4) therefore carry development plan status, and the assessment of development proposals must take them into account.

21. That said, I recognise that paragraph 124 of the proposed plan is discussing the delivery of the LDP's spatial strategy. It is not a wider explanation of how individual planning applications will be determined. The LDP's spatial strategy is a lower tier strategy than NPF4, and my interpretation of paragraph 124 is that it aims to set out the local actions that will deliver the strategy.

22. One of those actions is given in the second bullet of paragraph 124, and is to ensure that development is appropriately planned and assessed in accordance with the LDP. Now that NPF4 forms part of the development plan, I consider that this local assessment of development proposals may well often have to include assessment against the policies of NPF4. Therefore the spatial strategy will be delivered locally, in part, via the proper implementation of NPF4. I consider this bullet point could be improved by acknowledging this reality, and replacing the phrase 'in accordance with the LDP' with 'in accordance with the development plan'. I recommend this change

below.

23. The representee prefers the use of the phrase 'national policies', but I note that it is only NPF4 that has the particular legal development plan status to sit alongside the LDP. The use of the term 'national policies' is rather more vague and open-ended. National policies themselves are subject to change, and may not be binding on local authorities. I therefore do not consider that it would be appropriate to commit the council to assess future proposals in accordance with policies of a lesser status than NPF4, that may be currently unknown, and with which there is no guarantee that the council will support.

**Reporter's recommendations:**

I recommend that the phrase 'LDP' be deleted from the second bullet point of paragraph 124, and replaced with the phrase 'development plan'.

Issue 8	Urban Design and Placemaking	
Development plan reference:	Volume 1: Chapter 4 Place and Environment, Subchapter 4.1 Urban Design and Placemaking including policies DES1, LPP1 and LPP2	Reporter: Andrew Fleming
Body or person(s) submitting a representation raising the issue (including reference number):		
Homes for Scotland (128) Persimmon Homes (141) Gladman Developments (146) Barratt Homes (195)		SportScotland (258) NHS (270) Scottish Government (310)
Provision of the development plan to which the issue relates:	The content and wording of the “Urban Design” and “Placemaking” headings within subchapter 4.1 and the policies contained therein (DES1, LPP1 and LPP2).	
Planning authority’s summary of the representation(s):		
<p><b>General comments</b></p> <p><u>NHS (270)</u></p> <p>Approaches to urban design and placemaking should incorporate available evidence and guidance about how spatial planning can reduce crime and fear thereof, by incorporating consideration of the unequal experience of public space and safety.</p> <p><b>Policy DES1</b></p> <p><u>Homes for Scotland (128), Gladman Developments (146), Barratt Homes (195)</u></p> <p>Whilst acknowledging that the statement that reads “planning permission may be refused solely on design grounds” is brought from paragraph 56 of SPP, the representees believe that the omission of the first part of that paragraph which reads “design is a material consideration in determining planning applications” re-frames the weight applied to design matters in the determination of applications, in failing to identify design grounds as material considerations rather as an immediate reason for refusal.</p> <p><u>SportScotland (258)</u></p> <p>In recognition of the importance of health and wellbeing, and the role of places in this, the draft NPF4 has amended the six qualities of successful places to include ‘Designed for lifelong health and wellbeing’. It would be helpful if the supporting text could reflect this change in the final version.</p>		

NHS (270)

DES1 should make stronger reference to places that are inclusive and accessible for all throughout, rather than just under section 5, for instance in section 2, 3 and 4 making reference to designing for the needs of disabled people, people using mobility aids, people of different ages, and people with dementia.

DES1 should include details of how local communities will be included in development design.

**Policy LPP1**

Homes for Scotland (128), Persimmon Homes (141), Gladman Developments (146), Barratt Homes (195)

The policy gives extraordinary weight to Local Place Plans (LPPs) and will adopt them as Supplementary Guidance. Draft Guidance on LDPs states that LPPs “must be taken into account” in preparing the LDP and “be given due weight”; adopting LPPs as Supplementary Guidance represents an addition of weight that is not supported by the Draft Guidance on LDPs and Circular 1/2022: Local Place Plans.

Scottish Government (310)

Section 15A is the legal duty on planning authorities to invite communities to prepare LPPs. The Planning (Scotland) Act 2019 introduces Schedule 19 into the 1997 Planning Act.

**Policy LPP2**

Homes for Scotland (128), Persimmon Homes (141), Gladman Developments (146), Barratt Homes (195)

The policy requires proposals to be completely compatible with an LPP unless the contribution towards the Vision and Aims and Spatial Strategy of the LDP and towards sustainable development in line with SPP outweighs the aspirations of the LPP; this is a significant addition of weight that is not supported by the Draft Guidance on LDPs and Circular 1/2022: Local Place Plans.

**Modifications sought by those submitting representations:**

**General Comments**

NHS (270)

Urban Design and Placemaking section be amended to include reference to evidence and guidance about crime reduction, fear of crime, consideration of the unequal experience of public space and safety. Amend section to support improvement of network reception and Wi-Fi services.

## **Policy DES1**

Homes for Scotland (128), Gladman Developments (146), Barratt Homes (195)

The wording “Design will be a material consideration in determining planning applications within East Ayrshire” be inserted before “Planning permission may be refused and refusal be defended at appeal or local review solely on design grounds”.

SportScotland (258)

Paragraph 127 be amended to reflect the inclusion of “Designed for lifelong health and wellbeing” as one of the six qualities of successful places.

NHS (270)

The respondent does not provide specific wording, but recommends DES1 be amended to make stronger reference to places that are inclusive and accessible for all, throughout rather than just under section 5. Sections 2, 3 and 4 be amended to make specific reference to designing for the needs of disabled people, people using mobility aids, people of different ages, and people with dementia.

Policy DES1 be amended to include details of how local communities will be included in development design.

## **Policy LPP1**

Homes for Scotland (128), Persimmon Homes (141), Gladman Developments (146), Barratt Homes (195)

Object to adoption of LPPs as Supplementary Guidance to the LDP.

Scottish Government (310)

Amend Policy LPP1 bullet 6 to read “6. Meet the provisions of Schedule 19 of the amended Town and Country Planning (Scotland) Act 1997, and the Town and Country Planning (Local Place Plans) (Scotland) Regulations 2021.”

## **Policy LPP2**

Homes for Scotland (128), Persimmon Homes (141), Gladman Development (146)

Amend first paragraph of policy LPP2 to read “Development proposals should have regard to any Local Place Plan adopted for the area.”

Barratt Homes (195)

In addition to the above, amend second paragraph of policy LPP2 to read “Where a development proposal which is not allocated in an adopted LDP conflicts with a Local Place Plan”.

**Summary of responses (including reasons) by planning authority:**

**General Comments**

Incorporate evidence and guidance about spatial planning and crime and fear (270)

The recommendation to incorporate evidence and guidance in relation to crime, fear and perception of safety is welcomed and noted. It is considered that this is an overly specific matter to be addressed at the LDP level, but it can become part of the Design Supplementary Guidance, and as such it is not deemed that amending the policy is necessary

Incorporate support for improvement of network reception and Wi-Fi service (270)

Whilst it is acknowledged that digital network reception can play an important role in emergency situations and improve the feeling of safety, it is not considered that this is a matter to be addressed through the LDP. LDP2, through policy INF3: Installation of Digital Communications Infrastructure, already supports “development proposals that deliver new digital services or provide technological improvements, particularly in areas with no or low connectivity capacity” when “proposals are clearly aligned with fulfilling the delivery of local or national policy objectives and where there are benefits of this connectivity for communities and the local economy”. This is considered to be sufficient to meet this recommendation, and as such the Council is of the view that no amendment to this policy is necessary.

**Policy DES1**

Reflect paragraph 56 of SPP in full (128, 146, 195)

As acknowledged in the representations, the wording of this policy is taken directly from paragraph 56 of SPP (CD26), and reflects that whilst design must be given due weight in the consideration of planning applications, it can have enough weight to, on its own, be the cause of refusal. The wording “may be refused” at no point suggests that design would constitute “immediate cause of refusal”; paragraph 56 of SPP gives design enough weight as a material consideration that planning permission may be refused solely on design grounds, and the policy wording reflects and emphasises this weight. It is not considered that the omission of the phrase “design is a material consideration in determining planning applications” changes the meaning of the subsequent phrase, and as such the Council does not agree that the addition of the phrase is necessary.

Six Qualities of Successful Places as amended by NPF4 (258)

Policy DES1 is structured based on the 6 Qualities of Successful Places as set out in SPP: 1. Distinctive, 2. Safe and pleasant, 3. Easy to move around and beyond, 4. Welcoming, 5. Adaptable, 6. Resource efficient. It is noted that NPF4 modifies the 6 Qualities to be: 1. Healthy, 2. Pleasant, 3. Connected, 4. Distinctive, 5. Sustainable, 6. Adaptable. It is considered that the qualities that produce successful places have not necessarily changed, but their formulation has been amended to emphasise and prioritise certain aspects.



DES1 provides several requirements under each quality, which explain and specify how these qualities can be met in the local context. It is these requirements that contain the most relevant requirements for development, and are then organised under the headlines of the 6 Qualities of Successful Places. It is considered that the requirements of DES1 match those of the 6 Qualities as set out in NPF4 (CD4), if structured under the 6 Qualities as set out in SPP. As such, the Council does not consider necessary to amend this policy. Nevertheless, the Council believe that all existing DES1 requirements can be easily accommodated within the NPF4 headlines, with those under “Distinctive”, “Safe and pleasant” and “Adaptable” staying unchanged, moving those under “Resource efficient” to “Sustainable”, those under “Welcoming” to “Healthy”, moving 3.2 to “Healthy”, and moving the remaining requirements under “Easy to move around and beyond” to “Connected”. As such, should the Reporter be minded to amend the policy so as to reflect the 6 Qualities of the NPF4, the Council would have no objection to amending the policy to reflect this and would recommend the changes above.

#### Reference to inclusive and accessible design throughout policy (270)

The Council agrees that supporting inclusive and accessible places for all is fundamental, but is of the view that the design needs of disabled people, people using mobility aids, people of different ages, and people with dementia can be met within the current wording of the policy. However, should the Reporter be minded to amend the policy per the recommendation, the Council would have no objection.

#### Detail how local communities will be involved in development design (270)

Whilst the Council is supportive of involving local communities in the design of their built environments, this is generally achieved at the planning application stage, in addition to through the consultation processes related to design guidance documents and masterplans, and with the preparation of Local Place Plans by community bodies. As such, whilst it is not considered appropriate to address this through policy DES1, it is considered that policies LPP1 and LPP2 and the planning process can satisfactorily involve communities in the design of the physical environment. Therefore, no change is deemed to be necessary.

### **Policy LPP1**

#### LPPs as Supplementary Guidance (128, 141, 146, 195)

Placemaking maps, which have been East Ayrshire’s spatial representation of Community Action Plans and are expected to be replaced by LPPs, have been adopted as Supplementary Guidance to the EALDP 2017. The Placemaking maps have been accepted as Supplementary Guidance by the Scottish Government and a precedent set for such plans to be supplementary guidance, whilst supplementary guidance remains in place under the existing provisions and procedures of the Town and Country Planning (Scotland) Act 1997, as amended.

Policy LPP1 continues this approach by setting out the circumstances when a LPP will be adopted as Supplementary Guidance, and states that when the policy requirements are not met, the LPP will nonetheless be given consideration as part of the preparation

of the next LDP, as set out in legislation and regulations. It is further considered that as there are clauses in policy LPP1, most pertinently clauses 4 and 5, that require alignment of the LPP with the LDP, and as the LDP has been written first in this instance, that the LDP will not give undue, conflicting or extraordinary weight to LPPs. The Council therefore does not agree that the policy requires amended as suggested.

Legislation reference (310)

Comment noted. The Council would have no issue if the Reporter is minded to amend the reference as per the representation.

**Policy LPP2**

Weight of LPPs in proposals (128, 141, 146, 195)

The requirement for development to be compatible with LPPs is brought from EALDP 2017 (CD47) overarching policy OP1 (vii) "Be compatible with, and where possible implement, projects shown on the LDP placemaking maps". Furthermore, Local Place Plans that are "adopted" would, as set out in policy LPP1, become Supplementary Guidance to LDP2. The Council considers that the weight given to "adopted" LPPs in the wording of policy LPP2 is consistent with their status as Supplementary Guidance and, as such, does not agree that an amendment to this policy is necessary.

**Reporter's conclusions:**

**General Comments**

Incorporate evidence and guidance about spatial planning and crime and fear

1. Crime (and the fear of crime) is one of numerous issues taken into account by planners and urban designers when development layouts and their relationship with the surrounding area are being considered. To include detailed evidence and guidance within the plan about how spatial planning can address such a matter would potentially lead to a lengthy and cumbersome plan and one which was unbalanced in its representation of design considerations. Given that the local development plan is being produced under transitional arrangements, Supplementary Guidance (prepared in the context of this local development plan) would be capable of expanding on the content and requirements of Policy DES1: 'Development design' including on the matter above. I understand that Design Supplementary Guidance has been identified for preparation in support of the plan. There is therefore logic to the subject of spatial planning and crime and the fear of crime being addressed as part this guidance. Prospective applicants would be directed to such guidance via Policy DES1, therefore allowing for a more detailed appreciation of this subject matter. No modification is therefore required.

Incorporate support for improvement of network reception and Wi-Fi service

2. The respondent considers that proposals to improve digital infrastructure may assist in addressing what they consider the unequal experience of public space and social and physical safety (e.g. by age, gender, disability). They consider that this experience could be improved by increasing access to phone network reception and Wi-Fi services

in the event of an emergency, particularly in areas where coverage is currently poor. Whilst I consider these laudable aims, I am not convinced that they are necessarily best achieved as part of the design policies of the proposed plan. I am keenly aware that there is support in another section of the proposed plan (section 7: Infrastructure) for new digital services/ technological improvements, targeted at areas with no or low connectivity capacity where proposals fulfil the delivery of local or national objectives. This accords with the approach advocated within NPF4 in terms of 'Digital infrastructure'. NPF4 Policy 24 requires local development plans to support the delivery of digital infrastructure particularly in areas with gaps in connectivity and barriers to digital access. I am satisfied that the requirements set out in Policy INF3: 'Installation of digital communications infrastructure' adequately address the matters raised above and that there is no need for policy duplication by making amendments to Policy Des1.

## **Policy DES1**

### Reflect paragraph 56 of SPP in full

3. Given that Scottish Planning Policy (SPP) is no longer extant, it is not necessary to reference it in the way that representations have requested. That said, the wording used under section 6.4 in Policy DES1 remains relevant as design on its own may provide sufficient justification for the refusal of planning permission. NPF4, Policy 14: 'Design, quality and place' section c) states that development proposals that are poorly designed will not be supported. Whilst I accept that NPF4 is to be read as a whole, there is nothing to prevent Policy 14 being used to justify refusal of planning permission. The above notwithstanding, the fact that Policy DES1 (section 6.4) states that planning permission "may be refused" does not in itself imply that a proposal would automatically be refused on design grounds. I consider that no modification is required in respect of this matter.

### Six Qualities of Successful Places as amended by NPF4

4. In relation to issues where representations suggest that there is potentially significant divergence or conflict between the policies of the proposed plan and NPF4, reporters invited parties who have submitted representations to make any further comments on the issues they have raised now they are aware of the final form of national policy. This puts them on the same footing as the council which was able to draft its responses in light of the approved version of NPF4 whereas those lodging representations commented in light of the draft version of NPF4.

5. I note the council's comments about the difficulty of aligning the proposed plan with NPF4, given the overlapping timescales. I accept that the proposed plan has been produced under transitional arrangements and recognise that a final dovetailing of policies between the two tiers of development plan will not take place until the council carries out the next review of the plan. However, the reporters hope that, by taking this approach, where appropriate, they will be able to recommend modifications to the plan to provide the best alignment possible at this time.

6. Policy DES1: 'Development design' is structured based on the six qualities of successful places as set out in SPP. I consider that the qualities that help to deliver successful places have not fundamentally changed with the approval of NPF4,

although there are aspects which are given greater priority and emphasis than previously. I consider that requirements set out in Policy DES1 could be accommodated relatively easily under the headings used in NPF4 to identify the six qualities of successful places. Given my comments above, I consider that it is appropriate to do so. Accordingly, I recommend modifications below to Policy DES1 to align it with NPF4.

#### Reference to inclusive and accessible design throughout policy

7. The policy as currently worded is clear that development proposals need to be inclusive and adaptable. Accessibility is to be maximised in any design regardless of a user's age and/ or ability (with ability covering all forms of impairment including sight, hearing or physical). I am not convinced of the need to populate the policy with references to these matters. I consider that specific design considerations such as specifications about the quality of pavements and crossings are too detailed for inclusion in the plan which ultimately is concerned with land use. The policy as currently worded is clear that inclusivity and accessibility, regardless of condition, are fundamental design considerations. I therefore do not consider it appropriate to incorporate additional wording to this policy in respect of this topic matter.

8. The above, notwithstanding, I understand that Design Supplementary Guidance has been identified for preparation in support of the plan. There is therefore logic to detailed design considerations related to inclusivity and accessibility being addressed as part of this guidance. Prospective applicants would be directed to such guidance via Policy DES1, therefore allowing for a more detailed appreciation of these subject matters.

#### Detail how local communities will be involved in development design

9. The public can become involved in development design through various means, the most obvious one being by participating in the planning application process. This involves dialogue between developers and local communities, affected by proposals, and is an important element of the whole process. Developers are obliged to consult with the local communities regarding 'Major' development proposals and to report to the respective council on what changes, if any, have been made to their proposals as a result of this dialogue. The scale of consultation and the methods used to encourage dialogue on development design will vary from project to project.

10. Local Place Plans (LPPs) provide another important vehicle for communities to become involved in shaping the built and natural environment in their areas. LPPs crucially seek to improve community engagement in development planning and their preparation is covered under Policy LPP1.

11. In light of the above, I am not persuaded of the need to provide additional reference in Policy DES1 to involving local communities in development design. No modification is therefore required.

#### **Policy LPP1**

##### LPPs as Supplementary Guidance

12. Concern has been expressed about the policy placing too much weight on Local Place Plans (LPPs) by giving them the status of Supplementary Guidance. I note that Placemaking Maps and Action Programmes have been adopted as statutory Supplementary Guidance as part of the adopted Local Development Plan (2017) (CD 47). These are effectively Community Led Action Plans and the preparation of the maps and programmes has involved community engagement, workshops, and public consultations. I consider that these are not dissimilar to the LPPs and how they are formulated and therefore the principle of LPPs being adopted as Supplementary Guidance does not appear illogical. The existing provisions and procedures contained within the Town and Country Planning (Scotland) Act 1997, as amended, and under which this plan is being prepared, accommodate Supplementary Guidance. I am conscious that the transitional arrangements allow Supplementary Guidance to continue to be prepared and adopted in association with LDPs, including this one, until March 2025.

13. There are checks and balances in place within the plan which should allay respondees' concerns. Policy LPP1 advises that the council will adopt LPPs as Supplementary Guidance but only where they meet 6 criteria contained in the policy. Criterion 5 is particularly important in the context of the above. According to it, the LPP must align with the aims and policies of and reflect the land use allocations contained in the Local Development Plan and not propose alternative uses for these allocations which would be contrary to the plan. The plan also confirms that where a LPP does not meet all of the criteria in the policy but meets the provisions of the Planning (Scotland) Act 2019 and the Town and Country Planning (Local Place Plans) (Scotland) Regulations 2021, the LPP will not be adopted as Supplementary Guidance to the LDP2 but will be added to the Council's LPP Register to be taken into account in the preparation of the LDP3. No modification is therefore required.

#### Legislation reference

14. I consider that it is appropriate to amend bullet point 6 contained within policy LPP1 to reference the correct legislation. I make a recommendation below in this regard.

### **Policy LPP2**

#### Weight of LPPs in proposals

15. I have been referred to the adopted local development plan and overarching Policy OP1 which requires all development proposals to meet a range of criteria. Criterion (vii) requires development proposals to 'Be compatible with, and where possible implement, projects shown on the LDP placemaking maps;'

16. Policy LPP2 refers to development proposals being compatible with projects shown on any Local Place Plan adopted for the area. The requirement under Policy LPP2 is consistent with the approach set out in the adopted local development plan. Importantly, Policy LPP2 specifically refers to Local Place Plans that have 'adopted' status. In order for an LPP to become adopted as Supplementary Guidance to the local development plan, it must first comply with clauses 4 and 5 of Policy LPP1 which require the LPP to align with the LDP. As pointed out by the council, any LPPs

produced in this cycle of the local development plan (LDP2) would be produced following adoption of the plan. The weight afforded to adopted LPPs is consistent with their status as Supplementary Guidance. Given the transitional arrangements under which this plan is being prepared, the guidance referred to by the respondents in respect of LPPs is mainly in relation to 'new style' local plans and not in respect of this plan.

17. The policy refers to sustainable development in relation to Scottish Planning Policy. As SPP is no longer extant and the reference to sustainable development is generally applicable to National Planning Framework 4, I consider it appropriate to amend the wording of the policy to refer to NPF4 instead of SPP. I make a recommendation below in order to address this matter.

### **Reporter's recommendations:**

I recommend that the plan be modified as follows:

1. Amend Policy DES1: 'Development design' with the following changes:

Delete the words 'Scottish Planning Policy' in the first paragraph and replace them with the words 'National Planning Framework 4';

Replace the heading 'Easy to move around and beyond' in section 3 with the heading 'Connected';

Replace the heading 'Welcoming' in section 4 with the heading 'Healthy';

Replace the heading 'Resource efficient' in section 6 with the heading 'Sustainable'.

Move paragraph 3.2 to under the heading 'Healthy' in section 4, renumbering the paragraph to become a new paragraph 4.3.

Renumber paragraph 3.3 to become paragraph 3.2.

Delete the words: '..NPF4 as well as ..' at the end of Policy DES1.

2. Amend bullet point 6 of Policy LPP1: 'Preparation of Local Place Plans' to read:

'6. Meet the provisions of Schedule 19 of the amended Town and Country Planning (Scotland) Act 1997, and the Town and Country Planning (Local Place Plans) (Scotland) Regulations 2021.'

3. Amend Policy LPP2: 'Development within a Local Place Plan area' by deleting the words 'Scottish Planning Policy' and replacing them with the words 'National Planning Framework 4'.



Issue 9	Open Space	
Development plan reference:	Volume 1: Chapter 4 Place and Environment, Subchapter 4.1 (including Policies OS1, OS2, PLAY1, PLAY2.) Volume 2: Safeguarded open space in Stewarton, Fenwick, Kilmarnock and Dalrymple	Reporter: Andrew Fleming
Body or person(s) submitting a representation raising the issue (including reference number):		
Pearson Planning (31) Fenwick Community Council (71) Elaine & Robert Pollock (73) Sam Brodie (86) SEPA (106) Scottish Wildlife Trust (110)		Sportscotland (258) NHS (270) Scottish Government (310) City Gate Construction Ltd and Global Homes (314)
Provision of the development plan to which the issue relates:	The content and wording of the elements of the Plan relating to Green Infrastructure, including relevant parts of the (i) spatial strategy; (ii) the Place and Environment chapter and; (ii) open space sites within volume 2 of the Plan.	
Planning authority’s summary of the representation(s):		
<p>Policy OS1: Green and Blue Infrastructure</p> <p><u>SEPA (106)</u></p> <p>It is recommended that the “Building with Nature” qualitative benchmark be adopted for green and blue infrastructure. This requires considerations relating to water, wellbeing and wildlife, reassuring Planning Authorities that do not have all related specialisms in-house that consideration has been given to these aspects.</p> <p>It is recommended that that SS3, SS12 and CR1 be cross-referenced with OS1.</p> <p><u>Scottish Wildlife Trust (110)</u></p> <p>Meaning of bullet point 2.3 unclear.</p> <p><u>NHS (270)</u></p> <p>OS1 should include details of how green and blue infrastructure and open spaces should be designed in consultation with local communities.</p>		



OS1 section 3 requirement to enhance connectivity should be expanded to include integration of active travel and sustainable transport.

OS1 should specify other infrastructure required as part of open space delivery, such as seating, litter bins, dog waste receptacles, cycle and mobility aid parking, etc.

## **Policy OS2: Safeguarded Open Space**

### Sportscotland (258)

Policy OS2 refers to Safeguarded Open Space but this is not defined in glossary.

Policy protection for outdoor sports facilities sits across two policies, OS2 and PLAY2, each with different wording. It is suggested that it would be neater if this sit in one policy instead of across two; Sportscotland believe this should be in PLAY2 as it follows the NPF4 wording and would ensure all outdoor sports facilities are protected regardless of whether they are safeguarded in the settlement maps.

### NHS (270)

OS2 should also apply to school outdoor play areas and consider how these can be made more available to the community outside school hours.

OS2 should require that development which results in loss of open space be only permitted where there has been consultation with the local community.

LDP2 should not only safeguard allotments but also detail how their provision can be expanded. Open Space policies should consider further how to promote healthy behaviours and reduce exposure to health hazards such as smoke-free play areas.

## **Policy PLAY1: Play Provision**

### Scottish Government (310)

The last section of policy PLAY1, which refers to “temporary use of unused land” may be better placed with policy OS1 or made into a separate policy, as it relates to proposals for open space, green space or play space.

### NHS (270)

Policy PLAY1 should require that the design of play equipment involve children and young people.

Policy PLAY1 should include a number of specifications to the requirement of providing safe opportunity for play outside dedicated play spaces, including designing streets as social spaces, traffic reduction, and traffic-free routes.

## **Policy PLAY2: Loss of Play Equipment and Outdoor Sports Facilities**

### Sportscotland (258)

Typographical error in the first bullet point of policy PLAY2; should read “is ancillary to the principal use of the site as an outdoor sports facility; or”.

Scottish Government (310)

It is recommended the fourth bullet point of policy PLAY2 be amended to make reference to “the relevant strategy”; this is to fully accord with SPP (CD26) paragraph 226, which sets out that outdoor sports facilities should be safeguarded except in certain circumstances, including where “the relevant strategy (see paragraph 224) and consultation with Sportscotland show that there is a clear excess provision to meet current and anticipated demand in the area, and that the site would be developed without detriment to the overall quality of provision”.

Sportscotland (258), Scottish Government (310)

Policy PLAY2 refers to Outdoor Sports Facilities but this is not defined in the glossary.

## **VOLUME 2**

### **General Comments**

Sportscotland (258)

OS2 requires safeguarded open spaces include sports areas, however the safeguarded open spaces as shown in settlement maps do not appear to include sports facilities; it is recommended they are.

Scottish Government (310)

Scottish Planning Policy (CD26) states at paragraph 226: “Local development plans should identify sites for new indoor or outdoor sports, recreation or play facilities where a need has been identified in a local facility strategy, playing field strategy or similar document. They should provide for good quality, accessible facilities in sufficient quantity to satisfy current and likely future community demand.” It is not clear that the proposed LDP addresses this requirement.

### **Safeguarded Open Space sites**

Pearson Planning (31)

The area of land to the east of Queens Drive and the access into Kilmarnock Rugby Football Club has been designated as Safeguarded Open Space; this is objected to (See map ‘Issue 9 – Land to east of Queens Drive, Kilmarnock - KA-OS1’).

Fenwick Community Council (71)

A number of sites have been identified in Fenwick Community Council’s Green Space Survey map, which shows how Fenwick views its green space. This should be used to update the Safeguarded Open Space designations.

Elaine & Robert Pollock (73)

Area of garden ground adjoining 2 Holmhead Drive, Stewarton, KA3 5QR is designated as Safeguarded Open Space (See map 'Issue 9 – Land at 2 Holmhead Drive, Stewarton - ST-OS1'). The area is privately owned and used and maintained as garden since 2012.

Sam Brodie (86)

The area of grassland on Barbieston Terrace is designated as Safeguarded Open Space in LDP2 (See map 'Issue 9 – SOS at Barbieston Terrace, Dalrymple - DR-OS1'). This designation is objected as the area is privately owned, planning permission was obtained for a single dwellinghouse (00/0011/FL), there is adequate provision of open space in Dalrymple.

City Gate Construction Ltd and Global Homes (314)

The site encompassed by the river Irvine and Main Road, identified in the EALDP 2017 as 361H, is designated in LDP2 as Safeguarded Open Space. (314) provides information on the planning history of the site. This area does not qualify as a public park, nor a play space, nor a sports area, nor recreational open space, nor amenity green space, nor allotments, nor a civic space, nor a green corridor. The site is private and fenced off, it has no recreational, play or sports facilities, there is no civic or community use, and it does not connect one important area of nature conservation with another. For these reasons, the site should not be designated as Safeguarded Open Space. The extents of this area can be viewed on map 'Issue 9 – SOS off of Main Road, Crookedholm – CR-OS1'.

**Modifications sought by those submitting representations:**

**VOLUME 1**

**Policy OS1: Central Scotland Green Network**

SEPA (106)

The “Building with Nature” qualitative benchmark be adopted for green and blue infrastructure.

SS3, SS12 and CR1 be cross-referenced with OS1.

Scottish Wildlife Trust (110)

Bullet point 2.3 be amended to read “Landscaping plans should include as many native plants as possible and exhibit good connectivity with adjacent habitats”.

NHS (270)

Amend policy to include details on how green and blue infrastructure and open spaces should be designed in consultation with local communities.

Amend policy to include integration of active travel and sustainable transport within green infrastructure.

Amend policy to specify infrastructure required as part of green infrastructure such as seating, litter bins, dog waste receptacles, cycle and mobility aid parking, etc.

## **Policy OS2: Safeguarded Open Space**

### Sportscotland (258)

Policies OS2 and PLAY2 be amended to consolidate support for outdoor sports facilities in one PLAY2 only, instead of across the two.

## **Policy PLAY1: Play Provision**

### Scottish Government (310)

Move the last section of Policy PLAY1 (under the heading 'Temporary use of unused land') to Policy OS1 or make it a separate policy.

## **Policy PLAY2: Loss of Play Equipment and Outdoor Sports Facilities**

### Sportscotland (258)

Amend first bullet point in policy to read "is ancillary to the principal use of the site as an outdoor sports facility; or".

### Scottish Government (310)

Add reference to the relevant strategy to the fourth bullet point of Policy PLAY2, to be consistent with paragraph 226 of SPP.

## **Glossary**

### Sportscotland (258)

Add definition of "Safeguarded Open Space" to glossary.

### Sportscotland (258), Scottish Government (310)

Add definition of "Outdoor Sports Facilities" to glossary. Scottish Government propose the definition be that of SPP: "Uses where Sportscotland is a statutory consultee under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, which establishes 'outdoor sports facilities' as land used as: (a) an outdoor playing field extending to not less than 0.2ha used for any sport played on a pitch; (b) an outdoor athletics track; (c) a golf course; (d) an outdoor tennis court, other than those within a private dwelling, hotel or other tourist accommodation; and (e) an outdoor bowling green."

## **VOLUME 2**

### **General Comments**

#### Sportscotland (258)

Include sports facilities within Safeguarded Open Space sites.

#### Scottish Government (310)

Ensure that the Plan identifies sites for new indoor or outdoor sports, recreation or play facilities where a need has been identified in a local facility strategy, playing field strategy or similar document, in accordance with SPP paragraph 226.

### **Safeguarded Open Space sites**

#### Pearson Planning (31)

Remove proposed area of Safeguarded Open Space comprising land east of Queens Drive and access to Kilmarnock Rugby Football Club and west of playing fields.

#### Fenwick Community Council (71)

Amend Safeguarded Open Space designations in Fenwick and Laigh Fenwick to take into account those detailed in the appendix to the representation (supporting document RD148)

#### Elaine & Robert Pollock (73)

Remove proposed area of Safeguarded Open Space comprising garden ground adjoining 2 Holmhead Drive, Stewarton, KA3 5QR.

#### Sam Brodie (86)

Remove proposed area of Safeguarded Open Space comprising grassland at Barbieston Terrace, Dalrymple.

#### City Gate Construction Ltd and Global Homes (314)

Remove proposed area of Safeguarded Open Space comprising former site 361H on Main Street, Crookedholm.

### **Summary of responses (including reasons) by planning authority:**

## **VOLUME 1**

### **Policy OS1: Green and Blue Infrastructure**

#### SEPA (106)

The fourth bullet point of the “Design Approach” section of Policy OS1 requires developers to “build in accordance with the Building with Nature Standards, which is a qualitative benchmark for good green infrastructure design”. This is underpinned by all other parts of policy OS1 and the introductory paragraphs 133-139. Furthermore, Design Supplementary Guidance will be produced incorporating key design principles. It is considered that this wording appropriately incorporates the Building for Nature framework in the design of green infrastructure. The PLDP2 also contains a robust and effective policy framework in relation to the water environment (Policies OS1, DES1, NE12, CR1) and wildlife (Policies NE4-NE8) which addresses the concerns raised by the respondent (106). Policy DES1 requires development proposals to accord with the Six principles of successful places, for which the policy expands and provides specific requirements to meet these principles. These principles promote and support wellbeing (in particular 2.1-2.3, 3.1-3.3, 4.1-4.2 and 5.1-5.3), as well as the water environment and its management and wildlife (in particular 1.3 and 6.4). As such, no changes to the policy are deemed necessary.

The Plan covers multiple areas that are intimately interrelated; besides, the Plan is to be read as a whole in the assessment of planning applications. As such, it is not considered necessary to cross reference every policy that relates to another one and it would not be practical to do so.

Bullet point 2.3 (marginal planting) (110)

The Council believes the wording of bullet point 2.3 of the policy is clear in that it seeks the integration of native species of marginal plants, i.e. those that grow around the margins and within shallow areas of water bodies, within landscape plans. As such, it is not considered that any amendments are necessary to this section.

However, if the reporter deems necessary, the Council would have no objection to adding ‘native marginal planting’ to the glossary. This is considered to be a non-significant change.

Detail how local communities will be involved in design of green and blue infrastructure and open spaces (270)

Whilst the Council is supportive of involving local communities in the design of their physical environments, this is generally achieved at the planning application stage, in addition to through the consultation processes related to design guidance documents and masterplans, and with the preparation of Local Place Plans by community bodies. As such, whilst it is not considered appropriate to address this through policy OS1, it is considered that policies LPP1 and LPP2 and the planning process can satisfactorily involve communities in the design of the physical environment. Therefore, no change is deemed to be necessary.

Expand policy to include integration of sustainable transport, and supporting infrastructure (270)

The policy requires green infrastructure proposals to integrate and create “active travel routes (linking work places, schools, community facilities and public transport hubs)”.

This is considered to be sufficient to guide how open spaces should integrate active travel and sustainable transport. Besides, the Plan also contains provisions in relation to integrating sustainable and active travel through the Spatial Strategy and policies DES1, T1 and T3.

In terms of supporting infrastructure to be delivered as part of open spaces, it is believed that matters of this level of detail should be addressed at the planning application stage.

For this reasons, it is not deemed necessary to amend the policy to this end.

## **Policy OS2: Safeguarded Open Space**

### Glossary entry “Safeguarded Open Space” (258)

The Glossary already includes a definition of Open Space which reflects that of paragraph 10 of PAN 65: Planning and open space (“Areas of greenspace, consisting of any vegetated land or structure, water, path or geological feature within and on the edges of settlements, and civic space consisting of squares, market places and other paved or hard landscaped areas with a civic function”). It is noted that the glossary to NPF4 contains a similar, but slightly different definition (“Space within and on the edge of settlements comprising green space or civic areas such as squares, market places and other paved or hard landscaped areas with a civic function”), which the Council would have no objection if the Reporter were minded to use instead of that of PAN65 in the interest of consistency.

This is further clarified in Volume 2 of the LDP2: “All areas shaded green on the LDP maps are defined as Safeguarded Open Space. Any development proposed within these areas will require to meet with the provisions of Policy OS2: Safeguarded Open Space and Policy RES3: Residential Amenity.” Policy OS2 completes this definition by setting out a broad, non-comprehensive list of types of spaces. As such, the Council considers Safeguarded Open Space to be sufficiently defined and do not agree that the addition of a definition specifically on “Safeguarded” Open Space is necessary.

### Protection of outdoor sports facilities in one policy instead of two (258)

Policy OS2 lends protection to spaces designated as Safeguarded Open Space; the policy lists a non-exhaustive range of spaces that have been designated as such, which includes, among others, sports areas. It is considered appropriate that a policy that protects spaces designated as Safeguarded Open Space broadly clarifies which spaces have been considered as such, and therefore the Council does not agree that it is necessary to remove “sports areas” from this list. Policy PLAY2, on the other hand, protects all outdoor sports facilities, regardless of designation. For clarity, OS2 seeks to protect areas of open space, which may include sports areas, from ceasing to be open space, whilst PLAY2 protects the sports facilities and equipment from being lost or removed, and therefore the effect of each policy is different.

### Protect school play areas (270)

Policy OS2 protects publicly accessible open spaces by virtue of them being open; i.e.



to prevent both development and enclosure. Spaces that are already enclosed and often do not allow open access, such as school grounds, are beyond the scope of this policy. Whilst acknowledging the importance of considering how school play spaces could be made accessible to local communities, this is considered a matter of management or stewardship and not a planning matter to be addressed by the Plan.

#### Require development of open spaces to consult the community (270)

When a developer seeks planning permission, the process is public and is subject to public input, as set out in the relevant legislation and regulations. Community councils are ordinarily consulted on the local development proposals, should they want to offer their views. As such, it is not considered necessary to add a requirement to consult the community.

#### Further scope of Open Space policies (270)

The Open Space policies contain provisions relating to the design and provision of open space as part of development proposals, and to the protection of spaces designated as safeguarded open space. Whilst acknowledging the importance of the provision of new growing spaces and of promoting healthy behaviours, these are not considered to be planning matters that the Plan can address. As such, the Council is of the view that the policies do not need to be amended.

### **Policy PLAY1: Play Provision**

#### Move “Temporary use of unused land” to OS1 (310)

The Council is satisfied with the text under heading “Temporary use of unused land” being in policy PLAY1 as often proposals for such temporary uses comprise play; however, the council recognise the logic in the suggested amendment and should the Reporter be minded to move it to OS1, the Council would have no objection to the suggested change.

#### Involve children and young people in the design of play equipment (270)

It is acknowledged that involving children and young people in the design of play equipment would be best practice. Notwithstanding, the design requirements for play equipment relate to the outcomes (i.e. “provide stimulating environments, be inclusive, be suitable for different ages”, etc.) and not the process; a development proposal that includes the intended users in the design process is more likely to achieve these outcomes, but it is considered to be outwith the scope of the policy to regulate on the procedure. The Council will produce Design Supplementary Guidance which will support policy PLAY1 by providing greater detail for developers on play design and requirements; this is deemed to be sufficient to address the representee’s comments.

#### Specifications on the design of incidental play spaces (270)

Whilst the recommended requirements indeed do reflect good practice, it is considered to be a detailed matter, not within the scope of the Plan. The Design Supplementary Guidance will support policy PLAY1 by providing more detail on requirements and

design, and it is considered a more suitable document to lay out the recommended details. As such, it is not considered appropriate to amend the policy; however, should the Reporter be minded otherwise, the Council would have no objection.

## **Policy PLAY2: Loss of Play Equipment and Outdoor Sports Facilities**

### Typographical error (258)

It is noted that there is a typographical error in the first bullet point of policy PLAY2 and, as such, the Council agrees to replacing the word “principle” with “principal”. This is considered to be a non-significant change.

### Fully reflect paragraph 226 of SPP (310)

It is noted that NPF4 states: LDPs should identify sites for sports, play and outdoor recreation for people of all ages. This should be based on an understanding of the needs and demand in the community and informed by the planning authority’s Play Sufficiency Assessment and Open Space Strategy. It no longer refers to a local facility strategy or a playing field strategy. As the Plan has been prepared under existing regulations, a play sufficiency assessment is not yet concluded.

It should be noted that East Ayrshire Leisure Trust have a Facility Strategy approved by the Council’s Cabinet in 2021 which reviews all facilities within the Leisure Trust’s remit. An audit was undertaken of all facilities as part of this. The review included all public, community and public sector run facilities and venues with the aim of developing a facility strategy which ensured our own venues did not duplicate, but complement the provision that already exists within communities.

The Council also has an open space strategy. East Ayrshire Leisure Trust published a Green Infrastructure Strategy in 2015 and is in the late stages of updating this strategy which is expected to be finalised in Spring 2023. EALT has undertaken an audit of open space provision and has made an assessment of current and future requirements.

The Council is satisfied that the current wording allows for the use of any relevant approved strategy to demonstrate that an excess or otherwise of provision exists, which may include other strategies completed during the lifetime of LDP2. However, should the Reporter be minded to amend the fourth bullet point of the policy per the recommendation the Council would have no objection, with the following wording suggested: “the relevant strategy and consultation with SportScotland where appropriate demonstrate that there is a clear excess of provision to meet current and anticipated demand in the area and that the site would be developed without detriment to the overall quality of provision.

### Glossary entry “Outdoor Sports Facilities” (258, 310)

The Council agrees to adding an entry to the glossary as suggested. This is considered to be a non-significant change.

**VOLUME 2****General Comments**Safeguarded Open Space should include sports grounds (258)

The Safeguarded Open Spaces as defined in the settlement maps include, among other spaces, all publicly accessible outdoor sports areas. This includes areas that are labelled in OS mapping as “playing field”, “recreation ground”, “sports ground”, and “football ground”. Only sports facilities which are enclosed and where access is restricted have not been designated as Safeguarded Open Space; this is because policy OS2 protects Safeguarded Open Spaces by virtue of them being open space, not sports facilities. If a site is not publically accessible it is not understood by the Council to be open space. This clearly does not change the purpose of the space or the requirement to notify SportsScotland as part of any development management (NOT development plan) process; but it does change its accessibility and therefore its inherent ‘openness’. This policy is about publically accessible areas, as such, the Council is of the view that this is appropriate and thus do not agree to the proposed change.

LDP2 should identify new sports, recreation or play sites (310)

The requirement for identifying sites for sports, recreation or play facilities in the Local Development Plan where such need has been identified, as per paragraph 226 of SPP, is noted. The current local facility strategy document is the East Ayrshire Leisure Trust Facility Strategy 2022-2030; the document does not identify a need for any new such facilities and as such no sites have been identified for this purpose in the Local Development Plan. It is considered that, as such, the proposed LDP has satisfactorily addressed this requirement.

**Safeguarded Open Space sites**Queen’s Drive, Kilmarlock (31)

The site comprises woodland at the road junction and along access road and a predominantly flat open area of mowed grass to the rear. The recreation ground and pavilion were not identified as Safeguarded Open Space in the EALDP 2017 (CD48); however, it is noted that the wider recreation ground area not identified corresponds to the site layout of a supermarket proposal from 2012 (12/0014/PP) and this may have informed the decision not to safeguard as open space. The extents of this area of safeguarded open space can be viewed in Map ‘Issue 9 – Queens Drive – KK-OS1’. The objection seeks designation of an area smaller than the recreation ground as white land and it is apparent that the potential for commercial development within the site is desired by the objector. Nevertheless, it is considered that the site does form part of a wider area of open space that is useable by more than a single individual or household and that it forms an integral part of the wider recreation ground. A substantial number of trees are located within the site, the retention of which is preferable and the site forms part of the green network of south-east Kilmarlock. Indeed, the most recent application that encompassed the site (18/0107/PP) indicates that the wider site is recreational in nature. Furthermore, the site and wider area is prone to flooding, and

PLDP2 pursues an approach to generally avoid new development in the flood plain, this having informed the decision to deallocate a miscellaneous site immediately to the north (163M). Other playing fields and their surrounding land have been identified as Safeguarded Open Space in EALDP 2017 and PLDP2 and it is considered that a similar approach should be taken to this site. As such, the Council does not agree that the designation as Safeguarded Open Space should be removed from this area.

#### Several sites in Fenwick and Laigh Fenwick (71)

The site highlighted as “Public Parks & Gardens” in RD148, FW-OS3, already forms part of the Safeguarded Open Space designation in LDP2.

Of the sites highlighted as “Play Spaces for Young People” in RD148, all of them but one form part of the Safeguarded Open Space designation in LDP2, and therefore are not addressed here. The one exception, FW-OS2 – Former play space off of Rysland Drive, was not assessed as part of the green space review undertaken during the preparation of LDP2, given the dis-used nature of the former play area and its location to the rear of houses, with very limited overlooking, making it a far from ideal site for this type of use.

Of the sites highlighted as “Residential Amenity Greenspace” in RD148, most already form part of the Safeguarded Open Space designation in LDP2, and therefore are not addressed here. The exceptions comprise FW-OS4 – Glebe Terrace, FW-OS7 – Poles Road (west), FW-OS8 – Poles Road (east), and FW-OS5 – Fenwick Parish Church Hall grounds. These spaces were assessed as part of the green space review undertaken during the preparation of LDP2, but they were discounted due to them being too small in space and not threatened by development in the first three cases, and due to the grassed area thought to form part of garden ground in the latter.

Of the sites highlighted as “Church & Cemetery” in RD148, one already forms part of the Safeguarded Open Space designation in LDP2, and therefore is not addressed here. As for the other three (FW-OS3, FW-OS6 and FW-OS10), it was considered not necessary to safeguard them as Open Space. Whilst their amenity, recreational and ecological value is acknowledged, it is not considered that the protection afforded to them by virtue of policy OS2 of LDP2 is necessary, given their current use as cemetery grounds. Furthermore, FW-OS10 is located within the Rural Protection Area, where LDP2 in principle does not safeguard open spaces. For these reasons, whilst acknowledging their amenity and environmental value, it is not agreed that they should be designated as Safeguarded Open Spaces.

Of the sites highlighted as “Natural Greenspace” in RD148, three form part of residential allocations FW-H2 and FW-H3 and Future Housing Growth Area FW-F2(H). A detailed response on the merits of these sites as open space can be found in issue 31 – Development Sites in Fenwick and Laigh Fenwick. Of the remaining areas marked “Natural Greenspace”, the remainder FW-OS1 is either already Safeguarded Open Space or forms part of the Rural Protection Area. The area bounded by Fulton’s Crescent to the north and the Fenwick Water to the south corresponds with unallocated site FW-X9, and also forms part of the Rural Protection Area. It is considered that the protections afforded by policy RH1 and RH5 of LDP2 are sufficient to protect these areas from speculative development and, given their naturalness and the informal

nature of their recreational use, is a more appropriate form of protection than Safeguarded Open Space. As such, no changes to the Safeguarded Open Space designation as a result of this representation are deemed necessary to reflect this, without prejudice to the content of Issue 31.

The area to the south-east of the cemetery is safeguarded as a Cemetery Extension allocation (CEM6), which safeguards the land for future cemetery use. Whilst this designation does not prevent the enclosure of the space, it does prevent its development or use for any uses that would inhibit its future use as cemetery grounds. This is considered to give sufficient protections against development and, given the naturalness of the site and the informal nature of its recreational use, and bearing in mind its intended future use as cemetery, it is not agreed that it is necessary to designate the site as Safeguarded Open Space.

RD148 also contains desire lines and surfaced footpaths. LDP2 does not use Safeguarded Open Space designations to protect footpaths, but lends protection instead primarily through policy T3: Development and protection of core paths and other routes and also policy DES1 section 3.3, policy OS2 15th bullet point, and NE1 (iii) f. This is considered sufficient to afford an appropriate level of protection to these areas, and as such it is not considered appropriate to amend the Safeguarded Open Space designations to include these areas.

#### Holmhead Drive, Stewarton (73)

The site is a grassed area containing trees and bushes; no boundary enclosure existed in May 2022; and it forms part of a wider strip of open space that runs adjacent to the road, evidently planned as such as part of the design of the scheme. The extents of this area of safeguarded open space can be viewed in Map 'Issue 9 – Holmhead Drive – ST-OS1'. The land appears to constitute amenity space, and indeed was intended to form publically accessible amenity space as part of the site layout of application 04/0269/FL. At some point thereafter the objector has purchased the land but not regularised the use thereof in planning terms. Nevertheless, with the site being demonstrably within the objector's ownership, and development of the site for anything other than garden ground being subject to assessment against the policies of the Plan, were the Reporter be minded to amend the settlement map to remove its designation as Safeguarded Open Space the Council would have no objection.

#### Barbieston Terrace, Dalrymple (86)

The site is a flat grassed area surrounded by low fencing; wooded with mature trees in north and east of site; housing immediately to the south. The extents of this area of safeguarded open space can be viewed in Map 'Issue 9 - Barbieston Terrance – DR-OS1'. The site is not in use for any specific purpose and was open, mowed grass as of autumn 2021. The site appears to be enclosed and it is apparent from the objector's communication that it is in single private ownership. The site was subject to an approved planning application in 2000; because it was considered suitable for residential development at the time, and would appear to constitute an appropriate gap site within the settlement boundary of Dalrymple within which residential development would be acceptable in principle, the Council would have no objection if the Reporter were minded to amend the settlement map to remove this area from the Safeguarded

Open Space designation.

Main Road, Crookedholm (314)

The site is a flat grassed area of agricultural land south-west of Main Road, with a war memorial located in the easternmost corner. The extents of this area of safeguarded open space can be viewed in Map 'Issue 9 - Main Road – CR-OS1'. A hedgerow marks most of the boundary, with informal access on foot to the site gained adjacent to the war memorial. The site is subject to risk of flooding and this has led to the site, which was allocated for residential use in the 2017 LDP (361H) being deallocated in LDP2, as requested by SEPA. This, together with its informal use as recreation, informed its designation as Safeguarded Open Space in PLDP2. However, it is noted that access to the site is not readily available to all groups and no footpath or other paved way is available. It is not considered necessary to define the site as Safeguarded Open Space to prevent residential development, ensure amenity or provide open space to residents. In this regard, taking account of the enclosure, agricultural use, solely informal access, and that the site is greenfield and demonstrably not developable by recommendation of SEPA, should the Reporter be minded to remove the Safeguarded Open Space designation to which the Council would have no objection, it is recommended that the settlement boundary also be amended to exclude the site, so that the land would form part of the Rural Protection Area instead.

**Reporter's conclusions:**

**VOLUME 1**

**Policy OS1: Green and Blue Infrastructure**

SEPA

1. Policy OS1 (fourth bullet point) requires, amongst other things, that developers build in accordance with the 'Building with Nature Standards' which the council confirms is a qualitative benchmark in relation to green infrastructure design. In light of this and given the supportive context for green and blue infrastructure within section 4.1 of the proposed plan, I am not persuaded that there is a need to change Policy OS1 in this regard.
2. Whilst there are numerous policies within the proposed plan which refer to green and blue infrastructure, given that the plan is to be read as a whole, it is not essential or necessary that they are all cross referenced to one another.

Bullet point 2.3 (marginal planting)

3. For native planting to be marginal it is presumed to be growing around the edges/ margins of shallow water bodies. The term 'Native marginal planting' in bullet point 2.3 of the proposed plan is being used in the context of the design of landscape plans and I consider it to be self-explanatory. I therefore do not consider it necessary to recommend any change to the wording of the policy in this regard.



Detail how local communities will be involved in design of green and blue infrastructure and open spaces

4. The public can become involved in the design of open space and green and blue infrastructure forming part of development proposals through various means, the most obvious one being by participating in the planning application process. This involves dialogue between developers and local communities, affected by proposals, and is an important element of the whole process. Developers are obliged to consult with the local communities for proposals identified as 'major' development and to report to the respective council on what changes, if any, have been made to their proposals as a result of this dialogue. The scale of consultation and the methods used to encourage dialogue on development design will vary from project to project.

5. Local Place Plans (LPPs) provide another important vehicle for communities to become involved in shaping the built and natural environment in their areas. LPPs crucially seek to improve community engagement in development planning and their preparation is covered under Policy LPP1. In light of the above, I am not persuaded of the need to provide additional reference in Policy OS1 to involving local communities in development design.

Expand policy to include integration of sustainable transport, and supporting infrastructure

6. Policy OS1 is clear that one of the key functions of green and blue infrastructure is to contribute to the access network within the council area. This involves integrating active travel routes (linking places of work, schools, community facilities and public transport hubs) and creating routes as part of the green infrastructure. This would help to ensure that open spaces integrated active travel and sustainable transport.

7. Given the above and that the proposed plan's spatial strategy and Policies DES1, T1 and T3 deal specifically with integrating sustainable and active travel, I do not consider it necessary to recommend any changes to Policy OS1 in this regard.

8. With regards to delivery of supporting infrastructure within areas of open space (such as seating areas, litter bins and cycle parking/ storage facilities), I would expect such detailed issues to be considered at the planning application stage. The reference to such detailed matters within this policy is not essential. I therefore do not consider it appropriate to incorporate additional wording to this policy in respect of this topic matter.

9. The above, notwithstanding, I understand that Design Supplementary Guidance has been identified for preparation in support of the plan. There is therefore logic to detailed considerations related to supporting infrastructure, such as that referred to above, being addressed as part this guidance. Prospective applicants would be directed to such guidance via Policy DES1, therefore allowing for a more detailed appreciation of these subject matters.

10. No changes are recommended to Policy OS1.



## **Policy OS2: Safeguarded Open Space**

### Glossary entry “Safeguarded Open Space”

11. NPF4 contains a ‘Glossary of definitions’ and includes within this, a definition of ‘Open space’. The same definition of ‘Open space’ is contained within the proposed plan. For the purpose of consistency between the two documents, I consider that it is logical for the proposed plan to retain this definition.

12. Policy OS2 sets out what types of spaces make up ‘Safeguarded open space’ within the council area although the council confirms that this is a broad and non-comprehensive list. That said, the list in Policy OS2 is self-explanatory and I am not convinced of the need to have a separate glossary definition for this term. I am conscious that Volume 2 of the plan (page 3 and the key on page 4) articulates what the council considers to be ‘Safeguarded open space’ and this is effectively all land shaded green on the settlements maps. In order to provide further clarity, I recommend below that Policy OS2 is amended to provide reference to such spaces as identified in Volume 2 of the plan. This link between the policy wording and the settlement maps in Volume 2 should assist with understanding what ‘Safeguarded open space’ is.

### Protection of outdoor sports facilities in one policy instead of two

13. Policy OS2 is concerned with protecting open space. The policy identifies a list of space types which it seeks to protect and which it seeks to avoid losing to development. This includes sports areas such as golf courses and sports pitches. Policy PLAY2 is slightly different in its scope, seeking to avoid the loss of sports facilities and equipment. Given the subtle differences between the intent of each of these policies, I consider that it is appropriate to include reference to outdoor sports facilities across both policies.

### Protect school play areas

14. As the types of spaces identified in Policy OS2 demonstrate, the policy is concerned with safeguarding open space which is publicly accessible. These types of spaces are differentiated from school grounds which tend to be enclosed in order to restrict public access. I therefore consider that it is not appropriate to include reference to school outdoor play areas and sports fields within this policy.

15. It is not within the remit of the proposed plan to establish or confirm how school play spaces could be opened up, outwith school opening hours, for use by the wider community/ members of the public. This is a matter which would require dialogue between the council and local community, outwith the plan making process.

### Require development of open spaces to consult the community

16. It would be during the planning application process that the local community would be given the opportunity to comment on the potential loss of open space to development. These comments would be taken into account by the council in the normal manner as part of the development management process. Community councils, tasked with representing the views of their respective local communities, would be

consulted on such proposals in their area and afforded the opportunity to comment on behalf of their respective community. In light of these opportunities, I do not consider that there is any benefit to including within the policy, reference to the need for consultation with the local community.

#### Further scope of Open Space policies

17. Policy OS2 identifies allotments and community growing spaces as types of space that are to be safeguarded from development. Protecting these and other types of open space is the purpose of this policy. As a land use document, a role of the local development plan could be to identify sites for new allotment provision, but in the absence of any specific proposals that have been brought to my attention, I decline to make any changes to the policy.

#### **Policy PLAY1: Play Provision**

##### Move “Temporary use of unused land” to OS1

18. Policy PLAY1 is concerned with providing for formal, informal and incidental play space. I acknowledge that the last section of the policy is not simply concerned with play space but also with open space and green space. The section therefore sits slightly awkwardly as part of Policy PLAY1. It makes sense to relocate the section dealing with ‘Temporary use of unused land’ to the end of Policy OS1. There would be a better fit for this issue following on from the section in Policy OS1 dealing with management and maintenance of new open spaces. Accordingly, I recommend an amendment below to address this matter.

##### Involve children and young people in the design of play equipment (270)

19. The design and delivery process for play provision is not something that the local development plan or indeed Policy PLAY1 can influence or control. It is the responsibility of the developers to deliver stimulating environments which are inclusive and suitable for different ages, in response to the policy. I acknowledge that the council, though its proposed Design Supplementary Guidance, can offer assistance in terms of providing greater detail on play design and requirements and that this should provide for quality outcomes for the intended recipients of these facilities. Given the above, I do not recommend any changes to policy in respect of this matter.

##### Specifications on the design of incidental play spaces

20. The respondent has referred to several detailed design ‘requirements’ that would provide safe opportunities for informal play outside of dedicated play spaces. The examples referred to are what I would term ‘good practice’ when designing streets and spaces as part of a wider neighbourhood. Therefore, I do not consider that they necessarily merit specific reference within the policy. I am conscious that the council’s forthcoming Design Supplementary Guidance will provide more detail on design and requirements and that this would provide the support to policy which would deliver these design requirements on the ground. I therefore do not propose to make any change to the policy in respect of the above.

## **Policy PLAY2: Loss of Play Equipment and Outdoor Sports Facilities**

### Typographical error

21. I have included a recommendation below to address the typographical error in Policy PLAY2.

### Fully reflect paragraph 226 of SPP

22. SPP has been superseded by NPF4. NPF4 Policy 21 covers the topics ‘play, recreation and sport’. According to Policy 21 part (a), development proposals which result in the loss of outdoor sports facilities will only be supported where the proposal meets one of four criteria and that this should be informed by the local authority’s Open Space Strategy and/or Play Sufficiency Assessment, in consultation with sportscotland where appropriate.

23. Policy PLAY2 does not refer to an Open Space Strategy and/or Play Sufficiency Assessment. However, I understand that the council has an open space strategy and under PROP7: ‘Play sufficiency assessment’ (page 68), the council is committed to carrying out a Play Sufficiency Assessment during the lifetime of LDP2. The council has advised that it has a Green Infrastructure Strategy (utilised in order to assess the appropriateness of proposals) and has undertaken an audit of open space provision which has informed its assessment of current and future requirements.

24. Given the above, I am satisfied that the policy as currently worded is not in conflict with NPF4 Policy 21 (a). Accordingly, it is not necessary to recommend any changes to the policy in respect of this matter.

### Glossary entry “Outdoor Sports Facilities”

25. NPF4 contains a ‘Glossary of definitions’ and includes within this, a definition of ‘Outdoor sports facilities’. For the purposes of consistency between NPF4 and the proposed plan, I consider that it is logical for the proposed plan to also include this definition. Accordingly, I recommend below additional wording in the glossary to address this matter.

## **VOLUME 2**

### **General Comments**

#### Safeguarded Open Space should include sports grounds

26. Safeguarded open space identified on the settlement maps in Volume 2 of the proposed plan relates to Policy OS2. This policy is concerned with safeguarding several different types of open space including sports areas such as golf courses and sports pitches. However, the council has confirmed that in relation to sports facilities, this applies to publicly accessible outdoor sports areas and does not extend to facilities that are enclosed and which have restricted access. I appreciate that these, in effect, cannot be classed as ‘open space’. Given the types of spaces that this policy covers, I am satisfied that no change is required in respect of the depiction on the settlement

maps of safeguard open space.

LDP2 should identify new sports, recreation or play sites

27. Whilst the representation was made in the context of SPP, the section of NPF4 dealing with 'Play, recreation and sport' continues the requirement for LDPs to identify sites for sports, play and outdoor recreation. According to NPF4, this should be based on the needs and demands in the community and informed by the planning authority's Play Sufficiency Assessment and Open Space Strategy.

28. I appreciate that the proposed plan has not been informed by a Play Sufficiency Assessment, due largely to the timing of the production of the proposed plan and under transitional arrangements. That said, the council, through its local facility strategy document (East Ayrshire Leisure Trust Facility Strategy 2022-2030) has not identified the need for such new facilities. Given this work, I consider that there is no significant divergence with NPF4 in this regard. I am also conscious that LDP3 is to follow this plan, relatively quickly and that the Play Sufficiency Assessment the council proposes to carry out under LDP2 would inform the evidence base for LDP3.

**Safeguarded Open Space sites**

Queen's Drive, Kilmarnock

29. The site is located between Queens Drive and the pavilion associated with Kilmarnock Rugby Club. It comprises a predominantly flat, grassed area with mature tree along its northwest and southwest sides. The site is identified in the adopted local development plan as being within the settlement boundary to which Policies IND 3, RES 1 and TC2 apply. The council has advised that the site layout for a supermarket proposal (12/0014/PP) may have informed the decision not to identify the site and the wider recreation ground as Safeguarded Open Space in the adopted local development plan. This explanation is plausible and I have no reason to doubt this being the reason for its identification as 'white land' in the 2017 plan.

30. Policy OS2 in the proposed plan seeks to safeguard open spaces from development and the types of spaces identified by this policy include sports areas (outdoor and publicly accessible). I am satisfied that the flat mowed grass site forms part of a wider area of open space that is usable by more than an individual or household and that it forms an integral part of the wider recreation ground.

31. According to the council, the site and the wider area are within a flood plain and prone to flooding. Given the council's approach to development in such areas, I note that the site to the north, allocated in the adopted local development plan as a 'miscellaneous opportunity' site, is proposed for deallocation in this plan. The identification of this site as Safeguarded Open Space, in the proposed plan, is therefore logical in this regard.

32. In light of the above considerations, no change is recommended to the plan in respect of this site.

Several sites in Fenwick and Laigh Fenwick

33. Fenwick Community Council has produced a Green Space Survey map (RD148) which it requests is used to update the Safeguarded Open Space designations for the settlement map for Fenwick and Laigh Fenwick. The survey map identifies a range of sites/ routes and these have been referred to as the following: public parks and gardens; play spaces for young people; residential amenity greenspace; natural greenspace, churches and cemeteries; desire lines and surfaced footpaths.

34. With regards to playspace, the former play space at Rysland Drive, in the northern part of Fenwick, is disused and given its location to the rear of residential properties with limited overlooking, I do not consider it appropriate for identification as a playspace for children. I therefore consider it logical that it is excluded from the Safeguarded Open Space designation. I note that all other play spaces identified by the community council are included as part of this designation. The one public park identified by the community council is identified as part of the Safeguarded Open Space designation on the settlement map.

35. With regards to areas of residential amenity greenspace, I note that the majority of these are included as part of the Safeguarded Open Space designation on the settlement map with the exception of four areas centred on Poles Road and Glebe Terrace (FW-OS4, FW-OS5, FW-OS7 and FW-OS8). These areas (with the exception of FW-OS5) are particularly small and I am satisfied that, as a result, they do not require protection from development afforded by the Safeguarded Open Space designation provided by Policy OS2. In the case of FW-OS5, it is understood to be in private ownership and hence not appropriate to include as part of the designation.

36. With regards to churches and cemeteries, given their use, it is not necessary to include them as part of the Safeguarded Open Space designation. That said, I note that the proposed cemetery extension at Skernieland Road in the northeast part of Fenwick, is provided protection from other forms of development in the proposed plan and is identified as a 'cemetery extension' on the Fenwick and Laigh Fenwick settlement map. I note that FW-OS10 is located outwith the settlement boundary and identified as part of the Rural Protection Area. I am satisfied that this should also not be covered by the Safeguarded Open Space designation, particularly as it is outwith the settlement boundary and in countryside to which Policy RH1 applies.

37. With regards to 'natural greenspaces' identified on the community council's Greenspace Survey Map, three sites are identified as either residential allocations or a future housing growth area. These are FW-H2, FW-H3 and FW-F2(H), respectively. My reporter colleague has dealt with these sites under Issue 31 and has recommended that they are retained as allocations and a future growth area which would all be required to accommodate public access and provision of open space as part of their future development.

38. With regards to area on the east side of Fenwick, bounded by Fulton's Crescent to the north and the Fenwick Water to the south, (covering the same area as unallocated site FW-X9) this is outwith the settlement boundary and forms part of the Rural Protection Area. The FW-OS1 site to the northern end of Fenwick is either covered by the Safeguarded Open Space designation or is outwith the settlement and also part of

the Rural Protection Area. Land falling within the Rural Protection Area is covered by policies RH1 and RH5 which seek to restrict development and protect such areas from speculative development. In light of the above circumstances, I am satisfied that it is not appropriate to amend the Safeguard Open Space designation on the settlement map in order to accommodate these areas as part of the designation.

39. I note that the community council has identified desire lines and surfaced footpaths in areas around the settlements to identify routes that walkers take. The proposed plan contains various policies to protect footpaths including Policy T3: 'Development and protection of core paths and other routes', Policy DES 1: 'Development design' and Policy NE1: 'Protecting and enhancing landscape features'. Policy OS2: 'Safeguarded Open Space' also confirms that existing public access routes, rights of way and core paths to open space will be protected. I am satisfied that given this policy protection, it is not necessary, practical or appropriate to include such areas as part of the Safeguarded Open Space designation on the settlement map.

40. In light of the above considerations, I do not recommend any changes to the Safeguarded Open Space designation as shown on the settlement map (Volume 2) for Fenwick and Laigh Fenwick.

#### Holmhead Drive, Stewarton (73)

41. The site, identified on the Stewarton settlement map (Volume 2) as Safeguarded Open Space, was intended to form publicly accessible amenity space as part of the site layout for the residential development (ref: 04/0269/FL) that took place to the south of the Old Galsgow Road. However, it has come to light during the Examination process that the land in question was purchased in 2012 by the owners of the residential property adjacent to the site (2 Holmhead Drive). The site is private property, used as garden ground and has been maintained as such since 2012 by the owners of 2 Holmhead Drive. It would appear that the current owners have not regularised the change of use. However, given its ownership status and use as private garden ground and also given that anything other than garden ground would be assessed against the local development plan, its designation as Safeguarded Open Space is no longer appropriate. Accordingly, I recommend below that the settlement map is amended by the removal of the Safeguarded Open Space designation on this site.

#### Barbieston Terrace, Dalrymple

42. The site represents a flat grassed area with mature trees to its northern and eastern site boundaries with residential development to the south. I understand that the site received planning permission in 2000 for the erection of a single dwelling house. Whilst this permission has not been implemented, the site's location and surrounding context make it, in principle, a logical infill site suitable for residential development. The site is in private ownership.

43. In light of the above, I recommend an amendment to the Dalrymple settlement map (Volume 2) to remove this piece of land from the Safeguarded Open Space designation. In doing so, I note that the council would not object to such an amendment to the plan.



Main Road, Crookedholm (314)

44. The site is a relatively flat agricultural field with Main Road immediately to the north of the site and the River Irvine to the south. There is hedgerow planting along the site's northern boundary with post and wire fencing along the site's southern boundary. I note that other than informal access to the site, on its southeastern boundary (adjacent to the war memorial), access to the site is not easily possible for all with no formal footpaths available. This agricultural site is effectively enclosed with only informal access possible.

45. The site is identified on the settlement map for Crookedholm (Volume 2) as Safeguarded Open Space to which Policy OS2 applies. I have considered the types of spaces identified within Policy OS2 as Safeguarded Open Space. In light of this and given that the site is agricultural, predominantly enclosed and with only limited informal access possible, I do not consider that the site merits designation as Safeguarded Open Space. In reaching this conclusion, I am aware that the council would not object to the removal of the Safeguarded Open Space designation from the site.

46. I note that planning permission for residential development was secured for the site although this was back in 2007 and the permission was never implemented. I am also conscious that the site has been allocated for residential development in the last two iterations of the local development plan. I also note that SEPA has identified the site as being at risk of flooding which in part led to the site being deallocated as a housing allocation in the proposed plan.

47. Given its location with Main Road along its northern boundary, the footbridge to the northwest, the Hurlford Bridge to the southeast and the settlement of Hurlford immediately opposite the site to the south of the river, the site is more closely associated with the established settlements than the surrounding countryside. I consider that there is merit in the site being retained with the settlement boundary.

48. I therefore recommend that the Safeguarded Open Space designation covering the site is removed and the settlement map amended accordingly. I also recommend that the site remains as part of the settlement boundary.

**Reporter's recommendations:**

I recommend that the plan be modified as follows:

1. After the words 'Safeguarded open spaces' at the beginning of Policy OS2, insert the following words: ',as identified in Volume 2 of the Plan,'

2. Move the last section of Policy PLAY1 (page 68), as below, to the end of Policy OS1 (page 65):

'Temporary use of unused land

'The Council will actively encourage and support development proposals for temporary or permanent open space, green space or play space on any vacant, derelict, unused, underused land in order to improve green infrastructure and play within the Council



area and to improve the character and amenity of a particular settlement or rural area.'

3. Amend first bullet point in Policy PLAY2 by replacing the word 'principle' with the word 'principal'.

4. Insert after 'Open space' definition in the glossary, the following:

'Outdoor Sports Facilities'

'Uses where sportscotland is a statutory consultee under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, which establishes 'outdoor sports facilities' as land used as: (a) an outdoor playing field extending to not less than 0.2ha used for any sport played on a pitch; (b) an outdoor athletics track; (c) a golf course; (d) an outdoor tennis court, other than those within a private dwelling, hotel or other tourist accommodation; and (e) an outdoor bowling green.'

5. Amend the Stewarton settlement map (Volume 2, page 99) by removing the site adjacent to 2 Holmhead Drive from the Safeguarded Open Space designation.

6. Amend the Dalrymple settlement map (Volume 2, page 34) by removing the site at Barbieston Terrace from the Safeguarded Open Space designation whilst retaining the site within the settlement boundary.

7. Amend the Crookedholm settlement map (Volume 2, page 19) by removing the site at Main Road from the Safeguarded Open Space designation whilst retaining the site within the settlement boundary.

Issue 10	Historic Environment	
Development plan reference:	Volume 1, Chapter 4 Place and Environment, Subchapter 4.2 Historic Environment, including policies HE3, HE4 and HE5 Volume 2: Settlement maps in relation to Garden and Designed Landscapes	Reporter: Andrew Fleming
Body or person(s) submitting a representation raising the issue (including reference number):		
Homes for Scotland (128) Persimmon Homes (141) REG Power Management and ESB Asset Development (145) Barratt Homes (195)		ScottishPower Renewables (196) RES UK & Ireland (198) Community Windpower (261) Harcourts Development (UK) Ltd (282) Suffolk Ltd (283)
Provision of the development plan to which the issue relates:	The content and wording of subchapter 4.2 The Historic Environment and the policies contained therein.	
Planning authority’s summary of the representation(s):		
<b>Relationship between Section 4.2 and draft NPF4</b>  <u>ScottishPower Renewables (196)</u>  Wording in section 4.2 reflects that of the draft NPF4 to which objections have been raised, such as its Policy 28. Section 4.2 should be redrafted to avoid duplicating or overlapping policies already set out in NPF4 (CD3), only setting out different or additional policies where necessary to reflect local circumstances, thus ensuring LDP2 remains valid following the finalisation of NPF4.  <b>Section 4.2</b>  <u>ScottishPower Renewables (196)</u>  The proposed section 4.2 and its policies substantially increase protections compared with SPP, and are not compatible with the proposed policy SS1: Climate Change, as they do not recognise the need to conserve and protect the historic environment within the context of responding to the climate emergency. They are also inconsistent with the view of Historic Environment Scotland, which calls for a balanced approach to the assessment of potential impacts on the setting of heritage assets in the face of the need to take climate action. Specifically: <ul style="list-style-type: none"><li>Paragraph 141 states that proposals “which would have an adverse impact or cause damage to heritage resources and their setting” would not be supported. This is overly restrictive and does not consider acceptability and balance of</li></ul>		

impacts in the face of policy SS1.

- Paragraph 142 states that for developments that “could potentially have significant impact on historic assets or places, a more detailed assessment might be required”, which is unclear regarding how the significance of impacts would be determined before deciding on the need for further assessment, and when a further more detailed assessment is required. This appears to suggest that the Council could undertake iterative scrutiny, which could result in unnecessary delays and conflict.

### **Policy HE3: Scheduled monuments, Historic Battlefields and other Archaeological and Historical Assets**

#### *Scheduled Monuments*

##### ScottishPower Renewables (196)

HE3 with respect to “adverse effect on Scheduled Monuments or their settings” is overly restrictive, imprecise and includes no consideration of the acceptability of potential impacts; the single exemption to this policy test of “unless there are exceptional overriding circumstances” lacks definition and is open to challenge.

##### REG Power Management and ESB Asset Development (145), RES UK & Ireland (198)

HE3 states that development that would have an adverse effect “on Scheduled Monuments or on their settings” is not supported unless in exceptional circumstances, which is inconsistent with SPP (CD26) paragraph 145 which refers to impacts upon the “integrity” of the setting of a Scheduled Monument. ‘Setting’ and ‘integrity of setting’ are two separate matters, as it is possible for development to have an adverse effect on the setting of a Scheduled Monument but not affect the ‘integrity of its setting’, which has been confirmed by HES in consultation responses to various wind energy proposals. It is noted that this reflects NPF4 (CD3) policy 28, but this has been subject to objections for the same reasons, see above; LDP2 should align with the finalised version of the associated NPF4 policy. The wording of HE3 is objected to until the final wording of the NPF4 policy 28 has been set.

##### Community Windpower (261)

Building on SS1, it is recommended that the “exceptional overriding circumstances” referred to in policy HE3 be elaborated to include the Global Climate Emergency as a specific mitigating circumstance.

#### *Non-designated historic assets*

##### ScottishPower Renewables (196)

HE3 with respect to the protection of “non-designated historic environment assets and areas of historic interest that do not have statutory protection” is impractical, as it does not define the scope of the non-designated heritage assets and areas. The tests of requiring the avoidance of any adverse impacts then impact minimisation and mitigation “as far as possible” are overly restrictive, poorly defined, and

disproportionate.

#### **Policy HE4: Gardens and Designed Landscapes**

Homes for Scotland (128), Persimmon (141), Barratt Homes (195)

The policy conflates Inventory and Non-Inventory Gardens and Designed Landscapes and provides each with the same level of protection. The Proposed Plan Glossary and Historic Environment Scotland's inventory of Gardens and Designed Landscapes recognises the sites that are of national importance; sites not listed on this inventory should not be considered in the same way nor be provided the same level of protection.

ScottishPower Renewables (196)

The policy is unclear as to whether development within gardens and designed landscapes is required to avoid any change to views and the setting of component features, or only to avoid specific adverse impacts on these.

#### **Policy HE5: Enabling Development**

Harcourts Development (UK) Ltd (282), Suffolk Ltd (283)

Where the policy refers to "other heritage assets", it could be made explicit that this includes Gardens and Designed Landscapes.

It is not practical that enabling development is only supported where it "can be sensitively sited and designed to ensure the character and setting of the listed building and surrounding landscape is preserved and enhanced", as this requires that all landscape surrounding the listed building be enhanced by the enabling development. Good enabling development may have a negative impact on the land it occupies which is offset by the significant positive effects the development enables. The current wording of RES13 appropriately limits the scope for protection to the asset itself: "the character and setting of the historic asset is preserved and enhanced".

In order to minimise the amount of enabling development required, affordable housing and some other development contributions should not be required from residential enabling development which forms part of masterplanned development proposals.

#### **Volume 2**

Persimmon Homes (141)

The Settlement Maps should also include the Inventory and Non-inventory Historic Gardens and Designed Landscapes.

#### **Modifications sought by those submitting representations:**

#### **Section 4.2**

ScottishPower Renewables (196)

Remove any parts of section 4.2 that duplicate or overlap policies set out in NPF4.

**Paragraphs 141-142**

ScottishPower Renewables (196)

Amend paragraph 141 “will not support proposals which would have an adverse impact or cause damage to heritage resources and their setting” to be less restrictive and consider the acceptability and balance of potential impacts.

Amend paragraph 142 to provide more clarity regarding how the significance of the impacts would be determined before deciding whether further assessment is required.

**Policy HE3: Scheduled Monuments, Historic Battlefields and other Archaeological and Historical Assets**

ScottishPower Renewables (196)

Whilst no explicit modifications are set out, it is understood by the Council that it is suggested by the respondent that:

- HE3 be amended with respect to “adverse effect on Scheduled Monuments or their settings” to be less restrictive, more precise and include consideration of the acceptability of potential impacts, including further definition of the “exceptional overriding circumstances”.
- HE3 be further amended with respect to “non-designated historic environment assets and areas of historic interest that do not have statutory protection” to define the scope of these assets and areas.
- The requirement to avoid, minimise and mitigate impacts “as far as possible” be removed.

REG Power Management and ESB Asset Development (145), RES UK & Ireland (198)

Replace “development that would have an adverse effect on Scheduled Monuments or on their settings” with “development that would have an adverse effect on Scheduled Monuments or on the integrity of their settings”, or align with the wording the finalised NPF4 policy 28 when it is published.

Community Windpower (261)

Add additional text to the policy so as the “exceptional overriding circumstances” include the Global Climate Emergency as a specific mitigating circumstance.

**Policy HE4: Gardens and Designed Landscapes**

Homes for Scotland (128), Barratt Homes (195)

Amend policy HE4 so that Gardens and Designed Landscapes not listed on the Inventory are not considered in the same way nor provided the same level of protection as those in the Inventory.

ScottishPower Renewables (196)

Amend policy HE4 to clarify whether the requirement is to avoid any change to the aspects outlined in bullet points (a) to (c) or only to avoid adverse impacts on them.

**Policy HE5: Enabling Development**

Harcourts Development (UK) Ltd (282), Suffolk Ltd (283)

Amend reference to “other heritage assets” to make explicit that this includes Gardens and Designed Landscapes.

Amend policy to read “the character and setting of the listed building is preserved and enhanced”.

**Volume 2**

Persimmon Homes (141)

Amend Settlement Maps to include Inventory and Non-inventory Gardens and Designed Landscapes.

**Summary of responses (including reasons) by planning authority:**

**Relationship between Section 4.2 and draft NPF4**

REG Power Management and ESB Asset Development (145), ScottishPower Renewables (196), RES UK & Ireland (198)

The Council notes the concerns raised regarding the relationship between the Proposed LDP2 and the draft NPF4. In general terms, due to the timing of the LDP2 process and the publication of the draft NPF4, the council took the decision that the Proposed Plan should, where appropriate, take on board draft NPF4. Whilst it was acknowledged that the draft would be subject to change as a result of consultation, the alternative scenario, whereby the Proposed Plan would not take on board the draft NPF4 was considered by the Council to create a greater risk i.e. the Proposed Plan would be significantly out of line with the finalised NPF. The time pressure to produce LDP2 (i.e. the transitional arrangements (CD25) and the increasing age of the EALDP 2017) meant that awaiting a finalised NPF4 was not a feasible option.

Whilst the draft regulations on Local Development Planning (CD29) were published and consulted upon by the Scottish Government in December 2021, requiring that “any policy wording included in the plan should focus on adding value by providing any necessary detail not provided by the NPF”, these hold no status and do not need to be applied to the preparation of LDP2, as the Plan is prepared under the Town and Country Planning Act 1997 (as amended by the 2006 Planning Act) (CD65) and the

transitional arrangements. As such, it was considered appropriate for the Plan to include provisions on aspects that are also set out in national policy, as befits a Plan prepared under the 2006 legislation. However, as above, the position of draft NPF4 (CD3) was taken on board in the interest of keeping said provisions of the Plan in line with those of the finalised NPF (CD4).

The Proposed Plan was published for consultation in May 2022 and the NPF4 has since been published by the Scottish Government on 8 November 2022. With regard to the Historic Environment, Policy 7 of NPF4 sets out the national policy. The Council's response in relation to the effects of the NPF4 policies raised by respondents is detailed below. It is noted that the relationship between LDP2 and NPF4 is detailed further in Issue 45.

## **Section 4.2**

### **ScottishPower Renewables (196)**

It is not considered that any increased protections set out generally in section 4.2 by virtue of its reflection of the draft NPF4 would be incompatible with policy SS1, or with Historic Environment Scotland's approach to balancing potential impacts against the need for climate action. The re-use and adaptation of historic assets, and new development within proximity of historic assets and within areas of historical significance is supported within section 4.2 and the policies therein, subject to these being carried out in a sensitive manner. All policies of the Plan are to be read together and, as such, it is not considered that repetition and cross-referencing are necessary. Action to address climate change is a key thread running throughout the Plan; the intention behind overarching policy SS1 is to ensure that climate considerations do not need to be replicated within all thematic policies. Therefore, it is deemed that no changes to the Local Development Plan are required with regard to this issue.

Paragraph 141 of the supporting text sets out the general principle that guides the policies within the chapter; consideration of acceptability and balance of impacts are set out within each of the policies and, as such, the Council does not agree that amending the paragraph to consider acceptability and balance of potential impacts is necessary. However, should the Reporter be so minded, the Council would have no difficulty with "unacceptable" being added before "adverse impact" and before "damage" to reflect the point put forward by ScottishPower Renewables.

Paragraph 142 sets out that the level of detail of any assessment of impacts will be determined at the planning application level; this is considered reasonable and within the scope of the development management process. This reflects that the scale of impacts, and therefore the level of detail required in an assessment, will depend on site-specific circumstances. This provision does not seek iterative scrutiny, but for the scrutiny to be proportionate to the likelihood and significance of the impact. The Council does not agree that any changes to this paragraph are necessary.

## **Policy HE3: Scheduled Monuments, Historic Battlefields and Other Archaeological and Historical Assets**

### ***Scheduled Monuments***



“Adverse effect on Scheduled Monuments or their settings” vis-à-vis ‘integrity of setting’ (145, 196, 198)

As the respondents acknowledge in their representation, the wording of policy HE3 reflects that of the latest national policy position at the time of writing, which was that set out in Policy 28 of the draft NPF4 (CD3). The Council’s position in relation to reflecting policy and wording from the draft NPF4 is set out above. In relation to Scheduled Monuments, national policy is set out in Policy 7(h); in brief, this sets out that development proposals are only supported when they avoid any “direct impacts on the Scheduled Monument” and “significant adverse impacts on the integrity of” its setting. The NPF4 (CD4) thus differs from the draft NPF4 in that the latter sought to avoid “any adverse impacts upon their setting”, “significant” and “the integrity of” being the newly added wording.

The wording of policy HE3 in relation to Scheduled Monuments, reflecting the draft NPF4, supports development only where it avoids “an adverse effect on Scheduled Monuments or on their settings”. The Council acknowledges that as a result there is now a minor disparity between the Proposed LDP2 policy HE3 and the NPF4 Policy 7, regarding the avoidance of “significant” impacts on “the integrity of” the setting of a Scheduled Monument. Whilst the Council sees merit in retaining the requirement, in order to ensure alignment with national policy on this particular matter, the Council would have no objection to the reporter amending the first sentence of HE3 to read “Development that would have an adverse effect on Scheduled Monuments or a significant adverse effect on the integrity of their settings shall not be supported unless there are exceptional overriding circumstances”.

“Exceptional overriding circumstances” lacks definition (196)

The exemption of “unless there are exceptional overriding circumstances” reflects the wording of the draft NPF4, and this has been retained in the NPF4. As such, this policy wording is considered appropriate and aligned with the latest national policy position, and the Council does not agree to amend it in relation to this issue.

Refer to Climate Emergency as “exceptional overriding circumstances” (261)

The Climate Emergency permeates the totality of the Plan: it is recognised as a major driver for change (paragraph 6), singled out in fundamental parts of the Plan such as the Vision (paragraph 20) and the first of the Aims, and threaded throughout the Spatial Strategy. This is manifested most importantly in Overarching Policy SS1: Climate Change, which gives “significant weight to the Global Climate Emergency” “when considering all development proposals”. The Council believe that it is clear from LDP2, when read as a whole, that the Climate Emergency may be construed as an “overriding circumstance” if it were relevant for a development proposal and, as such, no amendment is required to this policy.

*Non-designated historic assets*

Protection of non-designated historic assets is impractical (196)

Policy HE3 seeks to “preserve and protect as far as possible other non-designated

historic environment assets and areas of historic interest that do not have statutory protection but that are nonetheless of important heritage value". This is supported by paragraph 151 of SPP (CD26), which requires planning authorities to "protect and preserve [...] as far as possible" "non-designated historic assets and areas of historical interest". The latest national policy position, as defined in the NPF4, is that "non-designated historic assets and their setting should be protected and preserved in situ wherever feasible"; policy HE3 is in line with this policy requirement.

It is not considered that the requirement to avoid, then minimise and mitigate impacts "as far as possible" is unduly onerous. It should be noted that this wording reflected Policy 28(o) of the draft NPF4, which stated "where impacts cannot be avoided they should be minimised and mitigated as far as possible". The NPF4 states that "where impacts cannot be avoided they should be minimised", removing the requirement for mitigation. Whilst the Council sees merit in the mitigation of impacts on non-designated historic assets, in order to ensure alignment with national policy on this particular matter, the Council would have no objection to the last sentence of policy HE3 being amended to read "Any impacts on these historic assets should be avoided, and where this is not possible, minimised".

#### **Policy HE4: Gardens and Designed Landscapes**

##### Homes for Scotland (128), Barratt Homes (195)

Policy HE4 seeks to protect Gardens and Designed Landscapes proportionately to their special historical, architectural and landscape interest, rather than based on designation alone. In general, inclusion in the National Inventory would be indicative of an asset of higher merit, which would accordingly benefit from a higher degree of protection. However, the policy extends protection to Non-Inventory assets commensurate to their merit, as they may be of local importance and present multiple aspects worthy of preservation. To this end, the policy provides a single assessment framework irrespective of whether the asset is within the National Inventory. This will be further expanded in Non-Statutory Planning Guidance that will be produced on Gardens and Designed Landscapes, which will assist developers in recognising the valuable features of these historic assets. Non-designated assets of historic interest, including "other gardens and designed landscapes" are given protection under paragraphs 137 and 151 of SPP, and this is continued in Policy 28(o) of the draft NPF4 (CD3) and Policy 7(o) of the NPF4 (CD4). As such, it is not considered that changes to the Local Development Plan 2 are required with regard to this.

##### ScottishPower Renewables (196)

Policy HE5 states that "the Council will have regards" to the aspects outlined in bullet points (a) to (c) when assessing applications, meaning that how these aspects are affected by a proposal will form part of the assessment. The Council does not believe that the wording implies that no change to these aspects is acceptable, only that they will form part of the assessment process. As such, it is deemed that the policy does not need to be amended.

## **Policy HE5: Enabling Development**

### Harcourts Development (UK) Ltd (282), Suffolk Ltd (283)

The conditional policy support for enabling development to preserve “other heritage assets” encompasses any heritage asset, other than a Listed Building, which meets all policy criteria. Gardens and Designed Landscapes fall comfortably within the scope of “other heritage assets” and as such, it is not deemed necessary to amend the policy to explicitly refer to Gardens and Designed Landscapes. It is not considered logical and may in fact create confusion, to specifically single out Gardens and Designed Landscapes, but not specifically refer to any other heritage assets.

The fourth bullet point of HE5 seeks that the enabling development be sensitively sited and designed, and by so doing the character and setting of both the listed building and surrounding countryside would be preserved and enhanced. This bullet point is considered important in that it sets out that enabling development would only be acceptable if it is sensitively sited and designed. The object of preservation and enhancement should not be interpreted to be “any and all landscape surrounding the listed building”, but the character and setting of both the listed building and its surrounding landscape. It is the Council’s view that good enabling development, whilst occupying some of the surrounding landscape of the listed building, can nonetheless enhance “the character and setting” of the surrounding landscape. The retention of this element of the policy requires that when considering enabling developments, developers carefully consider where in the overall site location could best accommodate new development, and what scale and form that development comprises, so as to both protect and enhance the setting of the historic asset. As such, it is not considered that the wording needs to be amended; however, if the reporter is minded to amend the fourth bullet point of policy HE5 to read “the character and setting of the listed building is preserved and enhanced” then the Council would have no objection to this.

Paragraph 230 states that developer contributions sought under policy INF4 “might be waived or reduced in exceptional circumstances, for example [...] where there are overriding economic, social or other benefits and where there is no adverse impact on essential services or infrastructure which cannot otherwise be overcome”. When a developer can demonstrate that the enabling development provides such overriding benefits, this wording of the Plan includes sufficient flexibility to waive developer contributions if appropriate. As such, it is considered that no changes to the Plan are required.

## **Volume 2**

### Persimmon Homes (141)

Volume 2 of the Plan comprises a map of the Rural Area (page 106) which includes both Inventory and Non-inventory Gardens and Designed Landscapes, among other designations. Because of the nature of Gardens and Designed Landscapes, they tend to be located outwith settlements and, furthermore, they have very large extents. Although only a small proportion of their extents would fit within the settlement maps, given their extent, they may cover a large area of the maps; therefore their inclusion

was not considered sufficiently useful against the visual clutter they would add. It is considered that the extents as illustrated in the Rural Area Map of page 106 of Volume 2 are sufficiently clear, especially when combined with the use of the Council's Online Mapping tool, and as such it is not deemed necessary to amend Volume 2 as per the recommendation. However, should the Reporter be minded to include their boundary within the settlement maps as requested, the Council would have no issue.

### **Reporter's conclusions:**

#### **Relationship between Section 4.2 and draft NPF4 (145), (196), (198)**

1. In relation to issues where representations suggest that there is potentially significant divergence or conflict between the policies of the proposed plan and NPF4, reporters invited parties who have submitted representations to make any further comments on the issues they have raised now they are aware of the final form of national policy. This puts them on the same footing as the council which was able to draft its responses in light of the approved version of NPF4 whereas those lodging representations commented in light of the draft version of NPF4.
2. I note the council's comments about the difficulty of aligning the proposed plan with NPF4, given the overlapping timescales. I accept that the proposed plan has been produced under transitional arrangements and recognise that a final dovetailing of policies between the two tiers of development plan will not take place until the council carries out the next review of the plan. However, reporters hope that, by taking this approach, where appropriate, they will be able to recommend modifications to the plan to provide the best alignment possible at this time.
3. Whilst I consider that an ideal position would be removal of duplication between the two parts of the development plan, the role of this examination is limited to presenting conclusions and recommendations on issues raised in representations. Therefore, were I to recommend that proposed policies relating to the historic environment be changed to remove duplication with NPF4 policies, overlap would still remain in other policies where the issue of duplication has not been raised in representations. This would result in an unbalanced local development plan that would be confusing and difficult to use. Therefore, my focus on dealing with issues raised in relation to the historic environment has been to ensure local development plan policy is generally consistent with NPF4.

#### **Section 4.2 (196)**

4. Policy SS1: 'Climate change' is an overarching policy of the proposed plan and is clear that the council will give significant weight to the Global Climate Emergency when considering all developments, including those affecting heritage resources. This should ensure a balanced approach to the assessment of proposals. However, I accept that paragraph 141 of the supporting text could be construed as being overly restrictive in terms of balancing potential impacts of development with the overarching policy addressing climate change. I therefore recommend, below, the insertion of additional wording to this paragraph in order to address this matter.
5. It is within the council's remit to seek additional information at the planning

application stage in order to fully understand potential impacts on historic assets or places. As the council has acknowledged, the level of scrutiny should be proportionate to the likelihood and significance of the impact. There is nothing in the wording of paragraph 142 that suggests this would result in iterative or disproportionate scrutiny. I therefore do not recommend any changes to paragraph 142 in section 4.2 of the plan.

### **Policy HE3: Scheduled Monuments, Historic Battlefields and other Archaeological and Historical Assets**

#### *Scheduled Monuments*

“Adverse effect on Scheduled Monuments or their settings” vis-à-vis ‘integrity of setting’ (145, 196, 198)

6. There is a disparity between Policy HE3 and NPF4 Policy 7 part h). The disparity concerns the inclusion within the more recent NPF4 Policy 7 of wording concerning the avoidance of ‘significant’ adverse impacts on ‘the integrity of’ the setting of a Scheduled Monument. Given my reasoning above and in order to align Policy HE3 with NPF4 Policy 7, I recommend changes to the wording of Policy HE3 below.

“Exceptional overriding circumstances” lacks definition (196)

7. Despite the criticism of the use of this term within Policy HE3, I am mindful that in relation to Scheduled Monuments, NPF4 Policy 7 part h) specifically references ‘exceptional circumstances’. In order to ensure a consistent approach with NPF4, I therefore do not recommend any changes to Policy HE3 in this respect.

Refer to Climate Emergency as “exceptional overriding circumstances” (261)

8. Policy SS1: ‘Climate change’, is clear that the council will give significant weight to the Global Climate Emergency when considering all developments. This is an overarching policy of the proposed plan. To this end, I am not convinced that it is necessary to build upon the assurances set out in Policy SS1 on this matter in a similar manner in Policy HE3. The plan is to be read as a whole and it is clear that the Climate Emergency represents exceptional circumstances. I therefore do not recommend any change to the plan in respect of this matter.

#### *Non-designated historic assets*

Protection of non-designated historic assets is impractical (196)

9. According to NPF4 Policy 7 part o), non-designated historic assets, places and their setting should be protected and preserved in situ wherever feasible. Policy HE3 refers to the preservation and protection of non-designated historic environment assets and areas of historic interest and is broadly in line with NPF4 Policy 7 part o).

10. I accept that the reference to impacts on non-designated sites being ‘mitigated as far as possible’ is vague and could result in the requirement for disproportionate works to offset impacts. I am also conscious that NPF4 Policy 7 part o) requires such assets to be protected and preserved in the first instance and where impacts cannot be

avoided they should be minimised. In order to align Policy HE3 with NPF4 Policy 7, I recommend below that the reference to mitigation in respect of non-designated assets is removed from the policy.

**Policy HE4: Gardens and Designed Landscapes (128), (141), (195), (196)**

11. The policy is, in part, intended to protect Non-Inventory assets commensurate with their merit. Whilst I appreciate that there are concerns that Non-Inventory sites are being elevated in importance to receive the same level of protection as National Inventory sites, the fact that the policy references both, confirms the recognition that there are different levels of merit and, in turn, different degrees of protection that would be afforded to either. I understand that Non-Statutory Planning Guidance on Gardens and Designed Landscapes is intended to assist in recognising the valuable features of these historic assets. Whilst the policy wording is more detailed than that contained within NPF4, I consider that there is no great divergence between the two documents, in terms of policy approach. NPF4 seeks to protect and preserve nationally important Gardens and Designed Landscapes as well as Non-designated historic assets, places and their setting which would include Non-Inventory sites.

12. Policy HE4, by stating that regard will be had to certain aspects of Inventory and Non-Inventory Gardens and Designed Landscape, implies that how these aspects might be affected by a proposal will be considered in any assessment of that proposal. I am satisfied that this does not mean that no change would be permitted in relation to any of these aspects (identified as (a) to (c) in the policy).

13. Accordingly, no change is recommended to Policy HE4.

**Policy HE5: Enabling Development (282), (283)**

14. Policy HE5 is primarily concerned with the consideration of enabling development for the rescue and restoration of listed buildings and there is an acknowledgement in the plan that enabling development has resulted in important listed buildings being brought back into productive use, that otherwise would have been lost. The council has confirmed that the reference in the policy to 'other heritage assets' includes any other heritage asset other than listed buildings. It is only logical that this form of words encompasses Gardens and Designed Landscapes. To specifically mention Gardens and Designed Landscape as part of this policy would elevate their importance at the expense of other heritage assets and would cause confusion and uncertainty. I see no reason to amend the policy in this respect. I therefore do not recommend any change to policy HE5 in this regard.

15. The fourth bullet point under Policy HE5 is concerned with the character and setting of both the listed building and its surrounding landscape. I accept that the logic behind this wording is to ensure that enabling development is sensitively sited and well considered in terms of its design. That said, there are likely to be occasions where the enabling development may result in an impact which neither preserves nor enhances the character and setting of the surrounding landscape but which is compensated for by the positive impact on the historic asset. I recommend, below, amendment to the policy in order for the focus to be on preserving and enhancing the character and setting of the listed building. This would also avoid ambiguity about wider areas of land,



not necessarily forming part of the setting of the listed building.

16. The footnote to Policy INF4: 'Developer contributions' is clear that in exceptional circumstances, developer contributions might be waived or reduced. This might be for a range of factors including exceptional development costs, overriding economic, social or other benefits as well as there being no adverse impact on essential services or infrastructure which cannot otherwise be overcome. It would be up to the developer to demonstrate the above and this would apply to residential enabling development. I am satisfied that there is sufficient flexibility contained within this policy to accommodate the matter of contributions being waived. No change is recommended to Policy HE5 in this regard. The implications of Policy HE5 are also considered under Issue 16 in relation to affordable housing. Under Issue 16, my reporter colleague considers that the effect of any affordable housing requirement on funds to carry out enabling development can be taken into account in the case for the scale of enabling development sought.

## **Volume 2 (141)**

17. Volume 2 of the plan contains maps of the various settlements within the council area. These specifically identify the detailed boundaries for each settlement to which certain policies apply as well as identifying the various allocation sites within these settlement boundaries. The purpose of the settlement maps is to highlight proposals and policy designations within the respective settlements and, apart from identifying long term sites for future consideration, they are not to be concerned with designations outwith the settlements.

18. With a few exceptions, I note that Inventory and Non-inventory Gardens and Designed Landscapes within the council area are primarily situated outwith settlements, often covering significant areas of land. These designations are currently identified on the Rural Areas Map (Volume 2). Having reviewed this map, I consider that it is sufficiently detailed to have an appreciation of the extent of such Gardens and Designed Landscapes. This notwithstanding that the council's online Mapping tool would provide further clarification to parties requiring details of the boundaries of these designations. In order to minimise visual clutter on the settlements maps, I consider that it is appropriate to restrict the depiction of boundaries for Inventory and Non-Inventory Gardens and Designed Landscapes to the Rural Areas Map (Volume 2 of the plan.)

19. Accordingly, no change is recommended to Volume 2.

## **Reporter's recommendations:**

I recommend that the plan be modified as follows:

1. Amend paragraph 141 to read: 'The Council will not support proposals which would have an unacceptable adverse impact or cause unacceptable damage to heritage resources and their setting, including listed buildings, gardens and designed landscapes, scheduled monuments, battlefields, archaeological and industrial archaeological sites.'



2. Amend the first sentence of Policy HE3 to read: 'Development that would have an adverse effect on Scheduled Monuments or a significant adverse effect on the integrity of their settings shall not be supported unless there are exceptional overriding circumstances.'
3. Amend the last sentence of Policy HE3 to read: 'Any impacts on these historic assets should be avoided, and where this is not possible, minimised.'
4. Amend the fourth bullet point of Policy HE5 by deleting the words: 'and surrounding landscape'.

Issue 11	Landscape	
Development plan reference:	Volume 1: Policies NE1 and NE3	Reporter: Steve Field
Body or person(s) submitting a representation raising the issue (including reference number):		
Homes for Scotland (128) Gladman (146) REG/ESB (145) SSE Renewables (153) NatureScot (157) Barratt Homes (195) RES UK (198) Community Windpower (261)		
Provision of the development plan to which the issue relates:	The content and wording of policies NE1 (Protecting and Enhancing Landscape and features) and NE3 (Local Landscape Area)	
Planning authority's summary of the representation(s):		
<b>NE1: Protecting and Enhancing Landscape and Features</b>		
<u>Homes for Scotland (128), Gladman (146), Barratt (195)</u>		
Whilst it is positive that the policy allows for adequate mitigation measures to be used where visual impacts are unavoidable, further clarity is required in terms of what is deemed to be an adequate mitigation measure.		
<u>SSE Renewables (153)</u>		
The Ayrshire Landscape Character assessment, referenced in policy NE1 is significantly out of date in the context of the climate emergency and net-zero targets. The continued relevance of this document over the LDP2 period is questionable. Provision for Landscape and Visual Impact Assessments contained within Policy NE1 is sufficient. The reference to the Ayrshire Landscape Character Assessment should be removed.		
<u>NatureScot (157)</u>		
Whilst the policy is generally supported, criteria ii of the policy could be strengthened by adding 'lighting' as an additional criteria.		
The second sentence of criteria (iii) could be amended to make the policy stronger and easier to read.		

The Mitigation section of the policy should be amended to make it clear that mitigation of landscape and visual impacts should be considered from the outset of the development process. Landscape and visual impacts should inform decisions on site layout, architectural design and landscape design.

#### RES (198)

There are concerns about the wording of criteria (iii), which does not sit well with the follow on criteria (a-f).

#### REG/ESB (145)

There are concerns with the wording of part (iii) of this policy, which states that 'development that would result in the loss of valuable landscape features...' The underlined section does not sit well with all of the follow on criteria a-f.

#### Community Windpower (261)

Policy NE1 criteria (ii) should include reference to the weight that will be given to the climate emergency. Developments with unavoidable impacts should be viewed in the light of the role they will play in reducing carbon emissions and contributing to net zero.

### **Policy NE3: Local Landscape Areas**

#### NatureScot (157)

The policy is supported however additional wording is suggested to improve the third paragraph.

#### **Modifications sought by those submitting representations:**

#### **NE1: Protecting and Enhancing Landscape and Features**

##### Homes for Scotland (128), Gladman (146), Barratt (195)

No explicit modification is set out, however, it is suggested that further clarity is required over what is meant by 'adequate' mitigation.

##### SSE Renewables (153)

Reference to the Ayrshire Landscape Character Assessment should be deleted from policy NE1.

##### NatureScot (157)

Bullet point ii of NE1 should be amended to read "Development proposals are sited and designed to respect the nature and landscape character of the area and to minimise visual impact. Particular attention will be paid to size, scale, layout, materials, design, finish, **lighting** and colour.

Second sentence of bullet point iii (NE1) should be amended to read "Development that would result in the loss of valuable landscape features, ~~to such an extent that character and value of the landscape are unacceptably diminished,~~ will not be

supported

Mitigation section of NE1 should be amended to read ‘: “All development which has the potential to have an adverse impact on landscape character and/or landscape features will be required to ~~outline appropriate mitigation measures which will be undertaken:~~ **consider mitigation from the outset. Landscape and visual considerations should inform decisions on site layout, architectural design, and landscape design, to reduce the potential for significant effects. Proposals should outline how mitigation measures will be incorporated into the design of the development.** These will be considered as part of any planning application. ~~The Council will only support a proposal where it is satisfied there will not be an unacceptable adverse impact on the landscape after mitigation measures”~~

#### RES UK (198)

The second sentence of bullet point (iii) should be amended to read: ‘Development that would result in ~~the loss of~~ **significant impacts on** valuable features, to such an extent that character and value of the landscape are unacceptably diminished, will not be supported.

#### REG/ESB (145)

In the second sentence of (iii) of this policy the words ‘***or give rise to significant impacts on***’ should be inserted after ‘loss of’. The addition of these words would ensure a better fit with the follow on criteria.

#### Community Windpower (261)

No explicit modification is expressed, however it is suggested that criteria (ii) should make reference to the Global climate emergency.

### **Policy NE3: Local Landscape Areas**

#### NatureScot (157)

The third sentence should be amended to read: ‘The Council will not support proposals that have unacceptable impacts on the character and visual amenity of the Local Landscape Areas and on the qualities that make them special.

### **Summary of responses (including reasons) by planning authority:**

#### **NE1: Protecting and Enhancing Landscape and Features**

##### Use of the term adequacy (128), (146), (195)

The Council is of the view that adequate is a reasonable term to use within the context of this policy. The adequacy of the mitigation measures will depend on the nature, scale and location of the proposed development and the likely impact and requires to be determined on the merits of each proposal. What is deemed adequate for one to mitigate impacts for one development, will not necessarily be adequate for another

development. It would not be reasonable for the Local Development Plan to attempt to define what adequate mitigation is in a uniform manner across East Ayrshire. Instead, adequacy will be determined on a site by site basis at planning application stage taking into account the impact and its context. The Council does not consider it necessary to amend the policy on this basis.

#### Reference to Landscape Character Assessment (153)

East Ayrshire's landscape is an important resource, in terms of tourism, recreation and defining a sense of place for local communities. The landscape character assessment (CD27) was updated by NatureScot in 2019 and remains a valuable document for defining the different landscape character areas across East Ayrshire and explaining their key characteristics. The character areas defined in the assessment, are an important starting point for more detailed landscape assessment work, which may be required through policy NE1 depending on the nature, scale and location of the development. Given that the landscape character assessment was updated relatively recently, the Council is of the view that its inclusion as a reference within NE1 is entirely reasonable.

Whilst LDP2 has been prepared to support action to address climate change, it is not at the cost of all other matters, including landscape protection. Any proposal will also be assessed against Policy SS1, ensuring climate is taken into account. The Council therefore strongly disagrees that the landscape character assessment is dated in the context of the climate emergency and drive for net-zero. Landscape remains an important consideration in the planning process, and the landscape character assessment is a useful tool to support this consideration. The appropriate balance between climate and landscape, and other relevant policy matters and material considerations, will play out upon assessment of any application, on a case by case basis.

#### Addition of lighting as a consideration (157)

The council considers the suggested inclusion of 'lighting' within policy NE1 to be unnecessary. The Council agrees that lighting is an important part of a development proposal, particularly within the rural area, but is satisfied that lighting is adequately covered by the inclusion of 'design' within the list of considerations. Lighting is routinely considered as part of the assessment of the overall design of a proposal. Whilst the Council believes the current wording is sufficient to allow consideration of lighting, the Council would have no objection to the reporter explicitly adding 'lighting' to the criteria to make this clearer within the policy.

#### Wording around the retention of landscape features (157), (198)

Criteria iii has been specifically written to take a reasonable and balanced approach to the retention of landscape features. The intention of the inclusion of the wording 'to such an extent that character and value of the landscape are unacceptably diminished' is to reflect that there may be instances where some minor loss of landscape features may, on balance, be acceptable. So, for example, if a proposal that requires to be in the rural, will result in the loss of a small pocket of trees, this may still be acceptable in landscape terms, if the extent of the loss is of a small that it will not result in the value

and character of the landscape being unacceptably diminished. The Council does not therefore agree with the amendment suggested, which would make the policy unduly restrictive.

The suggested amendments to criteria iii, to remove reference to ‘the loss’ of valuable features (198), are considered unnecessary, as is the additional text to follow on after this (145). The reference to ‘the loss’ of features is reasonable in relation to the landscape features that are listed. The caveat referred to above in response to respondent 157 ensures that the loss will lead to development not being supported by the policy when the loss unacceptably diminishes landscape character and value. This will be dependent on the particular site and the scale and nature of impact. The current wording is considered by the Council to adequately address this matter.

#### Description of mitigation requirements (157)

The Council considers the current wording on mitigation to be a robust description of the Council’s expectations and requirements in terms of mitigation measures. Whilst this is considered adequate, it noted that the suggested wording put forward re-positions the policy to focus on mitigation to be considered at the outset, rather than what the Council requires as part of a planning application. If the reporter is minded, the Council has no objection to the current wording be substituted for that suggested by the respondent.

#### Consideration of climate emergency in NE1 (261)

The Council disagrees that policy NE1 (ii) should make reference to the need to give weight to the Global climate emergency. The response to the climate emergency underpins the plans; policy SS1 has been included to ensure climate change is considered in all development proposals. At the same time, action on climate change is embedded within the vision and aims, which are given a policy hook within policy SS2. Planning applications will be determined against all relevant policies of the Plan and a balanced judgment arrived at. Within this context, it is considered that it is unnecessary to add a reference into NE1 and that this would result in duplication within the Plan.

### **Policy NE3: Local Landscape Areas**

#### Inclusion of visual amenity within NE3 (157)

The Council is of the view that consideration of visual amenity is implicit within the current policy wording. Visual amenity, in this context, is understood to relate to the way in which people visually experience the surrounding landscape. The paragraph in question as currently worded, indicates that the council will not support development where there is an unacceptable impact on the qualities that make a landscape special. In the view of the Council, by taking account of the qualities that make a landscape special, consideration would intrinsically be given to visual amenity i.e. if something affects visual amenity it will also affect the special qualities. Notwithstanding this, if, to improve clarity, the Reporter is minded to add ‘and visual amenity’ into the policy, the Council would have no objection to this amendment.

**Reporter's conclusions:****NE1: Protecting and Enhancing Landscape and Features**Use of the term adequacy (128), (146) and (195)

1. I do not consider it realistic for Policy NE1 to set out guidance on adequate mitigation measures that would address all potential impacts of development on the natural environment. What is adequate in each case will be a matter of judgement for landscape architects and planners and for elected members. This judgement will depend on many factors which will vary in each case with the type of development proposed and the character of the landscape potentially affected.

2. However, sections (i) and (iii) of the policy outline some factors which will be considered by the council in making its assessment. These factors include the size, scale, layout, materials, design, finish and colour of the proposed development and conservation and enhancement of particular landscape features that contribute to the value, quality and character of the landscape. I do not think it is practical to go beyond high-level guidance of this nature in a policy that relates to a wide range of potential developments from housing through leisure and tourism to renewable energy and a wide range of landscape types from agricultural lowlands through river valleys to rugged uplands.

3. I conclude that it is not necessary to modify the proposed plan to address this matter.

Reference to Landscape Character Assessment (153)

4. The landscape character assessments produced by the council were prepared by NatureScot in 2019. Clearly, these assessments do not share the same base date as the local development plan. However, I doubt that very much has changed in terms of the fundamental character of the 13 various landscape character types in four years. Any specific issues which are identified can be dealt with through the planning application process. Therefore, I consider that the character assessments remain a key consideration in assessing development proposals in the countryside.

5. However, the landscape character assessments would not be the only factor in any such consideration. Taking into account proposed Policy SS1: Climate Change would ensure that the council's ambition to achieve a net zero East Ayrshire is considered fully. Consideration of Policy SS1 would also enable the council to take account of scientific advances in terms of understanding issues relating to climate change that have emerged since 2019.

6. I conclude that it is not necessary to modify the proposed plan by deleting reference to the Ayrshire Landscape Character Assessment from proposed Policy NE1.

Addition of lighting as a consideration (157)

7. In view of the pronounced impact that inappropriate lighting can have in the



countryside, I consider it would be helpful to add lighting to the design issues outlined in section (i) of proposed Policy NE1. I have recommended a modification to this effect below.

Wording around the retention of landscape features (145), (157) and (198)

8. Occasionally, proposed development in the countryside which has overriding economic or other benefits may be considered by the council to be acceptable when it leads to the loss of valuable landscape features but does not create unacceptable visual intrusion or irreparable damage to landscape character. The second sentence of section (iii) of the policy allows for this eventuality. Where visual impacts are unavoidable, section (ii) of the policy requires the inclusion of adequate mitigation measures. Although such circumstances are unlikely to arise very often, I consider that deletion of the qualification in the second phrase of the second sentence of section (iii) would remove the necessary flexibility this provides for the council.

9. Changing the wording of the second sentence of section (iii) of the policy to include a reference to 'significant impacts' does not, in my view, add to the clarity of the policy. I consider it is already clear that loss of valuable landscape features would only be considered acceptable where this would not lead to an unacceptable diminution in the character and value of the landscape. As any such diminution in character would require a significant impact, I do not consider modification of the wording is necessary.

Description of mitigation requirements

10. The proposed wording of that part of Policy NE1 headed 'Mitigation' focuses on the consideration of mitigation measures as part of the planning application process. The suggested replacement wording focuses on consideration of mitigation at the outset of the development process so that it influences design and layout and is less likely to come as an afterthought. I consider that this would strengthen the policy and note that the council does not object to this change in emphasis. Accordingly, I have recommended below a modification incorporating NatureScot's suggested revision.

Consideration of climate emergency in Policy NE1 (261)

11. The proposed plan includes two overarching policies at the start of Chapter 3: Spatial Strategy designed to reduce the effects of climate change and contribute to climate change targets. These are Policy SS1: Climate Change and Policy SS2: Overarching Policy. It is clear from Chapter 1: Introduction that the whole plan must be taken into account when assessing development proposals and that individual policies cannot be used in isolation.

12. Consequently, I do not consider it necessary to add a specific reference to climate change policy in section (ii) of Policy NE1. This would create duplication in the plan and make it less concise whilst not adding to the overall policy effect.

### **Policy NE3: Local Landscape Areas**

#### Inclusion of visual amenity within NE3 (157)

13. Although not explicitly stated, I consider it is reasonable to suggest that consideration of potentially unacceptable impacts on the character and qualities of local landscape areas would include consideration of impacts on visual amenity. However, I note that Policy NE1 includes several references to visual amenity and visual impact. For consistency, I consider it would make a modest contribution to improving the clarity of the proposed plan if an explicit reference to visual amenity is added to the third paragraph of Policy NE3. I note that the council has no objection to such a change. I have recommended a modified form of words below.

#### **Reporter's recommendations:**

I recommend that:

1. Policy NE1: Protecting and Enhancing Landscape and Features be modified by inserting the new word 'lighting' after the existing word 'finish' in section (i).

2. Policy NE1 be modified by deletion of the existing wording under the heading 'Mitigation' and insertion of the following wording:

'All development which has the potential to have an adverse impact on landscape character and/or landscape features will be required to consider mitigation from the outset. Landscape and visual considerations should inform decisions on site layout, architectural design, and landscape design to reduce the potential for significant effects. Proposals should outline how mitigation measures will be incorporated into the design of the development. These will be considered as part of any planning application.'

3. The third paragraph of Policy NE3: Local Landscape Areas be modified by inserting the words 'and visual amenity' after the existing words 'impacts on the character'.

Issue 12	Wild land	
Development plan reference:	Volume 1: Policy NE2	Reporter: Steve Field
Body or person(s) submitting a representation raising the issue (including reference number):		
SSE Renewables (153) NatureScot (157) REG (145)		RES UK (198) ScottishPower Renewables (196) Scottish Government (310)
Provision of the development plan to which the issue relates:	The direction and wording of policy NE2 (Development impacts on areas of wild land)	
Planning authority's summary of the representation(s):		
<p><b>NE1: Development Impacts on Areas of Wild Land</b></p> <p><u>Relationship between NE2 and draft NPF4 (policy 32) - ScottishPower Renewables (196), Res UK (198) ,Scottish Government (310)</u></p> <p>The policy protection for wild land will be set through national policy NPF4, which is still subject to change (196, 310).</p> <p>The LDP should not set overlapping tests (196) and there may be conflict between the LDP and NPF4 as NPF4 is not yet finalised (196, 198, 310). The LDP should dovetail with national policy and only set out different or additional policies where necessary to reflect local circumstances (196). SPP remains the current national policy (310).</p> <p><u>Relationship with policy RE1 - SSE Renewables (153)</u></p> <p>The policy should be amended to confirm that renewable energy developments will be assessed against Policy RE1 where wild land is one of the criteria, to ensure that NE2 does not have unintended consequences.</p> <p><u>Status afforded to wild land - ScottishPower Renewables (196)</u></p> <p>NE2 elevates the status of wild land areas, effectively giving them the same level of protection as national statutory designations, despite NatureScot confirming that they are not statutory designations.</p> <p><u>Reference to 'little or no scope to accommodate new development' - REG (145), RES UK (198)</u></p> <p>The draft policy NE2 effectively introduces a ban on development within wild land areas</p>		

by stating that these areas have ‘little or no scope to accommodate new development and are safeguarded on the LDP maps. This is at odds with national policy (SPP) which does not rule out wind farms within wild land areas.

Introduction of a sequential approach - REG (145), RES UK(198), ScottishPower Renewables (196)

The policy effectively introduces a sequential approach, by requiring developers to demonstrate why a development cannot be reasonably located outside of a wild land area. This is more onerous than the existing SPP position and, in the absence of clear methodology, would be unworkable for individual renewable energy proposals. The second criteria of the policy is considered to be sufficient.

Land in close proximity to wild land areas - REG (145), RES UK(198), ScottishPower Renewables (196)

Policy NE2 goes beyond the draft policy 32 of NPF4 by stating that the Council will resist development proposals ‘in proximity to defined areas of wild land.’ This wording should be removed. It is inconsistent with SPP and the emerging NPF4 and will mean that development visible from wild land areas, such as wind farms, could be captured by the policy.

Minor amendments to wording - NatureScot (157)

In general support the policy, however, it could be strengthened by adding ‘remote’ to the first paragraph and adding ‘lighting effects’ to the second bullet point.

**Modifications sought by those submitting representations:**

**NE2: Development Impacts on Areas of Wild Land**

(153)

No suggested wording is provided, however, it is suggested that the policy be amended to confirm that renewable energy developments will be assessed against Policy RE1.

(196)

No explicit modifications are stated, however, it is suggested that the policy needs substantially redrafted to avoid duplication and conflict with national policy.

(145), (198)

No suggested modifications at this stage. It is suggested the Council should await the finalised NPF4 before finalising its policy on wild land.

(310)

No suggested modifications at this stage.

(157)

The first sentence of NE2 should be amended to read ‘East Ayrshire Council will resist

development proposals, both within and in proximity to defined areas of Wild Land, where it is considered that the development would diminish the wild, **remote** and **natural qualities** naturalness of the area.’

The second bullet point of the policy should be amended to read ‘a site based assessment of any adverse effects on the qualities of wild Land, **including lighting effects**, has been undertaken and can be substantially overcome by siting, design or other mitigation measures.

### **Summary of responses (including reasons) by planning authority:**

#### **NE1: Development Impacts on Areas of Wild Land**

##### **Relationship between NE2 and draft NPF4 (policy 32) (145), (196), (198), (310)**

The Council notes the concerns raised regarding the relationship between the Proposed LDP2 and the draft NPF4. In general terms, due to the timing of the LDP2 process and the publication of the draft NPF4, the council took the decision that the Proposed Plan should, where appropriate, take on board draft NPF4. Whilst it was acknowledged that the draft would be subject to change as a result of consultation, the alternative scenario, whereby the Proposed Plan would not take on board the draft NPF4 was considered by the Council to create a greater risk i.e. the Proposed Plan would be significantly out of line with the finalised NPF. The time pressure to produce LDP2 (i.e. the transitional arrangements (CD25) and the increasing age of the EALDP 2017) meant that awaiting a finalised NPF4 was not a feasible option.

The Proposed Plan was published for consultation in May 2022 and the NPF4 has since been published by the Scottish Government on 8 November 2022. In relation to wild land, Policy 4 of NPF4 now sets the out the national policy for developments in wild land areas. In brief, criteria g of Policy 4 sets out that Development Proposals will only be supported in wild land where the proposal will (i) support meeting renewable energy targets; or (ii) is for small scale development directly linked to a rural business or croft, or is required to support a fragile community in a rural area. All proposals must be accompanied by a wild land impact assessment, which must set out how design, siting and mitigation have been used to minimise significant impacts on the qualities of the wild land.

The council acknowledges that there are now disparities between the Proposed LDP2 policy NE2 and the NPF4 Policy. Essentially, whilst the NPF4 approach identifies four types of development that will be supported, encapsulated in the 2 criterion set out above, the NE2 approach sets out requirements and criteria that will apply to any type of development proposal. The Council is of the view that these differences are necessary to reflect local circumstances and is firmly of the view that the policy set out through NE2 is the correct approach to protecting the special qualities of East Ayrshire’s area of wild land.

Whilst the LDP2 has been prepared under the Town and Country Planning Act 1997 (as amended by the 2006 Planning Act) and the transitional arrangements, it is worth noting the new and emerging legislative context in terms of the intended relationship between NPF4 and Local Development Plans. Section 16 (2) of the Town and Country

Planning Act 1997 (as amended by the 2006 and 2019 Acts) requires, in preparing a local development plan, a planning authority to take into account the National Planning Framework. Draft regulations on Local Development Planning (CD 29) were published and consulted upon by the Scottish Government in December 2021. Whilst these hold no status, and again, do not need to be applied to the preparation of LDP2, they are useful in providing a steer as to how Local Development Plans should 'take into account' NPF4. Paragraph 153 of the draft regulations states in relation to the preparation of LDPs that 'Any policy wording included in the plan should focus on adding value by providing any necessary detail not provided by the NPF **or where national policy does not reflect local circumstances and local variation is therefore considered appropriate.**' Policy on wild land is an area where the Council considers that a local variation is considered appropriate to reflect local circumstances. These local circumstances within East Ayrshire are set out below in relation to the detailed objections to Policy NE2.

#### Relationship with policy RE1 (153)

Policy RE1 is the key policy specific to renewable energy development. However, as is the case for all types of development, other policies will be applicable to renewable energy developments, depending on their nature, location, scale etc. Therefore the wild land policy will be applicable to renewable energy developments if they are proposed within wild land or in close proximity to it. This is considered entirely reasonable; it would not be logical to include the level of detail required to consider wild land, within policy RE1. A separate policy is required and policy NE2 provides this policy coverage.

#### Status afforded to wild land and the inclusion of the statement that the area has 'little or no scope for development' (145), (196), (198)

The Council fully recognises the status of wild land, in so far as it is non statutory but of national importance, and is of the view that policy NE2 is proportionate in relation to this. SPP, at paragraph 200, requires LDPs to safeguard wild land; the Plan complies with this.

In addition, the level of policy protection given to wild land and its capacity to accommodate development, should be considered in the context of the characteristics of the wild land contained within East Ayrshire. East Ayrshire contains a relatively small extent of the Merrick wild land area, the only area of wild land in South West Scotland. Merrick area of wild land is relatively small in the context of other areas of wild land (it is 8,176 ha and is the 8<sup>th</sup> smallest of 42 separate wild land areas) and the part falling within East Ayrshire is smaller yet (approx. 1.2 hectares). On the basis of the relatively small size of the Merrick wild land and as the only area of its type in South West Scotland, the Council considers the safeguarding of its naturalness and key features as described in the Wild land description document (CD28), to be of significant importance to East Ayrshire and the wider region. The size of the wild land area is very pertinent; if it was larger there could feasibly be more scope to develop in the area without the overall integrity of the wild land area being compromised. In this instance, given its very small scale, the Council considers it entirely reasonable to suggest there is 'little or no scope for development' in the area, as any development would likely to have an impact on its special features.



The value and particular local characteristics of the Merrick wild land area should also be considered in the context of the wider landscape of East Ayrshire and the South West region. The designation of only 1 small area of wild land in the whole of the South West, a predominantly rural area with low population density, is reflective of the landscape change that has taken place and continues to take place. Specific to East Ayrshire, the long history of mining in the area, coupled with ongoing change in relation to commercial forestry and renewable energy, means there is relatively little natural landscape remaining. The Council is of the view that this gives greater weight to the need to safeguard the one small part of wild land that remains i.e. the Merrick wild land area.

It is also worth noting that the wild land area, correlates with the Dark Sky Park designation, with the Core of the Dark Sky Park matching up almost exactly with the wild land boundary. As one of only two Dark Sky Parks in Scotland, the combination of the two important, albeit non-statutory, designations helps demonstrate the value of this area of natural and un-modified landscape.

Whilst the above paragraphs demonstrate the unique characteristics of East Ayrshire's area of wild land, it is also made clear by the council that policy NE2 does allow for development; it does not place a moratorium or ban on development in the area as (196) suggests. Development could come forward and be supported by the policy, where it can be demonstrated that the development has a requirement to be in the wild land area and any adverse effects can be substantially overcome. On balance, the policy as written is considered to safeguard the wild land area, taking account of the specific nature of the East Ayrshire's wild land area, whilst at the same time allowing for appropriate development which can be clearly justified.

#### Introduction of a sequential approach (145), (198), (196)

The council agrees that NE2 effectively introduces a sequential test, in so far as it requires any developers considering development in the wild land area to demonstrate why it cannot be reasonably located outside of the wild land area. This is considered by the council an acceptable approach and takes account of local circumstances. The area of wild land, as already stated, is relatively small and as per SPP, the LDP seeks to safeguard the area. The policy effectively requires that due to the special nature of the wild land area, developers should, where possible seek to develop outwith the wild land. If there is a need for a development to be located in the area of wild land, this should be demonstrated by the developer and the proposal could comfortably meet the policy tests. The Council does not consider this to be unduly restrictive; it is intended to require developers to think carefully about whether their development needs to be located in an area of wild land, bearing in mind the foundation for the national designation is in part the limited signs of human activity in the area. Renewable energy development should not be treated any differently to other developments in this respect; if such a scheme is proposed in the wild land area it should be demonstrated why the development cannot be located outside of the area.

#### Land in close proximity to wild land areas (145), (198), (196)

In terms of the concerns over the inclusion of areas 'in proximity to defined areas of wild land' the Council would request that this be read in its full context. The



sentence states that *'East Ayrshire Council will resist development proposals, both within and in proximity to defined areas of Wild Land, where it is considered that the development would diminish the wild and naturalness of the area.'* In line with this wording, the Council would only resist such development where it would 'diminish the wild and naturalness of the area'. This does not mean that any development visible from the area of wild land would be resisted. Rather, it allows the Council to take a view as to whether the development, in the round, would have such an effect that it would diminish the wild and naturalness of the area. This is considered entirely reasonable. Depending on topography and siting, a nearby wind farm development could have a relatively limited impact on the area of wild land and would not be considered to diminish the wild and naturalness of the area. Conversely, if an adjacent development would significantly impact on these qualities, it is reasonable that this impact should be taken into account and resisted by the Council. It is again pertinent to note that this is the only area of wild land in South West Scotland. There are also significant land use pressures around the wild land area, primarily renewables and forestry. The Council is therefore firmly of the view that the wild land area is of significant value to both East Ayrshire and the wider region, in terms of landscape and sense and place, and that a robust policy framework is required to safeguard the area.

#### Minor amendments to wording NatureScot (157)

The suggested inclusion of 'remote' is not considered necessary as the terms wild and naturalness are considered to sufficiently encapsulate the qualities that need to be safeguarded. However, on reviewing the NatureScot description of the Merrick Wild Land Area (CD28) it is noted that the strong sense of remoteness is an important attribute. On this basis, the Council would have no objection to the Reporter modifying the Plan to include the term 'remote.' Similarly, whilst the Council does not consider it necessary to replace 'naturalness' with 'natural qualities' it has no objection if the Reporter is so minded.

In term of adding 'including lighting effects' to the second bullet point, the Council is of the view that this is not necessary. The impact of lighting would be expected to be a key part of a site based assessment of any adverse effects and indeed would form an important part of the Development Management consideration process. It is not considered necessary to implicitly highlight lighting considerations, as this could be construed to give greater weight to lighting than other important effects.

#### **Reporter's conclusions:**

#### **Policy NE2: Development Impacts on Areas of Wild Land**

##### Relationship between Policy NE2 and draft NPF4 (policy 32) (145), (196), (198) and (310)

1. In relation to issues where representations suggest that there is potentially significant divergence between the policies of the proposed plan and NPF4, reporters invited parties who have submitted representations to make any further comments on the issues they have raised now they are aware of the final form of national policy. This puts them on the same footing as the council which was able to draft its responses in light of the approved version of NPF4 whereas those lodging representations

commented in light of the draft version of NPF4.

2. I note the council's comments about the difficulty of aligning the proposed plan with NPF4, given the overlapping timescales. I accept that the proposed plan has been produced under transitional arrangements and recognise that a final dovetailing of policies between the two tiers of the development plan will not take place until the council carries out the next review of the plan. However, reporters hope that, by taking this approach, where appropriate, they have been able to recommend modifications to the plan which provide the best alignment possible at this time.

3. Whilst I consider that an ideal position would be removal of duplication between the two parts of the development plan, the role of this examination is limited to presenting conclusions and recommendations on issues raised in representations. Given the nature of the representations on wild land in this examination, my focus has been to ensure consistency with NPF4 even when this involves some duplication. Reporters hope that, by taking this approach, where appropriate, they have been able to recommend modifications to the plan which provide the best alignment possible at this time. This is also intended to be consistent with the council's approach of seeking to incorporate policies on the range of topics covered by NPF4 into the proposed plan.

#### Relationship with Policy RE1: Renewable Energy (153)

4. Policy 4 g) i. of NPF4 states that development proposals in wild land areas will be supported where they 'support meeting renewable energy targets'. Proposed Policy NE2 does not reflect this national policy support. The council is of the view that it is not necessary for the policy specifically to provide support for renewable energy development as this would be supported if it meets the stated criteria.

5. However, in preparing the local development plan, the council must take into account NPF4 and support implementation of NPF4. National policy gives significant weight to encouraging, promoting and facilitating development that addresses the global climate emergency. The proposed plan must address this at a local level. I do not consider it is possible to do that successfully if it does not echo the conditional support for renewable energy development in wild land areas set out in NPF4 Policy 4.

6. I have recommended a modification below that ensures the proposed plan is aligned with NPF Policy 4 g).

7. It is clear from the introduction to the proposed plan that the whole plan must be taken into account when assessing development proposals and that policies cannot be used in isolation. Proposed Policy RE1: Renewable Energy is the principal policy against which proposals for generation, storage and utilisation of renewable energy projects will be assessed. Therefore, I do not consider it also necessary to include a modification to indicate that renewable energy proposals in areas of wild land would be assessed against Policy RE1.

#### Status afforded to wild land and the inclusion of the statement that the area has 'little or no scope for development' (145), (196) and (198)

8. The council argues that proposed Policy NE2 complies with paragraph 200 of

Scottish Planning Policy 2014 (SPP). Paragraph 200 states that wild land areas ‘have little or no capacity to accept new development’. SPP has been superseded as a statement of Scottish Government policy by NPF4 so I cannot attach any weight to this argument. Therefore, it is not appropriate for the preamble to proposed Policy NE2 or the second paragraph of proposed Policy NE2 to echo paragraph 200 of SPP.

9. The council also contends that the proposed policy is consistent with the Scottish Government’s expectation that it will use NPF4 policy to set out the spatial implications for East Ayrshire. I recognise that the Merrick wild land area is the only such area in south-west Scotland, that it is relatively small compared with the majority of other wild land areas, that only a very small part of the area lies within East Ayrshire and that significant value is placed on safeguarding its key features, not least because of the changing landscape character of the area following the demise of coal mining. However, NPF4 Policy 4 g) restricts support for development in wild land areas to three types of proposals: development which would support meeting renewable energy targets, small scale development directly linked to a rural business or croft and development required to support a fragile community in a rural area. Any such proposals must be accompanied by an impact assessment which sets out how design, siting or other mitigation measures would minimise significant impacts on the qualities of the wild land, as well as any appropriate management and monitoring arrangements. Consideration of impact assessments prepared in this context will enable the council to address any significant effects on the special features of the wild land area.

10. The council points out that proposed Policy NE2 allows for development within wild land areas provided that it meets certain criteria. This too is at odds with NPF4 Policy 4 g) which only provides support to the types of development I have indicated above.

11. I have recommended below a modification that aligns proposed Policy NE2 with NPF4 rather than SPP, by indicating the types of proposals that would be supported in wild land areas and the supporting information that will be required to accompany any such proposals.

12. I note that the wild land area coincides with the area designated as a Dark Sky Park and accept that this demonstrates the value of the countryside in this area. Proposed development within the Galloway Forest Dark Sky Park is covered by proposed Policy TOUR4: The Dark Sky Park and associated supplementary guidance. Any development proposals within the overlapping designated areas would have to be assessed against both policies. I do not consider a modification is required on this point.

#### Introduction of a sequential approach (145), (198) and (196)

13. The second paragraph of proposed Policy NE2 requires development proposals in areas of wild land to demonstrate that the proposed development cannot reasonably be located outwith the wild land area. This test does not find support in NPF4 Policy 4 g). The council considers that the proposed approach is necessary given the relatively small size of its wild land area and its value in southwest Scotland.

14. However, the policy as proposed would potentially undermine the intent of

Policy 4 g). In policy areas where the Scottish Government considers that a sequential approach is appropriate, this is set out in NPF4. An example is Policy 5 which provides support for development on peatland only where 'there is a specific locational need and no other suitable site'. There is no such test in Policy 4 g). Therefore, I consider that this part of proposed Policy NE2 should be deleted.

15. The modification I have recommended below will make the proposed plan consistent with national policy.

Land in close proximity to wild land areas (145), (198) and (196)

16. NPF 4 Policy 4 g) states that the effects of development outwith wild land areas will not be a significant consideration. Proposed Policy NE5 relates to development proposals both within and in proximity to areas of wild land. Therefore, the proposed plan is not consistent with national policy on this matter. The council considers that applying NPF4 policy to the Merrick wild land area would not represent responsible planning.

17. However, I consider that the proposed policy does more than add a local perspective to Policy 4 g); rather, it could have the effect of negating the intended effect of NPF4 policy. Proposals on the edge of the wild land area would, more appropriately, be considered under local development plan Policy NE1: Protecting and Enhancing Landscapes and Features.

18. The modification I have recommended below provides alignment between national and local policy.

Minor amendments to wording (157)

19. I consider that the term 'wild land' captures well the nature of the area so defined and that the additions of the words 'remote' and 'natural qualities' to the policy would not add to the reader's understanding. I also note that the preamble to the proposed policy sets out the four key attributes of wild land which provides relevant background.

20. Consideration of lighting effects would be covered by the wording in the proposed modified policy in relation to the need for a wild land impact assessment. I recognise that lighting could be an issue to be considered but agree with the council that it should not be highlighted in relation to other potential issues which could be equally or more significant.

21. I do not consider it necessary to modify the proposed policy to address these suggestions.

**Reporter's recommendations:**

I recommend that the plan is modified by deleting the text under the heading 'Wild Land' and Policy NE2: Development Impacts on Areas of Wild Land and substituting the following text and policy:

## **'Wild Land**

NatureScot has identified Wild Land Areas following a detailed analysis (2014) of where wildness can be found in Scotland. East Ayrshire contains one area of distinctive wildness: Merrick. This area is shown on the Nature Conservation Sites Map in Volume 2 of the plan.

Defined on the basis of their wildness, areas of wild land contain four key attributes: natural land cover, rugged terrain, remoteness (lack of proximity to public roads or railway stations) and a visible lack of human artefacts (buildings, pylons etc.). Areas of wild land are shrinking and, as a result, their value is increasing due to rarity. The plan will protect wild land from inappropriate development pressure, minimising the loss of remaining wildness within the landscape of East Ayrshire.

### **Policy NE2: Development Impacts on Areas of Wild Land**

East Ayrshire Council will only support development proposals in the Merrick Wild Land Area where the proposal:

- will support meeting renewable energy targets; or
- is for small scale development directly linked to a rural business or croft or is required to support a fragile community in a rural area.

All such proposals must be accompanied by a wild land impact assessment which sets out how design, siting or other mitigation measures have been and will be used to minimise significant impacts on the qualities of the wild land, as well as any management and monitoring arrangements, where appropriate. Effects of development outwith wild land areas will not be a significant consideration.'

Issue 13	Nature Conservation and Biodiversity	
Development plan reference:	Volume 1: Policies, NE4, NE5, NE6, NE7 and NE8 and paragraphs 155-168	Reporter: Steve Field
Body or person(s) submitting a representation raising the issue (including reference number):		
Scottish Wildlife Trust (110) REG & ESB (145) NatureScot (157) P Cobb (189)	ScottishPower Renewables (196) RES UK & Ireland (198) RWE Renewables UK Ltd (284) Scottish Government (310)	
Provision of the development plan to which the issue relates:	The content and wording of the LDP2 Volume 1: policies NE4, NE5, NE6, NE7 and NE8, including supporting paragraphs 155-168	
Planning authority's summary of the representation(s):		
<p><b><u>NE4: Nature Crisis</u></b></p> <p><u>Scottish Wildlife Trust (110)</u></p> <p>Suggest a wording amendment on the first sentence of paragraph 156 (policy preamble).</p> <p>Express support for the proactive approach to the nature crisis. However, suggest that the policy focuses solely on achieving targets through the design of developments and mitigation. SWT argue that biodiversity could be further enhanced through collaboration with the Ranger Service and by SWT providing advice to landowners of LNCS and LNRs.</p> <p><u>REG &amp; ESB (145) and RES UK &amp; Ireland Ltd (198)</u></p> <p>Provides comments relating to NE4, subsection 'National, Major and EIA Development' noting accordance with Draft NPF4 Policy 3: Nature Crisis. RES &amp; ESB raises concerns that this introduces significant expectations on all developers.</p> <p>Suggests that to avoid conflicts, the Council should wait until Draft NPF4 is finalised before finalising the content of policy NE4</p> <p><u>NatureScot (157)</u></p> <p>Suggest strengthening NE4 to place greater emphasis on protecting existing biodiversity as well as enhancement and restoration in line with Draft NPF4 Annex C and provide suggested modified wording.</p>		

ScottishPower Renewables (196)

Make a series of comments on Policy NE4 and Draft NPF4 Policy 3: Nature Crisis and Policy 32: Natural Places. Within these comments ScottishPower Renewables argues that the policy should be revised and simplified in order to avoid duplication of national policy (Draft NPF4).

Suggest that different or additional policies should only be created where necessary in order to reflect local circumstance.

Raise concerns over how certain NE4 criteria will be applied and how this could give rise to debate and conflict over the scope of terms (e.g. 'potential', 'likely' as well as 'significant enhancement').

Suggests that the policy inappropriately conflates EIA development and proposals subject to HRA Appropriate Assessment with all Major and National Developments as these have different thresholds and reasons. As such, ScottishPower Renewables argues that these should not be combined, nor do they automatically require a higher level of biodiversity protection.

**NE5: Protection of Areas of Nature Conservation**

Scottish Wildlife Trust (110)

States that Local Nature Conservation Sites and Local Nature Reserves are grouped together in NE5 and suggests that given East Ayrshire only has one LNR that this be removed and a separate policy created to identify, manage and highlight the importance of LNRs for conservation. SWT goes on to argue that there should be more LNRs in East Ayrshire.

Highlights that there is no map illustrating the location of Local Nature Conservation Sites as specified in Volume 2. SWT state that the location of the single LNR should also be shown.

REG & ESB (145) and RES (198)

Expresses concerns over the content of criterion (iii), arguing that this sets the policy test very high. REG & ESB and RES suggest that the current wording does not recognise varying degrees of significance of environmental impacts and introduces an excessive level of policy protection. RES & ESB and RES provided suggested modifications to address their concerns.

NatureScot (157)

Welcome policy NE5 but recommend removing all reference to 'Natura 2000' sites to 'European sites' due to the exit of the UK from the EU and the removal of reference to 'Important Bird Sites'.



P Cobb (189)

Highlights that the LDP2 does not mention former miner sites which have become important wildlife sites through intervention or natural re-wilding and suggests modifications to support the protection of these sites.

ScottishPower Renewables (196)

Make a series of comments on Policy NE5 and Draft NPF4 Policy 32: Natural Places. Within these comments ScottishPower Renewables argues that the policy should be revised and simplified in order to avoid duplication of national policy (Draft NPF4).

Suggest that different or additional policies should only be created where necessary in order to reflect local circumstance.

Suggest that NE5 reinforces overarching SS1: Climate Change (see Issue 2) by recognising that efforts to protect and enhance the natural environment must be undertaken within the context of responding to the climate emergency.

RWE Renewables UK Ltd (284)

Make a series of comments on Policy NE5 and how wind farm projects frequently fund peatland restoration. RWE Renewables UK Ltd suggest that the policy should not prevent future wind farm developments, including extension and repowering, given they fund peatland restoration.

Scottish Government (310)

Suggests modifications to policy layout and order in order to improve clarity on the derogation process and to improve legibility. These suggests are set out within the modification section.

**NE6: Vulnerable, Threatened and Protected Species**

Scottish Wildlife Trust (110)

Provide comments in relation to the virtues and the Scottish Biodiversity list in terms of its lack of reliability and stating that it is not comprehensive, however acknowledge that it is the only readily available resource.

Raise concerns that the Ayrshire Local Biodiversity Action Plan is out of date and needs to be reviewed and provide more up to date information.

Suggest that developments should utilise a proper environmental appraisal for a development which should be based on a proper scoping exercise rather than using the Biodiversity Action Plan as a guide.

Suggest that the South West Scotland Environment Information Centre be listed as a source of information in terms of the distribution and status of species in Ayrshire.

Provide clarity on the appropriate definitions and use of the terms 'threatened and vulnerable', 'nationally rare', 'nationally scarce' and 'least concern' to ensure that these are applied correctly within the policy content. Scottish Wildlife Trust suggest definitions for these be added to a glossary.

Suggest the removal of the term 'Least Concern' from the policy as this includes the vast majority of plants and animals and as such is not relevant or applicable.

NatureScot (157)

Welcome the introduction of NE6, but suggest some modification in order to make it more robust.

ScottishPower Renewables (196)

Make a series of comments on Policy NE6 and Draft NPF4 Policy 32: Natural Places. Within these comments ScottishPower Renewables argues that is essential that the policy be revised and simplified in order to avoid policy conflicts with NPF4 once finalised.

Suggest that the policy requirements relating to protected species should be amended to acknowledge that adverse impacts should be assessed at the population level, to ensure that policy is proportionate.

**NE7: Geodiversity and Geological Interest**

ScottishPower Renewables (196)

Express concerns over the requirement to demonstrate that there is no alternative site for the development and that there is no definitive methodology to aid in this. As such, ScottishPower Renewables suggest that NE7 be modified to remove bullet point two.

REG & ESB (145) and RES UK & Ireland Ltd (198)

Consider it to be unreasonable to require developers to demonstrate no alternative sites exist and as such suggest that NE7 be modified to remove bullet point two to be more proportionate.

**NE8: Trees, Woodland, Forestry and Hedgerows**

Scottish Wildlife Trust (110)

Welcomes the safeguarding of trees and woodland. However, suggests that the current wording of NE8 sets a presumption against the loss of all trees and hedges and questions the realism of this objective.

Question whether East Ayrshire hosts any ancient and veteran trees and provide a mapping tool to enable searching.

ScottishPower Renewables (196)

Make a series of comments on Policy NE8 and Draft NPF4 Policy 34: Trees, Woodland and Forestry. Within these comments ScottishPower Renewables argues that is essential that the policy be revised and simplified in order to avoid policy conflicts with NPF4 once finalised.

Raises concerns over the wording and potential conflict of two tests within the policy (presume against loss vs permit loss where significant and clearly defined economic, social and environmental benefits can be achieved). ScottishPower Renewables recommend that this policy be redrafted to eliminate conflicting tests.

Highlight that no guidance is provided in terms of what constitutes significant and clearly defined benefits. Clarity requested to increase transparency.

**9.1 Glossary (page 166)**

Scottish Wildlife Trust (110)

Removal of reference to 'Provisional Wildlife Sites' which will become obsolete.

Provide clarity on the appropriate definitions and use of the terms 'threatened and vulnerable', 'nationally rare', 'nationally scarce' and 'least concern' to ensure that these are applied correctly within the policy content. Scottish Wildlife Trust suggest definitions for these be added to a glossary.

**Modifications sought by those submitting representations:**

**NE4: Nature Crisis**

Scottish Wildlife Trust (110)

Modify the first sentence in paragraph 156 to read - "The Council will **not** support development which would ~~not~~ have an unacceptable impact on nature and biodiversity; in particular, our legislative and designated sites."

Although not specified, it is presumed that Scottish Wildlife Trust would like the policy or preamble text to be amended to facilitate and encourage collaborative working between SWT and landowners of LNCSS and LNRs in East Ayrshire to achieve positive biodiversity outcomes.

NatureScot (157)

Modify NE4, paragraph 1, sentence 1 to read – "In order to **protect biodiversity and** facilitate biodiversity ~~its~~ enhancement, nature-recovery and nature-restoration across East Ayrshire, the Council will support development proposals that **minimise adverse impacts through careful planning and design, and enhance biodiversity,** contribute to the enhancement of biodiversity, including the restoration of **restoring** degraded habitats, **and building** and strengthening **ing** nature networks and improve the connections between **them** ~~these networks and minimise adverse impacts through~~

~~careful planning and design.”~~

Modify NE4, the first sentence in subsection ‘Mitigation’ to read – “The Council will be supportive of proposals which ~~consider and~~ incorporate measures which are likely to increase biodiversity and the population of species, most notably those identified within criteria (i) to (iv) of Policy NE5: Vulnerable, Threatened and Protected Species”.

#### ScottishPower Renewables (196)

Although no specific wording is suggested, ScottishPower Renewables requests that Policy NE4 be revised to – Simplify the policy to remove duplication from Draft NPF4 in terms of policy tests and only deviate from Draft NPF4 where appropriate to reflect local circumstance.

Although not specifically requested, ScottishPower Renewables raise concerns over the application of the term ‘potential’. It is presumed that ScottishPower Renewables would like these terms to be substituted for “likely significant”. As such, the NE4 (iii) would read: “Be supported by an assessment of ~~potential~~ **likely significant** negative effects which should be fully mitigated in line with the mitigation hierarchy (see glossary) prior to identifying enhancements; and”

Although not specific wording is suggested, ScottishPower Renewables raise concerns over the grouping of EIA development and proposals subject to HRA Appropriate Assessment with all Major and National Developments together. It is assumed that ScottishPower Renewables would like NE4 to be modified to resolve this and separate them.

### **Policy NE5: Protection of Areas of Nature Conservation Interest**

#### Scottish Wildlife Trust (110)

Although no specific content or wording is provided, SWT seek the splitting of Local Nature Reserves from policy NE5 to – Create a new separate policy which highlights the importance of these sites for nature conservation, amenity and environmental education as well as their identification and management.

Scottish Wildlife Trust have highlighted that the map illustrating the location of Local Nature Conservation Sites and the single Local Nature Reserve is not in Volume 2, this should be modified to – Contain a map to illustrate the location of LNCS and LNR.

#### REG & ESB (145) and RES (198)

Modify NE5, criterion (iii) to read – **“Development proposals should seek to avoid and then mitigate effects of a development on sites of local importance. The Council will not support proposals that have an unacceptable impact on sites of local importance, taking account of the interests for which the area is designated.”** ~~There will be a presumption against any development which could have an adverse impact on sites of local importance (i.e. Local Nature Conservation Sites and Local Nature Reserves) and other sites which are undergoing or have undertaken in-situ conservation and/or long term enhancement work (i.e. bog and peatland~~

~~restoration sites~~). All sites of recognised nature conservation value will be safeguarded wherever possible. Development will only be permitted on such sites where appropriate measures will be put in place to conserve and manage, as far as possible, the site's biological and geological interest and to provide for replacement habitats, species and features where damage is unavoidable.

#### NatureScot (157)

Modify NE5, criterion (i) to read - "(i) There will be a presumption against development which could adversely impact areas of international importance designated or proposed by Scottish Ministers for designation as Special Protection Areas or Special Areas of Conservation (~~Natura 2000~~ **European** sites and ~~Important Bird Areas~~). Development will only be permitted in such areas where:

- An assessment of the proposal indicates that it will not adversely affect the integrity of the area;
- It has been demonstrated that there are no alternative solutions;
- There are reasons of over-riding public interest, including social and economic; and
- Compensatory measures are taken to ensure that the overall coherence of the ~~Natura 2000~~ **European site** network is protected.

Any development likely to have a significant effect on a ~~Natura 2000~~ **European** site (Special Areas of Conservation, Special Protection Areas and ~~Important Bird Areas~~) which is not directly connected with or necessary to its conservation management..."

#### P Cobb (189)

Modify NE5, criterion (iii) to read – "There will be a presumption against any development which could have an adverse impact on sites of local importance (i.e. Local Nature Conservation Sites and Local Nature Reserves) and other sites which are undergoing or have undertaken in-situ conservation and/or long-term enhancement work (i.e. bog and peatland restoration sites), **and former mine sites that have been restored or have re-wilded themselves naturally**. All sites of recognised nature conservation value will be safeguarded wherever possible..."

#### ScottishPower Renewables (196)

Although not specific wording is suggested, ScottishPower Renewables requests that Policy NE5 to be revised to – Simplify the policy to remove duplication from Draft NPF4 in terms of policy tests and only deviate from Draft NPF4 where appropriate to reflect local circumstance.

Although not specific wording is suggested, ScottishPower Renewables requests that Policy NE5 to be revised to reinforce Policy SS1 (see Issue 2) to - recognise that efforts to protect and enhance the natural environment must be undertaken within the context of responding to the climate emergency.

#### Scottish Government (310)

Modify the ordering and layout of Policy NE5 criterion (i), as well as the addition of some wording (underlined) to read: "(i) There will be a presumption against

development which could adversely impact areas of international importance designated or proposed by Scottish Ministers for designation as Special Protection Areas or Special Areas of Conservation (Natura 2000 sites and Important Bird Areas). **Any development likely to have a significant effect on a Natura 2000 site (Special Areas of Conservation, Special Protection Areas and Important Bird Areas) which is not directly connected with or necessary to its conservation management must be subject to a “Habitats Regulations Appraisal” or an ‘appropriate assessment; of the implications for the conservation objectives. Such development will only be approved if the appraisal shows that there will be no adverse effect on the integrity of the site. A derogation is available for authorities to approve plans or projects which could adversely affect the integrity of a Natura site if:**

- ~~An assessment of the proposal indicates that it will not adversely affect the integrity of the area; or~~
- It has been demonstrated that there are no alternative solutions;
- There are reasons of over-riding public interest, including social and economic; and
- Compensatory measures are taken to ensure that the overall coherence of the Natura 2000 network is protected. ~~Any development likely to have a significant effect on a Natura 2000 site (Special Areas of Conservation, Special Protection Areas and Important Bird Areas) which is not directly connected with or necessary to its conservation management must be subject to a “Habitats Regulations Appraisal” or an ‘appropriate assessment; of the implications for the conservation objectives. Such development will only be approved if the appraisal shows that there will be no adverse effect on the integrity of the site.’~~

## **Policy NE6: Vulnerable, Threatened and Protected Species**

### Scottish Wildlife Trust (110)

Although no specific wording is provided, Scottish Wildlife Trust suggest that the policy be modified to – Make reference to the South West Scotland Environment Information Centre as a source of information in terms of the distribution and status of species in Ayrshire.

Although no specific wording is provided, Scottish Wildlife Trust suggest that clarity be provided on the appropriate definitions and use of the terms ‘threatened and vulnerable’, ‘nationally rare’, ‘nationally scarce’ and ‘least concern’ to ensure that these are applied correctly within the policy content.

Although no specific alternative wording is suggested, Scottish Wildlife Trust wish for NE6 to be modified – to remove the reference to least-concern species.

Although no specific wording is provided, Scottish Wildlife Trust suggest that the plan be modified to – include and provide definitions for the IUCN categories of threat range (critically endangered to vulnerable), rarity, nationally rare and nationally scarce species.

Although no specific wording is provided, Scottish Wildlife Trust suggest that developments should utilise a proper environmental appraisal for a development which should be based on a proper scoping exercise rather than using the Biodiversity Action



Plan as a guide. As such the Plan should be modified to – integrate a requirement for an environmental appraisal, reducing reliance on the LBAP.

Although no specific wording is provided, Scottish Wildlife Trust suggest that the South West Scotland Environment Information Centre be listed as a source of information in terms of the distribution and status of species in Ayrshire. It is presumed that they wish for NE6 to be modified to reflect this. The Council consider the most appropriate place for this to be added would be criterion (iv).

#### NatureScot (157)

Although no specific wording is outlined, NatureScot suggest that the first paragraph of NE6 be modified to – detail the mitigation hierarchy as set out in SG Draft NPF4 Annex C: Glossary of Definitions).

Modify NE6 to combined paragraphs one and two to read first and second –  
 “Development **should not** adversely affecting priority habitats or species set out within the Ayrshire Local Biodiversity Action Plan **(or its successors)**. ~~will not be permitted unless it can be demonstrated the impacts are clearly outweighed by social or economic benefits of local importance.~~ Where there is likely to be an adverse impact on biodiversity, an ecological appraisal will be required. This appraisal must identify potential impacts to all biodiversity assets (international, national and locally important) within or adjacent to the proposed site, providing detail on how detrimental impacts will be avoided, minimised, or if this is not possible, methods of mitigation which will provide opportunities for biodiversity enhancement, ~~where applicable.~~”

#### ScottishPower Renewables (196)

Modify NE6, paragraph one of subsection ‘Protected Species’, to read – “The Council will not support development which would have an unacceptable adverse impact on **the population of** protected species, as follows...”

Modify NE6, the final paragraph of subsection ‘Protected Species’, to read – “...The planning and design of any development which has the potential to impact on ~~a~~ **the population of** protected species will require to take into account the level of protection afforded by legislation and any impacts must be fully considered prior to the submission of any planning application. Planning permission will not be granted for developments that would be likely to have an adverse effect on **the population of a** protected species.”

### **Policy NE7: Geodiversity and Geological Interest**

#### REG & ESB (145) and ScottishPower Renewables (196)

Modify NE7 to - remove the second bullet point criteria (“~~there is no suitable alternative site for the development; and~~”).

### **Policy NE8: Trees, Woodland, Forestry and Hedgerows**

#### ScottishPower Renewables (196)



Modify NE8 to remove conflicting tests. ScottishPower Renewables argue that this can be achieved by stating at the beginning of the policy that loss is permitted where benefits can be achieved.

## 9.1 Glossary (page 166)

### Scottish Wildlife Trust (110)

Modify the Glossary (page 166) to remove reference to 'Provisional Wildlife Sites'. It is presumed (110) would like this to be replaced with Local Nature Conservation Sites.

Although not explicitly requested, it was suggested by Scottish Wildlife Trust that definitions relating to threat range, threatened and vulnerable could be added to the LDP2 Glossary. In line with the wording provided within (110), it is assumed that that wording should be taken from the IUCN Red List Categories and Criteria document (2000).

## **Summary of responses (including reasons) by planning authority:**

### Relationship between 'Natural Environment' policies and Draft NPF4 (November 2021) - (145), (196), (198)

#### Background/Overview

In order to appropriately address the comments and objections made to the PLDP2 in relation to the relationship between the PLDP2s 'Natural Environment' policies and the content of Draft NPF4 (published November 2021) (CD3), the Council considered it effective to have a separate section within this Schedule 4 form. Comments made on policies NE4, NE5, NE6, NE7 and NE8 not specific to NPF4 are addressed further down within this section.

The Council notes the concerns raised regarding the relationship between the Proposed LDP2 and the draft NPF4 (CD3). In general terms, due to the timing of the LDP2 process and the publication of the draft NPF4, the council took the decision that the Proposed Plan should, where appropriate, take on board draft NPF4. Whilst it was acknowledged that the draft would be subject to change as a result of consultation, the alternative scenario, whereby the Proposed Plan would not take on board the draft NPF4 was considered by the Council to create a greater risk i.e. the Proposed Plan would be significantly out of line with the finalised NPF. The time pressure to produce LDP2 (i.e. the transitional arrangements (CD25) and the increasing age of the EALDP 2017) meant that awaiting a finalised NPF4 was not a feasible option.

The Proposed Plan was published for consultation in May 2022 and the NPF4 (CD4) has since been published by the Scottish Government on 8 November 2022 and adopted in February 2023.

Whilst the LDP2 has been prepared under the Town and Country Planning Act 1997 (as amended by the 2006 Planning Act) (CD65) and the transitional arrangements (CD25), it is worth noting the new and emerging legislative context in terms of the intended relationship between NPF4 and Local Development Plans. Section 16 (2) of

the Town and Country Planning Act 1997 (as amended by the 2006 and 2019 Acts) requires, in preparing a local development plan, a planning authority to take into account the National Planning Framework. Draft regulations on Local Development Planning (CD29) were published and consulted upon by the Scottish Government in December 2021. Whilst these hold no status, and again, do not need to be applied to the preparation of LDP2, they are useful in providing a steer as to how Local Development Plans should ‘take into account’ NPF4. Paragraph 153 of the draft regulations states in relation to the preparation of LDPs that ‘Any policy wording included in the plan should focus on adding value by providing any necessary detail not provided by the NPF **or where national policy does not reflect local circumstances and local variation is therefore considered appropriate.**’ Policies on the ‘Natural Environment’ (Nature Conservation and Biodiversity) is an area where the Council considers that a local variation is considered appropriate to reflect local circumstances.

#### Draft NPF4 and Policies NE4, NE5, NE6 and NE8 (145), (196), (198)

(145) and (198) suggest simplifying these policies to remove duplication of Draft NPF4 in order waiting on NPF4 to be finalised before drafting this policy. (145), (196), (198) suggest that different or additional policies should only be created where necessary in order to reflect local circumstance. The Council acknowledges that there are now disparities between the PLDP2 and NPF4 (CD4):

- NE4 and the NPF4 Policy 3 (Biodiversity)
- NE5, NE6 and the NPF4 Policy 4 (Natural Places)
- NE8 and NPF4 Policy 6 (Forestry, Woodland and Trees)

The Council consider that the current wording of NE4, NE5, NE6 and NE8, although they deviate from NPF4, are still fit for purpose. NE4 seeks to facilitate biodiversity enhancement, nature recovery and nature restoration in line with the policy direction of NPF4. NE5 seeks to protect areas of nature conservation interest from European to locally important sites in line with the policy direction of NPF4. NE6 seeks to protect vulnerable, threatened and protected species from adverse impacts in line with the policy direction of NPF4. NE8 sets a presumption against the loss of natural features, from woodlands to hedgerows, in line with the general policy direction of NPF4. Whilst the detailed wording does not exactly replicate the comparable policies of draft revised NPF4, the Council, on reviewing both sets of policies is of the view that the policies of the Proposed Plan are not contrary to NPF4.

#### **Policy NE4: Nature Crisis**

##### Wording of preamble text: Paragraph 156 (110)

The Proposed Plan currently reads *“The Council will support development which would not have an unacceptable adverse impact on nature and biodiversity, in particular, our legislative and designated sites”*, conversely (110) suggest that the wording be amended to *“The Council will not support development which would have an unacceptable impact on nature and biodiversity”*. The Council consider that the wording as laid out with the Plan, paragraph 156 (page 77), to be sufficient and reasonable, covering the points made by (110). The current wording specifies and highlights the importance of legislative and designated sites in particular, but also covers sites which are not under these designations. The Council consider the wording of the proposed

modifications to be more general and generic and does not differentiate between the different value of sites. As such, the Council consider that the current wording as laid out within the Plan, paragraph 156 (page 77), to be sufficient.

Strengthen wording of first sentence (157)

(157) suggest strengthening NE4 to place greater emphasis on protecting existing biodiversity as well as enhancement and restoration in line with Draft NPF4 (CD3) Annex C and provide modified wording. (157) suggest that the policy read as *“In order to protect biodiversity and facilitate its enhancement, recovery and restoration across East Ayrshire, the Council will support development proposals that minimise adverse impacts through careful planning and design, and enhance biodiversity, restoring degraded habitats and building and strengthening nature networks and the connections between them”* instead of reading as *“In order to facilitate biodiversity enhancement, nature recovery and nature restoration across East Ayrshire, the Council will support development proposals that contribute to the enhancement of biodiversity, including the restoration of degraded habitats, build and strengthen nature networks and improve the connections between these networks and minimise adverse impacts through careful planning and design.”* The Council consider the current wording of Policy NE4 to be appropriate, robust and sufficient, setting out positively how the Plan will seek to enhance biodiversity. However, should the Reporter be minded to make the modification suggested by 157, with the additional wording on protecting biodiversity, then the Council has no significant objections.

Subsection ‘National, Major and EIA Development introduces significant expectations on developers (145), (196), (198)’

(145) and (198) raise concerns that Policy NE4 (Volume 1, page 77) introduces significant expectations on all developers with regards to criterion (iv) which requires developers to *“provide significant biodiversity enhancements, in addition to any proposed mitigation”*. While the Council acknowledges that the policy content of NE4 places additional expectations on developers with regards to biodiversity enhancement, the Council consider this to be entirely reasonable. This is in the context of the direction of NPF4 (CD4), but also necessary in order to meaningfully address one of the twin global crises, biodiversity loss, a key consideration of this plan which is embedded at the Spatial Strategy level. NPF4 (Policy 1: Tackling Climate and Nature Crises) has stripped out a lot of detail, compared to the earlier draft NPF4 some of which has been moved into Policy 3: Biodiversity for which the PLDP2 largely follows. As such, the Council disagree that this should be removed from Policy NE4.

Wording and layout of subsection ‘National, Major and EIA Development (196)’

The Council acknowledges the points raised by (196) in relation to the suggestion that the policy inappropriately conflates EIA development and proposals subject to HRA Appropriate Assessment with all Major and National Developments as these have different thresholds and reasons. As such, (196) argues that these should not be combined, nor do they automatically require a higher level of biodiversity protection. However, the Council disagrees that grouping National, Major and EIA development together is problematic. This was undertaken in order to appropriately cover the contents of Draft NPF4 (November 2021) (CD3) and seemed to be a logical way to

group and summarise requirements within the policy. This is how these matters were grouped within Draft NPF4 (CD3), for example Policies 2: Climate emergency (page 69), 3: Nature Crisis (page 69) and 14: Health and Wellbeing (page 85) which read *“proposals for national, major and of EIA Development of development for which an Appropriate Assessment is required”*. As such, the Council reflected the most up to date policy content at the time. NPF4 (November 2022) (CD4) retains this grouping in (now) Policy 3: Biodiversity, where criterion b) reads *“development proposals for national or major development, or for development that requires an Environment Impact Assessment will only be supported where...”*. The Council do not consider the grouping of National, Major or development which requires EIA together to be inappropriate. Whilst the Council considers there to be a justification for retaining the policy in its current form, in order to ensure alignment with national policy on this particular matter, the Council would have no strong objection to the Reporter, if she/he is minded, to amend the sub-heading to “National or Major development or Development that requires an Environmental Impact Assessment” and the subsequent criterion, as suggested below, which are not considered to substantively amend the direction or application of the policy:

**“National or Major development or Development that requires an Environmental Impact Assessment**

Development proposals for national **or** major, **or development that requires and Environmental Impact Assessment** (EIA) or development for which an Appropriate Assessment is required will only be supported by the Council where it can be demonstrated that the proposal will conserve, **restore** and enhance biodiversity, including nature networks within and adjacent to the site, so that they are in a demonstrably better state than without intervention, including through future management. **To inform this, best practice assessment methods should be used.**

Development proposals should:

- (i) Be based on an understanding of the existing characteristics of the site and its local, regional and national ecological context prior to development, including the presence of any irreplaceable habitats;
- (ii) Wherever feasible, integrate and make best use of nature-based solutions, demonstrating how this has been achieved;
- (iii) Be supported by an assessment of potential negative effects which should be fully mitigated in line with the mitigation hierarchy (see glossary) prior to identifying enhancements;
- (iv) Provide significant biodiversity enhancements, in addition to any proposed mitigation. Biodiversity enhancements should include supporting nature networks, linking to and strengthening habitat connectivity within and beyond the development. Biodiversity enhancements should be secured within a reasonable timescale and with reasonable certainty. They should include management arrangements for their long-term retention and monitoring, wherever appropriate; **and**
- (v) **Consider local community benefits of the biodiversity and/or nature network.”**

(157) suggest that the ‘Mitigation’ subsection of NE4 be modified to read: *“The Council will be supportive of proposals which incorporate measures which are likely to increase*

*biodiversity and the population of species, most notably those identified within criteria (i) to (iv) of Policy NE5: Vulnerable, Threatened and Protected Species.*” The Council is of the view that the removal of ‘consider and’ will not make any substantive difference to the application of policy NE4. Whilst not considered necessary, the Council would have no objections to the removal of “consider and” from the first sentence, should the Report be minded to make this modification.

#### Requirement for mitigation and use of term ‘potential’ (196)

Policy NE4 criterion (iii) requires development proposals *to be supported by an assessment of potential negative effects which should be fully mitigated in line with the mitigation hierarchy (see glossary) prior to identifying enhancements.* (196) raise concerns that this is an ambiguous policy test which could rise to debate over “potential” impacts. It is presumed that (196) wish to see the term potential replaced with “likely significant”. The Council disagrees that the use of potential is ambiguous. National and Major developments should consider all potentially negative impacts that the proposal may have on the natural, historic and social environment and mitigate against these. The use of the term ‘potential’ was utilised within Draft NPF4 (November 2021) (CD3) and is also used in SPP (CD26) at paragraph 199 in relation to the natural environment; *‘Plans should address the potential effects of development on the natural environment.’*

Since the consultation of the Proposed Plan, NPF4 has been released (CD4). Policy 3 has removed a lot of detail in terms of its specific requirements, however, the Council consider the current wording of NE4 to be appropriate and robust. The purpose of the assessment is to assess and show what detrimental impacts the proposal could have (i.e. potential). The Council consider the use of this term to be sensible and oppose its removal in line with (196) comments.

#### Collaborative working with Scottish Wildlife Trust on LNCS and LNRs (110)

The Council recognises and supports the comments that biodiversity could be further enhanced through collaboration with the Ranger Service and by SWT providing advice to landowners of LNCS and LNRs. The Council considers this to be a matter that should be addressed by individual applicants and SWT rather than through planning policy. SWT are consulted on relevant planning applications through the application process. As such, the Council considers that the plan should not be modified to incorporate this into policy or supporting text, as this is not a legislative or planning requirement but voluntary in nature.

### **Policy NE5: Protection of Areas of Nature Conservation Interest**

#### Suggestion to remove Local Nature Reserve from NE5 to create a separate specific LNR policy (110)

The Council acknowledges the comments raised by (110), however, disagree that Local Nature Reserves should be removed from NE5 criterion (iii) and in turn create a separate policy. East Ayrshire currently only has one Local Nature Reserve in Catrine. The Council consider the site to be locally important and within the context of the hierarchy of NE5, criterion (iii) is the most appropriate location to cover the nature



conservation requirements for this site. Policy NE5 sets a presumption against any development which could have an adverse impact on Local Nature Reserves.

#### Identification of more Local Nature Reserves required (110)

The Council acknowledge the comments made by (110). The Council agrees that Local Nature Reserves present a positive opportunity for environmental education. The identification of more LNRs is a matter that could be addressed within LDP3, in turn, a policy which covers their identification and subsequent management in line with the comments of (110). Should any further Local Nature Reserves be identified within the Plan period of LDP2, it is noted that the current wording of the policy is “Local Nature Reserves”, therefore this covers not just the existing Local Nature Reserves but any future Local Nature Reserves. As such, the Council do not agree that the Proposed Plan should be modified to facilitate this at this time.

#### Expectations on developers within NE5 criterion (iii) (145), (198)

Policy NE5 (iii) sets *presumption against any development which could have an adverse impact on sites of local importance and other sites which are undergoing or have undertaken in-situ conservation and/or long-term enhancement work (..)*. The Council strongly disagrees that NE5 (iii) sets the policy test very high for proposals.

The Council strongly disagrees that NE5 (iii) sets a level of protection that exceeds international and national interests, as stated by (145). The policy sets a presumption against proposals with adverse impacts, it does not categorically prevent development which will have adverse impacts. The Council consider the use of the terms “presumption against” to be flexible and less rigid in its expectations. NE5 (iii) also states *that development will only be permitted on such sites where appropriate measures will be put in place to conserve and manage, as far as is possible, the site’s biological and geological interest (...)*. As such, should a proposal integrate mitigation to offset and minimise adverse impacts on sites of local importance then the policy allows such proposals to be looked on favourably. The Council strongly disagree with the suggested wording modifications proposed by (145) and (198).

The Council, in overall terms, consider the current wording of NE5 to be appropriate, however, should the Report be minded to make modifications to the policy as a result of the comments provided by (145) and (198) then the Council would like to make a suggestion. The Council suggests, in this circumstance, that the policy could be reworded as follows: “...*safeguarded wherever possible. Development will be permitted on such sites where appropriate measures will be put in place to conserve and manage, as far as possible, the site’s biological and geological interest and to provide for replacement habitats, species and features where damage is unavoidable, in proportion to the nature and scale of development and its impact.*” However, the Council strongly disagree with the suggested wording modifications proposed by (145) and (198). Removal of the term ‘only’ further loosens the policy. However, the Council would like to highlight that this term within this context is utilised within Annex A: NPF4 Outcome Statement (f) securing positive effects for biodiversity (page 117). Within NPF4 (CD4) Policy 3: Biodiversity (b) the term ‘only’ is utilised (page 39), and as such, the Council consider their use of the term to be appropriate.

Map illustrating LNCS and LNR (110)

A map should be included within the Plan to show the location of assets nature conservation assets, such as Local Nature Conservation Sites and Local Nature Reserves. The Council would like to highlight why this was not (yet) included. It was intended that the map in question would include Local Nature Conservation Sites which, through an external study commissioned by the Council, are currently being reviewed. However, the review of Local Nature Conservation Sites has not progressed within the original anticipated timeframe. Therefore, following further consideration, the Council intend to include a map of all LNCSs within the Local Nature Conservation Sites Non-Statutory Planning Guidance document which is anticipated to be completed in 2023. This will be undergo consultation providing the opportunity for interested parties and members of the public to comment on any proposed changes to site boundaries, as well as the removal, amalgamation and/or addition of new sites before it is finalised and brought into use.

Notwithstanding the position with the LNCSs, a 'Nature Conservation Map' illustrating the location of a number of nature designations (including the Local Nature Reserve and nationally designated sites) has been provided for the Examination (CD31) and the Council suggests that this factual illustration be included as a non-notifiable modification to the Plan.

Removal of reference to Natura 2000 sites (replaced with European site) (157)

The Council have no objections to replacing the term 'Natura 2000 sites' with 'European sites' within NE5, as a factual amendment to reflect the UK's exit from the EU. This updated term is appropriate.

Re-wilding of former minerals sites (189)

The Council acknowledge the comments submitted by (189) and agree that former minerals sites which have rewilded can be important wildlife sites. However, in response the Council would like to highlight that this does not necessarily warrant them having a locally important designation (such as Local Nature Conservation Site or Local Nature Reserve).

(189) states that only in recent years has the potential of biodiversity of brownfield sites been recognised. The Plan prioritises the development of brownfield land ahead of greenfield. The Council highlight that the Plan does recognise the value of naturalised brownfield land. Within the Glossary (page 163) brownfield land is defined as *land that has previously been developed for use other than agricultural, and has not yet reverted to a natural state*. Further to this, the supporting notes for Policy RH2: Housing in the Rural Diversification Area (page 101) states that *land which has appropriately naturalised may no longer be judged to constitute brownfield land*. As such, within the context of the Plan if a former brownfield site has naturalised it will no longer be considered brownfield. The Council therefore consider that the current content of the Plan addresses the concerns raised by (189), although not explicitly addressed within the content of NE5.

With regards to protection of naturalised former mineral sites, paragraph 275 of the



Plan states that *many spoil tips which have undergone naturalisation will support a variety of flora and fauna and their environmental value would have to be assessed in any proposal to extract materials for use in restoration schemes*. This illustrates a recognition of the value of these sites and that any proposal would need to consider this. This statement is further supported by the contents of Policy MIN8: Reworking of Waste Spoil Tips. As such, the natural value of these sites must be considered in any future proposal, adding a level of value and protection to them. At the same time, policy NE5 criteria (iii) gives protection to sites which are undergoing or have undertaken in-situ conservation and/or long term enhancement, which could be applied to former minerals sites. The Council do not agree that policy NE5 should be modified, as per the suggested wording provided by (189), is necessary.

#### Link to SS1 and responding to the climate emergency (196)

The Council acknowledges the comments provided by (196) that NE5 should reinforce Policy SS1: Climate Change (See Issue 2) and recognise that efforts to protect and enhance the natural environment must be undertaken within the context of responding to the climate emergency. Policy SS1 is an overarching policy which will be applicable to all proposals, as such, its requirements would be applied in conjunction with NE5 (where NE5 is applicable). Given this, the Council do not consider it necessary to modify NE5 to reinforce SS1, which would be applicable in its own right. All proposals are assessed on balance and in terms of their accordance with policy. As such, the concerns raised by (196) will be addressed by the implementation of SS1.

#### Renewable energy development and peatland restoration works (284)

The Council recognise that renewable energy developments, such as wind farms, are required to include peatland restoration work. The Council acknowledge that these do indeed make important contributions to peatland restoration. The Council acknowledges that (284) seeks to ensure that future wind farm developments are not prevented through the implementation of this policy. In response the Council would like to highlight that all proposals will be considered on balance against applicable policies of the Plan. This includes implications with regards to climate change, which is embedded throughout the Plan including the Spatial Strategy. Policy SS1 (See Issue 2) is an overarching policy which would be applicable to proposals for renewable development which seeks to mitigate the impacts of climate change and requires *developers to assess how the climate emergency has been taken into account in a proposal*. This should address the concerns raised by (284).

#### Policy ordering, layout, legibility and suggested modifications (310)

(310) propose modifications to the layout and ordering of NE5 in order to improve its legibility, which would make NE (i) read as follows:

- (i) *There will be a presumption against development which could adversely impact areas of international importance designated or proposed by Scottish Ministers for designation as Special Protection Areas or Special Areas of Conservation (Natura 2000 sites and Important Bird Areas). Any development likely to have a significant effect on a Natura 2000 site (Special Areas of Conservation, Special Protection Areas and Important Bird Areas) which is not directly connected with*

*or necessary to its conservation management must be subject to a “Habitats Regulations Appraisal” or an ‘appropriate assessment; of the implications for the conservation objectives. Such development will only be approved if the appraisal shows that there will be no adverse effect on the integrity of the site. A derogation is available for authorities to approve plans or projects which could adversely affect the integrity of a Natura site if:*

- It has been demonstrated that there are no alternative solutions;*
- There are reasons of over-riding public interest, including social and economic; and*
- Compensatory measures are taken to ensure that the overall coherence of the Natura 2000 network is protected.*

The Council consider the current wording of the policy to be robust, effective and sufficiently detailed. The modifications as outlined above, mostly involves moving the last two sentences under the final bullet point of criterion (i) into the main paragraph of criterion (i), as well as reworking the first bullet point into the main paragraph. The content is therefore already covered within the current wording of NE5. As such, the Council do not agree that the policy needs to be reworded. However, given the nature of the modifications, should the Reported be minded to implement them then the Council has no strong objections to this.

#### **Policy NE6: Vulnerable, Threatened and Protected Species**

##### Virtues of the Scottish Biodiversity List (110)

The Council recognises the value of the Scottish Biodiversity List, but also its limitations. This is the only readily accessible source of information on species requirement conservation action across Scotland and it is for this reason it has been utilised within NE6 to address and prevent unacceptable adverse impacts on these non-designated species. The Council acknowledge the comments made by (110) in relation to this and note that no modifications have been requested.

##### Out-of-date Ayrshire Local Biodiversity Action Plan (110)

Ayrshire Local Biodiversity Action Plan is out of date and (110) has concerns that this needs to be reviewed and updated. The Council recognise and acknowledge this, however, the Ayrshire Local Biodiversity Action Plan is the most up to date document in terms of action plans for biodiversity (CD100). The Council prepare a Biodiversity Duty Report for a four year period which outlines the role the local authority play in delivering biodiversity conservation, monitoring and partnership working outlining the Council’s continued commitment to achieving positive biodiversity objectives. No modifications are sought, however, the Council acknowledge the comments raised and the need for a review of this document strategically across Ayrshire.

##### Environmental appraisal based on scoping exercise instead of utilising the Biodiversity Action Plan (110)

In response to the Ayrshire Local Biodiversity Action Plan being out of date, (110) suggest that developments should utilise a proper environmental appraisal for a development that should be based on a proper scoping exercise. The comments

provided above apply here. The Council consider the current wording of NE6 to be effective, robust and sufficient, however, the Council acknowledges the comments raised and the need for a review of the Ayrshire Local Biodiversity Action Plan strategically across Ayrshire.

List South West Scotland Environment Information Centre as source of information (110)

The Council consider the current wording of policy NE6 to be effective, robust and sufficient. Regarding the request to list the South West Scotland Environment Information Centre as a source of information within NE6, the Council do not consider this modification to be necessary. The South West Scotland Environment Information Centre is a readily available resource from which potential applicants can obtain or gather information in relation to the distribution and status of species in Ayrshire, without the explicit direction from the Council. As such, the Council does not consider it necessary to modify NE6.

Removal of term 'Least Concern' from NE6 subsection 'Threatened and Vulnerable Wildlife' (110)

The Council acknowledge the comments provided by (110) in relation to the use of the term 'least concern'. Suggested modifications involve the removal of this term from subsection 'Threatened and Vulnerable Wildlife' to read: *"The Council will not support development which would have an unacceptable adverse impact on critically endangered, endangered, vulnerable and near threatened species."* The Council has no objections to the implementation of this modification, should the Reporter be minded to implement it.

Policy wording to include 'the population of protected species' (196)

The Council strongly disagrees with the modification of NE6 to include *"the population of"* protected species throughout. The Council consider the current wording of the policy to be appropriate, as it seeks to prevent unacceptable adverse impacts on protected species. By specifying that *the Council will not support development which would have an unacceptable adverse impact on the population of protected species*, in line with (196) comments, the policy would give less protection to protected species, only coming into effect when the population of a species in its entirety may be threatened. This is not deemed to give sufficient weight to the protection of protected species. It is also noted that policy 4 of NPF4, provides policy support for protected species, not populations of protected species. The Council consider this requested modification to be detrimental and contrary to the objectives of the policy. As such, the Council strongly disagree with the proposed modification.

Mitigation hierarchy (Draft NPF4 Annex C: Glossary of Definitions) and wording modifications to paragraphs one and two (157)

The Mitigation hierarchy, as outlined within Annex C of Draft NPF4 (page 125) states: *"The mitigation hierarchy indicates the order in which the impacts of development should be considered and addressed. These are:*

- i. avoid – by removing the impact at the outset;*

- ii. *minimise – by reducing the impact;*
- iii. *restore – by repairing damaged habitats;*
- iv. *offset – by compensating for the residual impact that remains, with preference to on-site over off-site measures.”*

(157) suggest modifying the first paragraph to set out the mitigation hierarchy above as they have concerns that “social or economic benefits of local importance” is open for broad interpretation. 157 further suggests that the first 2 paragraphs of the policy should be combined to read: *“Development should not adversely affect priority habitats or species set out within the Ayrshire Local Biodiversity Action Plan (or its successors). Where there is likely to be an adverse impact on biodiversity, an ecological appraisal will be required. This appraisal must identify potential impacts to all biodiversity assets (international, national and locally important) within or adjacent to the proposed site, providing detail on how detrimental impacts will be avoided, minimised, or if this is not possible, methods of mitigation which will provide opportunities for biodiversity enhancement.”*

The Council consider the current wording of NE6 to be effective and sufficient. The suggestion to combine paragraphs 1 and 2 is considered unnecessary and will not make any substantive difference to the application of the policy. It is not necessary to add in, ‘or its successors’ to the Biodiversity Action Plan, as the policy does not specify which version of the Action Plan it refers to so could already, in effect, be applied to more than one version.

In terms of the concern over the use of ‘social or economic benefits of local importance’ this is considered important in ensuring the approach to locally important habitats and species is proportionate. In comparison policy NE5 gives scope for development impacting sites of national importance for biodiversity, where it is outweighed by social, environmental or economic benefits of national importance. The approach taken to NE6 in relation to priority habitats or species is consistent with this in terms of locally important species/ habitats being balanced against social or economic benefits of local importance.

In relation to the suggestion that the mitigation hierarchy should be applied, it is noted that the mitigation hierarchy is set out in the LDP2 glossary and is referred to in policy NE4 of the Plan. In order to reflect the concerns of 157, the Council would be content, if the Reporter is minded, to also cross reference the mitigation hierarchy in policy NE6. This could be achieved through adding at the end of paragraph 2: **“in line with the mitigation hierarchy (see glossary)”**.

Provide appropriate definitions for terms ‘threatened’, ‘vulnerable’, ‘nationally rare’, ‘nationally scarce’ and ‘least concern’ (110)

See the Council’s response within the section 9.1 Glossary (page 166) below.

## **Policy NE7: Geodiversity and Geological Interest**

Requirement to demonstrate that there is no alternative site (145), (196), (198)

The Council consider the current wording of the policy to be effective and robust. One of the criteria of NE7 states that proposals *will not be supported by the Council unless*

*“there is no suitable alternative site for the development”*. (196) express concerns over the requirement to demonstrate that there is no alternative site for the development and that there is no definitive methodology to aid in this. (145) and (198) consider it to be unreasonable to require developers to demonstrate no alternative sites exist and as such suggest that NE7 be modified to remove bullet point two to be more proportionate. East Ayrshire only has a single Regionally Important Geological Site (Spireslack), located to the north-east of Muirkirk, which is approximately only 16.9 hectares in size. Given the specific context, the Council consider the requirement to demonstrate that there is no alternative site for development to be entirely reasonable and justified. The Council acknowledge the points made by (196) in relation to no definitive methodology being provided. The Council consider, given the context of the single site, it appropriate to leave this open to the interpretation of the subsequent developer. This criterion is in place to urge prospective developers to consider alternative sites, given that East Ayrshire only has one RIGS. As such, the Council strongly disagree that the policy should be modified to remove the second bullet point and that a methodology is required.

### **Policy NE8: Trees, Woodland, Forestry and Hedgerows**

#### Presumption against the loss of all trees (110)

(110) question whether NE8 sets realistic objectives in terms of tree loss. The Council consider the current wording of the policy to be realistic and robust. The policy direction of Draft NPF4, and carried forward into NPF4, significantly increases the prominence and protection of the natural environment in order to tackle the twin global crises of climate change and biodiversity loss. LDP2 has been written in order to reflect this and attempt to tackle these crises. The policy is worded to set a ‘presumption’ against the loss of trees, which is considered the right approach in recognising the importance of trees to the climate and nature crises. However, the policy does go on to provide instances where tree removal may be justified, ensuring there is some flexibility within the policy. To address the concern that the policy is unrealistic, the Council would not object to the policy being modified slightly to more directly align with exact wording of NPF4 in respect of the presumption against the loss of individual trees. The Council would be content, if the reporter is minded, to state *“individual trees of high biodiversity value”* which would loosen the objective to be more realistic in accordance with the comments provided by (110).

#### East Ayrshire hosting ancient and veteran (110)

The Council can confirm that there are a host of ancient and veteran trees within East Ayrshire as identified within the Ancient Tree Inventory (Woodland Trust website).

#### Wording of policy tests (196)

The Council disagrees that NE8 contains two contradictory policy tests, as outlined by (196) i.e. the presumption against the loss of particular categories of trees conflicts with paragraph 3 of NE8 which allows for their removal in certain circumstances. The Council does not agree this is contradictory. The starting point for the policy and for all proposals involving those categories of trees is that they should be retained. However, the policy then gives flexibility to support their removal in certain circumstances. This is



considered a reasonable approach and one that is also reflected in policy NE5 (i) and (iii). NE8 sets a *presumption against the loss of ancient semi-natural woodland, native woodland, ancient and veteran trees, individual trees, trees protected by Tree Preservation Order and Hedgerows* within settlements and rural areas. Whilst the Council considers there to be a justification for retaining the policy in its current form, in order to ensure alignment with national policy on this particular matter, the Council would have no strong objection to the Reporter amending Policy NE8 to more directly align with Policy 6 of the NPF4 (CD4) in order address the concerns of 196 regarding conflicts with NPF4. To this effect, the Council suggest the following minor amendments to the wording of NE8 would adequately address this and the comments provided by (196):

“Within settlements and rural areas, there will be a presumption against the loss of:

- ancient semi-natural woodland, ancient and veteran trees;
- native woodland, hedgerows **and** individual trees **of high biodiversity value;**  
**and**
- trees protected by Tree Preservation Orders;

Proposals which are likely to have an adverse impact on the ecological condition of these assets will not be supported by the Council. **Proposals which are likely to result in the fragmentation or severing of woodland habitats will not be supported by the Council, unless appropriate mitigation measures are identified and implemented in line with the mitigation hierarchy.**

The **loss** of these natural assets will only be **permitted** where significant and clearly defined economic, social and environmental benefits **can be achieved and the proposal is** in line with the Scottish Government’s Control of Woodland Policy.

Where removal can be fully justified, compensatory planting and mitigation will be required to the satisfaction of the Council and Forestry and Land Scotland and in line with the provisions of The Ayrshire and Arran Forestry & Woodland Strategy. The Scottish Government’s Control of Woodland Removal Policy will also be taken into account where relevant.

The Ayrshire and Arran Forestry and Woodland Strategy forms non-statutory guidance which supports Policy NE8 by providing detailed guidance on the most appropriate tree species and locations for woodland removal and creation to ensure that a net gain is achieved.”

Whilst the above text does not follow NPF4 verbatim, it does not present any problematic conflicts, which could hinder the determination of relevant planning applications.

#### **Guidance on significant and clearly defined benefits (196)**

The Council acknowledge that no guidance regarding what constitutes significant and clearly defined benefits has been provided within the policy. The Council do not consider this to be necessary. The Council consider that a degree of flexibility needs to be applied here as this is entirely dependent on the scale and nature of a proposal.

## 9.1 Glossary (page 166)

### Update Glossary to remove reference to 'Provisional Wildlife Sites' (110)

(110) suggest modifying the Glossary (on page 166) to remove reference to 'Provisional Wildlife Sites'. It is presumed (110) would like this to be replaced with Local Nature Conservation Sites. The Council agree with this suggested modification. The Council would argue that that description within the Glossary under 'Provisional Wildlife Site' remain unchanged and that the heading 'Provisional Wildlife Sites' be replaced with Local Nature Conservation Sites in order to more appropriately reflect current terminology.

### Update Glossary to include definitions relating to Policy NE6 (110)

#### Provide appropriate definitions for terms 'threatened', 'vulnerable', 'nationally rare', 'nationally scarce' and 'least concern' (110)

The Council agree with (110) that providing definitions for specific terms outlined within NE6 would be beneficial. The Council have no objection to this and would consider these to be non-notifiable modifications and most appropriately added to the Section 9.1 Glossary (pages 162-168). The Council would like to suggest the following wording, should the Reporter be minded to add definitions into the Glossary:

<b>Conservation action (species)</b>	The criteria for the threatened categories are to be applied to a taxon whatever the level of conservation action affecting it. It is important to emphasise here that a taxon may require conservation action even if it is not listed as threatened. Conservation actions which may benefit the taxon are included as part of the documentation requirements (see Annex 3 of the IUCN Red List of Threatened Species).
<b>Critically endangered</b>	A species considered to be facing an extremely high risk of extinction in the wild.
<b>Endangered</b>	A species considered to be facing a very high risk of extinction in the wild.
<b>Least concern</b>	A taxon is Least Concern when it does not qualify for Critically Endangered, Endangered, Vulnerable or Near Threatened. Widespread and abundant taxa are included in this category.
<b>Near threatened</b>	A species which does not qualify as critically endangered, endangered or vulnerable now, but is close to qualifying for or is likely to qualify for a threatened category in the near future.
<b>Nationally rare (species)</b>	A Nationally Rare species is found in 1-15 hectads.
<b>Nationally scarce (species)</b>	A Nationally Scarce species is found in 16-100 hectads.
<b>Rarity (species)</b>	The term Rarity is now used formally in relation to the number of 10x10 km squares (hectads) in which a species is known to occur.
<b>Vulnerable</b>	A species considered to be facing a high risk of extinction in the wild.



**Reporter's conclusions:**Relationship between 'Natural Environment' policies and Draft NPF4 (November 2021) (145), (196) and (198)

1. In relation to issues where representations suggest that there is potentially significant divergence between the policies of the proposed plan and NPF4, reporters invited parties who have submitted representations to make any further comments on the issues they have raised now they are aware of the final form of national policy. This puts them on the same footing as the council which was able to draft its responses in light of the approved version of NPF4 whereas those lodging representations commented in light of the draft version of NPF4.
2. I note the council's comments about the difficulty of aligning the proposed plan with NPF4, given the overlapping timescales. I accept that the proposed plan has been produced under transitional arrangements and recognise that a final dovetailing of policies between the two tiers of development plan will not take place until the council carries out the next review of the plan.

Draft NPF4 and Policies NE4, NE5, NE6 and NE8 (145), (196) and (198)

3. Whilst I consider that an ideal position would be removal of duplication between the two parts of the development plan, the role of this examination is limited to presenting conclusions and recommendations on issues raised in representations. Given the nature of the representations on nature and biodiversity in this examination, my focus has been to ensure consistency with NPF4 even when this involves some duplication. Reporters hope that, by taking this approach, where appropriate, they have been able to recommend modifications to the plan which provide the best alignment possible at this time. This is also intended to be consistent with the council's approach of seeking to incorporate policies on the range of topics covered by NPF4 into the proposed plan.

**Policy NE4: Nature Crisis**Wording of preamble text: paragraph 156 (110)

4. Policy 1 of NPF4 requires that, when considering all development proposals, significant weight be given to the nature crisis. In terms of guidance on biodiversity in local development plans, NPF4 requires local development plans to protect, conserve, restore and enhance biodiversity in line with the mitigation hierarchy. The first consideration in the mitigation hierarchy is to avoid impact. I consider that the slightly firmer wording suggested better takes account of this strong emphasis on protecting and promoting biodiversity in national policy. I have reflected this in the modification recommended below.
5. I also consider that it is appropriate for Policy NE4 to focus on the relationship between development and biodiversity. The local development plan is a land use planning document. It is not intended to address the wider contributions of the council and its partners on biodiversity. Matters relating to advice and collaboration would find a more appropriate home in the council's biodiversity action plan. I do not consider it necessary to modify the plan to include a reference on collaborative working.

Strengthen wording of first sentence (157)

6. The suggested revised wording of the first sentence of proposed Policy NE4 picks up the NPF4 expectation that local development plans will protect biodiversity, which I have referred to above but is not explicit in the proposed policy.

7. Arguably, the suggested change also gives greater prominence to the wording in section d) of NPF4 Policy 3 to the effect that adverse impacts will be minimised through careful planning and design. However, I consider that this is captured in the proposed policy in an adequate way and do not feel a modification is required on this point.

8. I note that the council has no significant objection to the changes proposed. I have recommended below a modification based on NatureScot's suggestion that the wording includes the words 'to protect'.

Subsection 'National, Major and EIA Development introduces significant expectations on developers (145), (196) and (198)

9. Section b) of NPF4 Policy 3 requires that proposals for national or major development, or for development that requires an environmental impact assessment (EIA) will only be supported where it can be demonstrated that they conserve, restore and enhance biodiversity, including nature networks so they are in a demonstrably better state than without intervention, including through future management. The first paragraph of that part of proposed Policy NE4 which deals with national, major and EIA development reflects this requirement.

10. Consequently, I do not consider a modification is required.

Wording and layout of subsection 'National, Major and EIA Development' (196)

11. These three types of development are grouped together at section b) of NPF4 Policy 3. Therefore, I consider it reasonable that proposed Policy NE4 does the same. I do not consider it necessary to separate out references to these types of development within the policy.

12. However, the council proposes some minor modifications to provide closer alignment between proposed Policy NE4 and this part of NPF4 Policy 3. These make clear that this section of the policy relates to national or major or EIA development, include a reference to restoring biodiversity, require use of best practice methods and add a requirement to consider local community benefits. I have endorsed these changes in the recommendation below.

13. This section of proposed Policy NE4 includes a reference to development for which an appropriate assessment is required which does not appear in NPF4 Policy 3 b). This requirement would be relevant to development proposals likely to have a significant effect on a European site. The council acknowledges this divergence but explains the reference was added because 15% of the council area is covered either by a Special Protection Area or a Special Area of Conservation, areas where an appropriate assessment would be required for development proposals. I recognise this local perspective but consider that the issue is addressed adequately by proposed

**Policy NE5: Protection of Areas of Nature Conservation Interest.**

14. Consequently, I have recommended below a modification which deletes the reference to appropriate assessment from this part of proposed Policy NE4 so that it aligns more closely with NPF4.

Wording of 'Mitigation' sub-section of Policy NE4 (157)

15. Removal of the word 'consider' from the 'mitigation' sub-section of proposed Policy NE4 would serve to emphasise the action required in terms of increasing biodiversity. I have recommended a modification to this effect below.

Requirement for mitigation and use of the term 'potential' (196)

16. Section b) iii. of NPF4 Policy 3 requires proposals for national or major or EIA development to demonstrate an assessment of potential negative effects which should be fully mitigated in line with the mitigation hierarchy prior to identifying enhancements. This provides for an analysis of negative impacts that proposed development could have. Some will be revealed to be neutral or positive but that may not be known until the full range of effects is considered. Criterion (iii) of proposed Policy NE4 is consistent with the wording in NPF4 so I do not consider it is necessary to modify the plan on this point.

Collaborative working with Scottish Wildlife Trust on LNCS and LNRs (110)

17. I have addressed this matter above under the sub-heading 'Wording of preamble text: paragraph 156 (110)'.

**Policy NE5: Protection of Areas of Nature Conservation Interest**

Suggestion to remove Local Nature Reserve from NE5 to create a separate specific LNR policy (110)

18. Policy for local nature reserves is set out in sub-section (iii) of the second part of proposed Policy NE5: Protection of Areas of Nature Conservation Interest. Sub-section (iii) provided policy guidance for these and other sites of local nature conservation importance. In the interest of presenting a concise plan I consider this is an appropriate structure, not least as the council points out there is only one local nature reserve in East Ayrshire.

19. I do not consider it necessary to modify the plan.

Identification of more Local Nature Reserves required (110)

20. I note from the council's comments on Issue 43: Rural Area that it is undertaking a review of Local Nature Conservation Sites. If this review concludes that any new sites of local importance should be designated this could be reflected in the next version of the local development plan. I also acknowledge the point that, in the event that additional sites are designated after the plan is adopted, the proposed wording of Policy NE5 would apply equally to these areas.

21. I do not consider it necessary to modify the plan.

Expectations on developers within NE5 criterion (iii) (145) and (198)

22. I have indicated above, in relation to consideration of representations on proposed Policy NE4, that, through Policies 1 and 3, NPF4 places a strong emphasis on the protection and enhancement of biodiversity. I have referred to the requirement for local development plans to protect, conserve, restore and enhance biodiversity in line with the mitigation hierarchy. The mitigation hierarchy indicates the order in which the impacts of development should be considered and addressed. This is as follows: firstly, avoid, secondly, minimise, thirdly, restore and, fourthly, offset.

23. In this context, I do not find the presumption against development which could have an adverse impact on sites of local importance as a starting point for the evaluation of proposals to be inappropriate. I accept the council's argument that this is only the starting point and that section (iii) goes on to explain the circumstances where development will be permitted.

24. However, part d) of NPF4 Policy 4 refers to 'significant' adverse effects on the integrity of the area or the qualities for which it has been designated. Policy 4 also requires that, if development is to be supported, these adverse effects must be outweighed by social, environmental or economic benefits of at least local importance. This approach is not echoed in proposed Policy NE5. I have recommended below a modification to provide alignment between national and local policy on these points.

25. The local development plan is expected to add a local dimension to policy. I consider that reference to designated sites and to sites where conservation or enhancement work has taken, or is taking, place meets that expectation. In terms of the non-designated areas referred to in section (iii), I note the emphasis in NPF4 on local development plans promoting nature recovery and restoration.

26. I consider the council's suggestion that, where development is permitted, appropriate measures required are to be proportional to the nature and scale of development and its impact to be helpful. I have recommended this modification below.

Map illustrating LNCS and LNR (110)

27. I consider that the absence of a plan showing the location of nature conservation sites is an unfortunate omission. However, I note the council's advice that its review of local nature conservation sites is not complete. Therefore, inclusion of any plan showing these sites as a modification to the plan would be outdated as soon as that review is concluded.

28. Whilst it is an untidy solution, I consider that, on balance, it would be helpful to include the Nature Conservation Sites Map produced for this examination in Volume 2 of the plan, as appears to be the original intention. I appreciate that the council has recommended that this map be included as a non-notifiable modification. However, I am concerned that this would go beyond what is allowed for in legislation which permits adjustment to maps to reflect the reporter's modifications. This implies adjustments can be made to existing maps, not that new maps can be added to the plan.

29. Along with this, I endorse the council's suggestion that a plan showing local nature conservation sites is published as part of non-statutory planning guidance expected to be completed during 2023.

30. I have recommended two modifications below to reflect these conclusions.

Removal of reference to Natura 2000 sites (replaced with European sites) (157)

31. Following the UK's withdrawal from the EU, I agree that it is appropriate to replace the term 'Natura 2000 sites' in proposed Policy NE5 with the term 'European sites'. This is in line with the wording used in NPF4. I also agree that it is appropriate to delete the term 'Important Bird Areas' as this is covered by the reference to Special Protection Areas and other named designations. I have recommended these modifications below in my proposed reworking of section (i) of the policy.

Re-wilding of former mineral sites (189)

32. I recognise that restored and regenerated mineral sites can, in time, have significant biodiversity value, but my experience is that this is not necessarily the case, depending on the nature of the working and the quality of any restoration and aftercare. This potential is recognised by the council in the references highlighted in the proposed plan to brownfield land and mineral sites.

33. NPF4 requires that local development plans promote nature recovery and nature restoration including by restoring degraded habitats or creating new habitats. In this context, I consider that it would be appropriate to provide policy protection to former sites of mineral extraction depending upon the value of any naturalisation that has taken place. This is consistent with the wording of proposed Policy MIN8: Reworking of Waste Spoil Tips.

34. I have recommended below a modification to address this.

Link to Policy SS1 and responding to the climate emergency (196)

35. In the 'How to Use the Plan' section of the introduction to the proposed plan, the council states that 'the whole plan must be taken into account when assessing development proposals' and 'policies...cannot be "cherry-picked" and used in isolation'. This is established practice and, with this in mind, I do not consider it necessary for proposed Policy NE5 to reinforce proposed Policy SS1: Climate Change.

36. No modification is required.

37. I have addressed concerns about overlap between proposed Policy NE5 and NPF4 at the beginning of this chapter of the examination report.

Renewable energy development and peatland restoration works (284)

38. There is nothing in proposed Policy NE5 which would necessarily prevent the development of a wind farm that would provide peatland restoration. The only specific reference to peat in the policy is at criterion (iii) which states a presumption against

development that could have an adverse impact on bog and peatland restoration sites but, where development is permitted, the policy sets out the appropriate measures that would have to be put in place. Proposals would, however, require to comply with other policies of the proposed plan including Policy SS1: Climate Change, Policy RE1: Renewable Energy and Policy NE11: Soils.

39. I do not consider it necessary to modify Policy NE5.

Policy ordering, layout and legibility of Policy NE5 section (i) (310)

40. The proposed revision seeks to include a reference to derogation. This would make clear the role of Scottish Ministers in approval of proposals that could adversely affect a European site. That being the case, I consider the proposed reworking of Policy NE5 section (i) presents the assessment process in a logical order. I have endorsed the proposed change in the recommendation below.

**Policy NE6: Vulnerable, Threatened and Protected Species**

Virtues of the Scottish Biodiversity List (110)

41. The council and Scottish Wildlife Trust agree that the Scottish Biodiversity List (SBL), referred to under that part of proposed Policy NE6 that relates to protected species, has limitations in terms of completeness and reliability. However, neither organisation proposes an alternative reference point. That being the case, I consider it is reasonable to retain the reference to the SBL and rely on any ecological appraisal to expose any shortcomings that would affect protected species. No modification is required.

Out-of-date Ayrshire Local Biodiversity Action Plan (110)

42. I note the view that the local biodiversity action plan is out of date. This is recognised by the council. However, this is an issue which falls outwith the scope of this examination. No modification is required.

Environmental appraisal based on scoping exercise instead of utilising the Biodiversity Action Plan (110)

43. The comments I have made above in relation to the SBL apply equally to using the Ayrshire Local Biodiversity Action Plan as a reference point in proposed Policy NE6. No modification is required.

List South West Scotland Environmental Information Centre (SWSEIC) as source of information (110)

44. Whilst I have no doubt that SWSEIC provides reliable, local, environmental advice, I do not know from the information provided whether that service is available only to public agencies and members of the community or whether it is also provided commercially; nor do I have the agreement of the centre to the inclusion of a reference to its services in the proposed plan. On that basis, I feel unable to recommend a modification referring to SWSEIC as an information source on the distribution and



status of wildlife in East Ayrshire. However, not including a reference to SWSEIC's services in the proposed plan does not preclude people from seeking the Centre's advice.

Removal of term 'least-concern' from Policy NE6 subsection 'Threatened and Vulnerable Wildlife' (110)

45. I agree with the view that use of the term 'least-concern' species is not appropriate as it includes the majority of plants and animals in East Ayrshire. I note that the council also shares this view. I have recommended below a modification which proposes the deletion of these words.

Policy wording to include 'the population of protected species' (196)

46. The alternative wording suggested does not seem to me to provide an adequate safeguard against cumulative impacts nor to prevent unacceptable impacts on a species in a particular geographic area.

47. Part f) of NPF4 Policy 4 states that development proposals that are likely to have an adverse effect on species protected by legislation will only be supported where the proposal meets the relevant statutory tests. The Scottish Government does not use the term 'population of protected species'. Rather, it is required that the protection afforded follows the statutory requirements in each case.

48. I agree with the council that the suggested re-wording would be contrary to what Policy NE6 seeks to achieve. I do not consider the policy wording should be modified on the lines proposed.

Mitigation hierarchy (Draft NPF4 Annex C: Glossary of Definitions) and wording modifications to paragraphs one and two (157)

49. Section d) ii. of NPF4 Policy 4 states that development proposals that affect a site designated as a local nature conservation site in the local development plan will only be supported where any significant adverse effects on the integrity of the area are clearly outweighed by social, environmental or economic benefits of at least local importance. Although this part of NPF4 relates to designated sites rather than habitats and species, I consider that the issues likely to be involved are sufficiently similar that it is appropriate for the first paragraph of proposed Policy NE6 to adopt the same approach as NPF4 Policy 4, which it does reasonably faithfully.

50. Consequently, I do not consider that a revision along the lines suggested is required. However, I consider that closer alignment would result by referring to significant adverse effects rather than adverse effects and by adding a reference to environmental benefits alongside social and economic benefits as potential mitigating factors. I have recommended below a modification to this effect.

51. The reference to the local biodiversity action plan is not to a particular version of the plan so I do not consider it necessary to clarify that the policy also applies to subsequent versions of the plan. No modification is required on this point.



52. I agree that a reference to the mitigation hierarchy, which is also referenced in NPF4, would be helpful for plan users and have adopted the additional text suggested by the council in the modification recommended below.

Provide appropriate definitions for terms 'threatened', 'vulnerable', 'nationally rare', 'nationally scarce' and 'least concern' (110)

53. I have dealt with this matter below under the sub-heading '9.1 Glossary (page 166)'.

### **Policy NE7: Geodiversity and Geological Interest**

Requirement to demonstrate that there is no alternative site (145), (196) and (198)

54. The council advises that proposed Policy NE7 applies to one site in East Ayrshire: the Spireslack Regionally Important Geological Site (RIGS). I understand RIGS to be a designation with a similar status to other local nature conservation sites. NPF4 does not set out national policy specifically on RIGS. However, section d) of Policy 4 which relates to local nature conservation sites does not include a requirement for developers to demonstrate that there is no suitable alternative site for development.

55. I do not have evidence to indicate that there is anything of particular local significance about the Spireslack RIGS that would require a different level of protection from other RIGS. Therefore, I have recommended a modification below which deletes this part of Policy NE7.

### **Policy NE8: Trees, Woodland, Forestry and Hedgerows**

Presumption against the loss of all trees (110)

56. Section b) of NPF4 Policy 6 sets out national policy on protection of woodland and trees. The first part of proposed Policy NE8 is broadly consistent with NPF4. One of the main differences, as the council recognises, is that NPF4 provides protection for individual trees of high biodiversity value whereas Policy NE8 refers only to individual trees. I have recommended below a modification that aligns the wording in the local development plan with national policy both in relation to individual trees and native woodland and hedgerows.

East Ayrshire hosting ancient and veteran trees (110)

57. I note these observations. No modification required.

Wording of policy tests (196)

58. Part b) of NPF4 Policy 6 states that development proposals will not be supported where they will result in one or more of four potential adverse impacts. Proposed Policy NE8 sets out a presumption against the loss of trees, woodland and hedgerows as described against the bullet points that follow on. The precise form of words in the proposed local development plan differs from that in NPF4 but I consider that the policy intent is the same. The suggested starting point whereby loss of trees is permitted

where benefits can be achieved would have a very different policy effect. I do not consider a modification to the plan is appropriate

59. However, I acknowledge that some confusion may arise in terms of the policy test set out in Policy NE8 due to the proposed wording of paragraph three of the proposed policy. This states that 'removal of these natural assets will only be allowed where this will achieve significant and clearly defined...benefits'. Were this to read 'where removal of trees, woodland and hedgerows is allowed, it will be necessary for the development proposals to achieve significant and clearly defined...benefits' this would better take account of NPF4 Policy 6 c). I have recommended below a modification below to address this point.

60. The modification I have recommended under the sub-heading 'Presumption against the loss of all trees' above seeks to provide greater general consistency between the first part of proposed Policy NE8 and parts b) i. and ii. of NPF4 Policy 6.

61. Part b) iii. of Policy 6 states that development proposals will not be supported if they would result in fragmented or severed woodland habitats unless appropriate mitigation measures are identified and implemented. The council acknowledges that greater consistency between local and national policy could be achieved on this point. Accordingly, I have recommended below a further modification to address this.

62. The council has also suggested a revision to the third paragraph of proposed Policy NE8. I agree that this would improve alignment with part c) of NPF4 Policy 6. I have recommended below a modification based closely on the council's proposed change.

63. NPF4 Policy 6 states that development proposals that will conflict with a Scottish Forestry restocking direction, remedial notice, or registered notice to comply will not be supported. For completeness, I have recommended below the addition of a further bullet point to reflect this policy position in proposed Policy NE8.

#### Guidance on significant and clearly defined benefits (196)

64. I agree with the council's position that it is not realistic for proposed Policy NE8 to give detailed guidance on what constitutes significant and clearly defined benefits as this will vary from proposal to proposal. I consider it is reasonable to rely on the development management process to resolve these issues on a case-by-case basis. I note that the footnote to proposed Policy NE8 advises that the Ayrshire and Arran Forestry and Woodland Strategy provides non-statutory guidance on matters including how to ensure a net gain is achieved.

65. I do not consider that a modification to the proposed policy is necessary.

### **9.1 Glossary (page 166)**

#### Update Glossary to remove reference to 'Provisional Wildlife Sites' (110)

66. I agree that changing the wording 'Provisional Wildlife Sites' to 'Local Nature Conservation Sites' better reflects the wording used in the local development plan and

NPF4. I have recommended below a modification to this effect.

Update Glossary to include definitions relating to Policy NE6 (110)

67. I agree that it would be useful to add to the glossary definitions for terms used in proposed Policy NE6: Vulnerable, Threatened and Protected Species. I have recommended below a modification based closely on the definitions suggested by the council for the following terms: 'conservation action (species)', 'critically endangered', 'endangered', 'least concern', 'near threatened', 'nationally rare (species)', 'nationally scarce (species)', 'rarity (species)' and 'vulnerable'.

**Reporter's recommendations:**

I recommend that the plan be modified as follows:

1. Deletion of the first sentence of paragraph 156 and substitution with the following sentence:

'The council will not support development which would have an unacceptable impact on nature and biodiversity.'

2. Deletion of the first sentence of Policy NE4 and substitution with the following phrase:

'In order to protect biodiversity and facilitate its enhancement, recovery and restoration across East Ayrshire, the council will support development proposals that contribute to the enhancement of biodiversity, including the restoration of degraded habitats, build and strengthen nature networks and improve the connection between these networks and minimise adverse impacts through careful planning and design.'

3. Deletion of the existing first paragraph under the sub-heading 'Mitigation' at Policy NE4 and substitution with the following paragraph:

'The council will be supportive of proposals which incorporate measures which are likely to increase biodiversity and the population of species, most notably those identified within criteria (i) to (iv) of Policy NE6 Vulnerable, Threatened and Protected Species.'

4. Deletion of the sub-heading 'National, Major and EIA Development' in Policy NE4 and the first paragraph under that sub-heading and substitution with the following wording:

'National or Major Development or Development that requires an Environmental Impact Assessment

Development proposals for national or major development or development that requires an environmental impact assessment (EIA) will only be supported by the council where it can be demonstrated that the proposal will conserve, restore and enhance biodiversity, including nature networks, so that they are in a demonstrably better state than without intervention, including through future management. To inform

this, best practice assessment methods should be used.'

5. Addition of a fifth criterion under the new heading 'National or Major Development or Development that requires an Environmental Impact Assessment', as follows:

'Consider local community benefits of the biodiversity and/or nature networks.'

6. Deletion of section (i) of Policy NE5: Protection of Areas of Nature Conservation Interest and substitution with the following wording:

'(i) There will be a presumption against development which could adversely impact areas of international importance designated or proposed by Scottish Ministers for designation as Special Protection Areas or Special Areas of Conservation (European sites). Any development likely to have a significant effect on a European site which is not directly connected with, or necessary for, its conservation management must be subject to a 'Habitats Regulations Appraisal' or an 'appropriate assessment' of the implications for the conservation objectives. Such development will only be approved if the appraisal shows there will be no adverse effect on the integrity of the site. A derogation from Scottish Ministers is available for authorities to approve plans or projects which could adversely affect the integrity of a European site if:

- it has been demonstrated that there are no alternative solutions;
- there are reasons of over-riding public interest, including social and economic reasons; and
- compensatory measures are taken to ensure that the overall coherence of the European sites network is protected.

7. Deletion of the first sentence of section (iii) of Policy NE5: and substitution with the following sentences:

'There will be a presumption against any development which could have a significant adverse impact on the integrity of a site of **local importance** (i.e. Local Nature Conservation Site and Local Nature Reserve) or the qualities for which it has been identified. This presumption against development will also apply to other sites which are undergoing or have undertaken in-situ conservation and/or long-term enhancement work (i.e. bog and peatland restoration sites) and sites of former mineral extraction that have been restored or naturally regenerated, subject to an assessment of the environmental value of any flora and fauna on the site.'

8. Addition of the following wording at the end of section (iii) of Policy NE5:

'..., in proportion to the nature and scale of the development and its impact. Any significant adverse impact on the integrity of the area must be clearly outweighed by social, environmental or economic benefits of at least local importance.'

9. The Nature Conservation Sites Map produced for the local development plan examination (CD31) is to be included in Volume 2 of the plan.

10. Deletion of paragraph 160 and substitution with the following paragraph:

'The Nature Conservation Sites Map in Volume 2 of the plan shows the location of

Special Protection Areas, Special Areas of Control, Sites of Special Scientific Interest and Local Nature Reserves along with wild land and the Galloway and South Ayrshire Biosphere. The council is currently undertaking a review of Local Nature Conservation Sites and will produce non-statutory planning guidance accordingly. This will include a map showing the location of local nature conservation sites.'

11. Deletion of the first paragraph of Policy NE6 Vulnerable, Threatened and Protected Species under the sub-heading 'Biodiversity Action Plan' and substitution with the following paragraph:

'Development that would have a significantly adverse effect on priority habitats or species set out within the Ayrshire Local Biodiversity Action Plan will not be permitted unless it can be demonstrated that the impacts are clearly outweighed by social, environmental or economic benefits of local importance.'

12. Addition of the following phrase at the end of the second paragraph of Policy NE6 under the sub-heading 'Biodiversity Action Plan':

'...where applicable, in line with the mitigation hierarchy (see glossary).'

13. Deletion of the paragraph under the sub-heading 'Threatened and Vulnerable Wildlife' in Policy NE6: and substitution with the following paragraph:

'The council will not support development which would have an unacceptable adverse impact on critically endangered, endangered, vulnerable or near-threatened species.'

14. Deletion of the following wording from Policy NE7: Geodiversity and Geological Interest:

- 'There is no suitable alternative site for the development;'

15. Deletion of the wording against the six bullet points under Policy NE8: Trees, Woodland, Forestry and Hedgerows and substitution with the following wording:

- 'ancient semi-natural woodland and ancient and veteran trees;
- native woodland, hedgerows and individual trees of high biodiversity value or identified for protection in the Ayrshire and Arran Forestry and Woodland Strategy; and
- trees protected by Tree Preservation Orders'.

16. Addition of the following sentence to the second paragraph of Policy NE8:

'Proposals which are likely to result in fragmentation or severance of woodland habitats will not be supported unless appropriate mitigation measures are identified and implemented in line with the mitigation hierarchy (see glossary).'

17. Addition of a new third paragraph to Policy NE8, as follows:

'Development proposals will not be supported where they conflict with a restocking direction, remedial notice or registered notice to comply issued by Scottish Forestry.'

18. Deletion of the existing third paragraph of Policy NE8 and substitution with the following paragraph:

‘Where the loss of trees, woodland and hedgerows is allowed, it will be necessary for development proposals to achieve significant and clearly defined additional economic, social or environmental public benefits in line with the Scottish Government’s Control of Woodland Removal policy.’

19. Changing the wording ‘Provisional Wildlife Sites’ in the glossary to ‘Local Nature Conservation Sites’.

20. Addition of the following terms and definitions to Section 9.1 Glossary:

- Conservation action (species): The criteria for the threatened categories are to be applied to a taxon (family or species) whatever the level of conservation action affecting it. It is important to emphasise that a taxon may require conservation action even if it is not listed as threatened. Conservation actions which may benefit the taxon are included as part of the documentation requirements (see Annex 3 of the IUCN Red List of Threatened Species).
- Critically endangered: A species considered to be facing an extremely high risk of extinction in the wild.
- Endangered: A species considered to be facing a very high risk of extinction in the wild.
- Least concern: A taxon which does not qualify as being critically endangered, endangered, vulnerable or near threatened. Widespread and abundant taxa are included in this category.
- Near threatened: A species which does not qualify as critically endangered, endangered or vulnerable now but is close to qualifying or is likely to qualify for a threatened category in the near future.
- Nationally rare (species): A species found in 1-15 hectads (100 square kilometres).
- Nationally scarce (species): A species found in 16-100 hectads.
- Rarity (species): The term used formally in relation to the number of hectads in which a species is known to occur.
- Vulnerable: A species considered to be facing a high risk of extinction in the wild.

21. Deletion of the bullet point ‘Local Nature Conservation Sites’ on page 3 of Volume 2 and insertion of a new eighth paragraph on page 3 to read:

‘A separate Soils Map shows the location of prime and good quality, locally important agricultural land and Class 1, 2 and 5 areas of carbon-rich soil, deep peat and priority peatland habitat. Nature conservation sites are also shown on a separate map.’

Issue 14	Soils and Agricultural Land	
Development plan reference:	Volume 1: Policy NE10 and NE11 and supporting paragraphs 169 – 173 Volume 2: Final paragraph of page 3	Reporter: Steve Field
Body or person(s) submitting a representation raising the issue (including reference number):		
SEPA (106) Homes For Scotland (128) REG/ESB (145) Gladman (146) NatureScot (157) AN Other (192)		Barratt Homes (195) ScottishPower Renewables (196) RES UK & Ireland (198) Community Windpower (261) Scottish Government (310) G Roberts (312)
Provision of the development plan to which the issue relates:	The content and wording of the policies and supporting paragraphs relating to soils and agricultural land, specifically Policies NE10 and NE11 as well as wording within Volume 2, page 3	
Planning authority's summary of the representation(s):		
<p><b>Policy NE10: Protection of Prime-Quality Agricultural Land</b></p> <p><u>Homes For Scotland (128), Gladman (146) and Barratt Homes (195)</u></p> <p>Assume that new dwellings would be permitted on agricultural land due to demand for new homes and seek clarity that this is the correct interpretation.</p> <p><u>AN Other (192)</u></p> <p>Welcomes the protection of prime-quality agricultural land as a matter of national importance, but recommends that maps be included within the Plan to show the location of assets such as prime-quality agricultural land.</p> <p><u>ScottishPower Renewables (196)</u></p> <p>The policy should be revised and simplified in order to follow national policy (Draft NPF4) (CD3) and avoid duplication.</p> <p>Additional policies should only be created where necessary in order to reflect local circumstance.</p> <p>Express concerns over potential changes to national policy following the release of the finalised NPF4.</p> <p>Objects to the wording of policy NE10 which does not explicitly state support for renewable developments which they argue is contrary to Draft NPF4 (CD3) policy 31: Rural places criterion (H).</p>		



Highlights a discrepancy in wording between Volume 1 and Volume 2 in relation to the presence of a Map illustrating the location of prime-quality agricultural land.

### **Policy NE11: Soils**

#### SEPA (106)

Consider the policy would benefit from the introduction of the requirement for construction that minimises the amount of disturbance to soils, not simply design.

The policy should be revised to introduce soil sealing, in order to align NE11 with broader environmental protection objectives as set within the Environmental Protection section (page 86). See Issue 15.

Paragraph 3 of the policy should be revised to include reference to baseline depth, quality and stability.

Paragraph 3 of the policy should be amended to include soil disturbance, greenhouse gas emissions a loss of carbon following likely effects.

Paragraph 4 should be amend to make reference to “Peat Management Plan” replacing “Peatland Management Plan”.

Wish to see the Peat Management Plan section expanded to include a requirement to clearly demonstrate that the disturbance of pristine or near natural peatland and peat greater than 1m in depth has been avoided and disturbance, degradation or erosion is minimised through design and construction methods.

Paragraph 4 should be amended to outline that where peat and or peatland vegetation is displaced, this should be reintegrated into a functional peatland system utilising the mitigation hierarchy and relevant biodiversity policies.

#### REG/ESB (145), RES UK & Ireland (198), Community Windpower (261) and ScottishPower Renewables (196)

Outline their interpretation of Policy NE11 which is that there would be a presumption against wind farm development due to the disturbance of peat. Express concerns that this deviates from Draft NPF4 (CD3) and provide an argument that renewable developments re-use disturbed peat and often incorporate peatland enhancement works into proposals. RES UK & Ireland (198) consider the proposed plan content (NE11) to misalign with emerging planning policy. Community Windpower (261) consider that NE11 should reflect the policy content of the EALDP (2017). ScottishPower Renewables (196) specifically highlight a policy conflict with Draft NPF4 (CD3) and that the policy should be revised and simplified in order to follow national policy (Draft NPF4) and avoid duplication.

#### SEPA (106), NatureScot (157) and G Roberts (312)

Highlight that the map outlining soil related assets is not present within Volume 2, as outlined, and request that this be added.

AN Other (192)

NE11 sets a clear presumption against windfarm development. The section on the presumption against the disturbance and/or removal and circumstances within which it is considered essential, should be included within Policy RE1: Renewable Energy. See Issue 22.

ScottishPower Renewables (196)

Additional policies should only be created where necessary in order to reflect local circumstance.

Objects to the wording of policy NE11 which does not explicitly state support for renewable developments in conflict with Draft NPF4 (CD3) Policy 33: Soils. Such developments play a leading role in the management and restoration of peatlands.

Seeks clarity on what constitutes necessary disturbance, degradation or erosion.

Highlights a discrepancy in wording between Volume 1 (paragraph 173) and Volume 2 in relation to the presence of a Map illustrating the location of prime-quality agricultural land.

Scottish Government (310)

Suggests that Policy NE11 should be amended to align with the wording of Scottish Planning Policy paragraph 205 (CD26) to include all soils of value for carbon sequestration and suggest minor amendments to wording.

G Roberts (312)

Suggests that the policy should be strengthened to not simply minimise adverse impacts but to protect carbon rich soils from development and argues that mitigation for peat loss is unacceptable.

Expresses concern that within the 'Peat and Carbon Rich Soils' section there is a get out clause through the wording "there will be a presumption against the disturbance".

Requested that peat disturbance and/or removal should not be permitted, highlighting that any mitigation cannot compensate for loss of this asset. G Roberts makes reference to Draft NPF4 (CD3) Policy 31, 32 and 33: Soils which outlines the desire to preserve and restore these assets due to their critical role.

Suggests that the policy be amended to award the highest level of protection to peatland stating that there is a presumption against the disturbance and or removal of Class 1, 2 and 5 peatland soils. This is substantiated through the argument that restoration efforts have a limited ecological value and does not compensate for damage or loss.

States explicitly that mitigation elsewhere for peat loss is unacceptable.

Requests that the 'Removal and Storage of Peat' section be amended to state that the commercial extraction of peat is unacceptable.

**Modifications sought by those submitting representations:**

**Policy NE10: Protection of Prime-Quality Agricultural Land**

Homes For Scotland (128), Gladman (146) and Barrat Homes (195)

Although no specific amendment is provided, it is assumed that they request a modification to Policy NE10 to - enable housing on prime quality agricultural land where it is sustainable to meet demand/need.

AN Other (192) and ScottishPower Renewables (196)

Modify the Plan to – Include a map which shows the location of assets such as prime-quality agricultural land to which Policy NE10 relates and amend the associated wording in Volume 1 (pages 85 & 86) and Volume 2 (page 3).

ScottishPower Renewables (196)

Although not specific wording is suggested, ScottishPower Renewables requests that Policy NE11 be revised to – Simplify the policy to remove duplication from Draft NPF4 in terms of policy tests and only deviate from Draft NPF4 where appropriate to reflect local circumstance.

Although no specific wording is suggested, ScottishPower Renewables requests that Policy NE11 to be revised to - include explicit support for essential renewable energy developments.

**Policy NE11: Soils**

SEPA (106)

Although not explicitly stated, it is presumed that SEPA seek an amendment to the policy to include reference to the requirement for construction that minimises the amount of disturbance to soils, not simply design, so that the policy reads – “Development proposals on undeveloped land should be designed **and constructed** to minimise disturbance to soils and protect them from damage, including erosion and compaction.”

Modify NE11 to include soil sealing, although no specific wording is provided, it is suggested that the policy be modified to read – “Development proposals on undeveloped land should be designed to minimise disturbance to soils and protect them from damage, including erosion, and compaction **and soil sealing**.”

Although no specific wording is provided, it is suggested that NE11, paragraph 3, be modified to include - reference to baseline depth, quality and stability.

Although no specific wording is provided, it is suggested that NE11, paragraph 3, be

modified to include - soil disturbance, greenhouse gas emissions and loss of carbon following likely effects.

Although no specific wording is provided, it is suggested that NE11, paragraph 4, be modified to replace “Peatland Management Plan” with - “Peat Management Plan”.

Although no specific wording is provided, it is suggested that NE11 be modified to set a requirement to - clearly demonstrate that the disturbance of pristine or near natural peatland and peat greater than 1m in depth has been avoided and disturbance, degradation or erosion is minimised through design and construction methods.

Although no specific wording is provided, it is suggested that NE11, paragraph 4, be modified to - outline that where peat and or peatland vegetation is displaced, this should be reintegrated into a functional peatland system utilising the mitigation hierarchy and relevant biodiversity policies.

REG/ESB (145), RES UK & Ireland (198), Community Windpower (261) and ScottishPower Renewables (196)

Although no specific wording is suggested, the respondents request that NE11 be modified to - further reflect Draft NPF4 Policy 33: Soils to recognise that renewable energy generation proposals on peatland can be acceptable.

SEPA (106), NatureScot (157) and G Roberts (312)

Modify the Plan to – Include a map which shows the location of assets such as prime-quality agricultural land to which Policy NE10 relates.

Community Windpower (261)

Modify NE11 to include the following statement - **“However, development may be permitted for renewable energy generating developments on carbon rich soils where it can be demonstrated (in accordance with the Scottish Government’s ‘carbon calculator’ or other equivalent evidence) that the balance of advantage in terms of climate change mitigation lies with the energy generation proposal, and that any significant effects on these areas can be substantially overcome by siting, design or other mitigation.”**

Scottish Government (310)

Modify Policy NE11, subsection ‘Peat and Carbon Rich Soils’ to read – “In recognition of the role of **peat**, peatland **and carbon rich** soils as valuable carbon stores or “sinks”, the Council will seek to minimise adverse impacts from development on such soils, including by the release of CO2 to the atmosphere.”

G Roberts (312)

Seeks strengthening policy NE11. Modify subsection ‘peat and Carbon Rich Soils’ to read – “In recognition of the role peatland soils as valuable carbon stores or “sinks”, the Council will seek to **protect (and where possible enhance) carbon rich soils from**

**development** ~~minimise adverse impacts from development on such soils~~, including by the release of CO<sub>2</sub> to the atmosphere”.

Policy NE11 should be modified to not permit the disturbance or removal of peat. No precise or suggested wording has been provided.

Modify NE11 to abbreviate subsection ‘Peat and Carbon Rich Soils’, removing the permissible circumstances for disturbance and/or removal entirely so that NE11 will read – “...to reduce net carbon emissions. **There will be a presumption against the disturbance and/or removal of Class 1, 2 and 5 peatland, deep peat and other carbon rich soils.** ~~unless it is essential for:~~

- ~~• In-situ conservation purposes; or~~
- ~~• The restoration of peatland”~~

Modify Policy NE11, subsection ‘Removal and Storage of Peat’, from “The Council will not support any export of peat from a site for commercial purposes” to state that commercial extraction of peat is unacceptable. Although not expressly stated, it is presumed that this includes amendment of associated paragraph 176 to reflect the suggested wording amendment.

#### Summary of responses (including reasons) by planning authority:

The Integration of Draft NPF4 (November 2021) into ‘Soil and Agricultural Land’ policies - (196)

##### Background/Overview

In order to appropriately address the comments and objections made to the PLDP2 in relation to the relationship between the PLDP2s ‘Natural Environment’ policies and the content of Draft NPF4 (published November 2021) (CD3), the Council considered it effective to have a separate section. Comments made on policies NE10 and NE11 not specific to NPF4 are addressed further down within the ‘Summary of responses’ section.

The Council notes the concerns raised regarding the relationship between the Proposed LDP2 and the draft NPF4 (CD3). In general terms, due to the timing of the LDP2 process and the publication of the draft NPF4, the council took the decision that the Proposed Plan should, where appropriate, take on board draft NPF4. Whilst it was acknowledged that the draft would be subject to change as a result of consultation, the alternative scenario, whereby the Proposed Plan would not take on board the draft NPF4 was considered by the Council to create a greater risk i.e. the Proposed Plan would be significantly out of line with the finalised NPF. The time pressure to produce LDP2 (i.e. the transitional arrangements (CD25) and the increasing age of the EALDP 2017) meant that awaiting a finalised NPF4 was not a feasible option.

The Proposed Plan was published for consultation in May 2022 and the NPF4 (CD4) has since been published by the Scottish Government on 8 November 2022.

Whilst the LDP2 has been prepared under the Town and Country Planning Act 1997 (as amended by the 2006 Planning Act) and the transitional arrangements, it is worth

noting the new and emerging legislative context in terms of the intended relationship between NPF4 and Local Development Plans. Section 16 (2) of the Town and Country Planning Act 1997 (as amended by the 2006 and 2019 Acts) (CD65) requires, in preparing a local development plan, a planning authority to take into account the National Planning Framework. Draft regulations on Local Development Planning (CD 29) were published and consulted upon by the Scottish Government in December 2021. Whilst these hold no status, and again, do not need to be applied to the preparation of LDP2, they are useful in providing a steer as to how Local Development Plans should 'take into account' NPF4. Paragraph 153 of the draft regulations (CD29) states in relation to the preparation of LDPs that 'Any policy wording included in the plan should focus on adding value by providing any necessary detail not provided by the NPF **or where national policy does not reflect local circumstances and local variation is therefore considered appropriate.**' Policies on the 'Soil and Agricultural Land' (NE10 and NE11) is an area where the Council considers that a local variation is considered appropriate to reflect local circumstances. Concerns raised by respondents in relation Draft NPF4 will be addressed in turn below.

#### Simplification of Policy NE10: Protection of Prime-Quality Agricultural Land and NE11: Soils to reflect Draft NPF4 - (196)

In response to the suggestion from respondent (196) that Policies NE10 and NE11 be simplified in order remove duplication and to reduce conflicts with NPF4 once finalised and published. As outlined above, the Council reflected the most up to date national policy picture at the time. However, the Council acknowledges that there are now disparities between the PLDP2 and NPF4 (November 2022) (CD3) Policy 5: Soils.

The Council consider that the current wording of NE10, although it deviates from NPF4, to be still fit for purpose. Policy NE10 seeks to prevent the unacceptable and irreversible loss of prime quality agricultural land within East Ayrshire, a limited resource. This is not in opposition to the policy direction of Policy 5: Soils. However, the Council acknowledge the NE10 is more stringent than Policy 5. The Council consider this to reflect local circumstances. Within East Ayrshire, areas of 'prime quality' and 'locally important good quality' agricultural land relatively limited and are situated to the west of the authority area, concentrated around and in close proximity to settlements, including: Kilmarnock, Hurlford, Galston, Newmilns, Dunlop, Kilmaurs, Crosshouse, Mauchline, Ochiltree, Drongan and Hollybush. These areas are not extensive and as such, the Council consider that they should be protected from inappropriate development. The Council consider the policy requirements in relation to prime-quality agricultural land are proportionate to the scale of land found within East Ayrshire, given its limited nature. The Council does not consider it necessary to amend the policy on this basis in line with the respondents (196) comments.

The Council consider that the current wording of NE11, although it deviates from NPF4 (CD4), to be still fit for purpose. NE11 seeks to protect soils generally for damage, including erosion and compaction. With regards to peat and carbon rich soils, Policy NE11 recognises the value of these resources in the climate crisis and sets a presumption against disturbance and/or removal unless essential for in-situ conservation and restoration. The Council consider this to be reflective of local circumstances. East Ayrshire hosts areas of Class 1, 2 and 5 peat and carbon rich soils and these are concentrated to the east of the authority boundary but are not extensive.



The Council considers it vitally important to protect these assets in light of the climate crisis, as such, the Council considers that where policy does not directly reflect draft NPF4 (November 2021) (CD3) or NPF4 (November 2022) (CD4), that this is justified by local circumstances. Within East Ayrshire there has been a drive to restore and enhance our peatland habitats, often through the work of third sector organisations. The Council does not consider it necessary to amend the policy on this basis in line with the respondents (196) comments.

Support for Renewables in NE10 to better reflect NPF4 - (196)

The respondent (196) requests Policy NE10 be amended to provide explicit support for essential renewable energy developments in accordance with Draft NPF4 (November 2021), Policy 31: Rural Places, criterion (H) which states that development proposals on prime quality agricultural land should not be supported except where it is essential for the generation of energy from a renewable source. The Council acknowledges that there are disparities between the PLDP2, Draft NPF4 (November 2021) (CD3) and now NPF4 (November 2022) (CD4). NPF4 Policy 5: Soils c) states that *development proposals on prime quality agricultural land, or land of lesser quality that is culturally or locally important for primary use, as identified by the LDP, will only be supported where it is for: (iv) "the generation of energy from renewable sources or the extraction of minerals and there is secure provision for restoration"*. Whilst LDP2 has been prepared to support action to address climate change throughout, such as renewable energy developments, this requires to be balanced against other important matters, including the loss of prime quality agricultural land, a limited asset in East Ayrshire that is essential for maintaining a sustainable food supply.

The respondent (196) also suggest that policies should only deviate from Draft NPF4 (November 2021) in order to appropriately reflect local circumstances. As such, it is necessary to highlight that within East Ayrshire, areas of 'prime quality' and 'locally important good quality' agricultural land are situated to the west of the authority area, concentrated around and in close proximity to settlements, including: Kilmarnock, Hurlford, Galston, Newmilns, Dunlop, Kilmaurs, Crosshouse, Mauchline, Ochiltree, Drongan and Hollybush. The area is illustrated on the map proposed for inclusion within the Plan, which illustrates on a factual basis the spatial representation of these classes of agricultural land (CD30). These landscapes would not generally be suitable for large scale renewable energy developments, such as wind farms. At the same time, the policy allows for developments that are small scale and directly relate to rural or agricultural business. As such, proposals such as small scale turbines linked to farms could be supported through the current policy content. The Council therefore argue that the current content of Policy NE10 is in fact reflective of the local circumstances of the authority, despite not explicitly integrating all elements of NPF4. The merits of any given application for renewable development on agricultural land will be individually assessed and weighed against compliance with all applicable PLDP policies, including RE1: Renewable Energy. The Council consider their approach to be entirely reasonable and the variation from NPF4 to reflect local circumstances.

Simplification of Policy NE11 to reflect Draft NPF4 - (145), (198), (196) and (261)

Policy NE11 of the LDP2 seeks to minimise the disturbance of soils and recognises the value of peatland soils and setting a presumption against disturbance and/or removal



of Class 1, 2 and 5 peatland, deep peat and other carbon rich soils, unless essential for conservation and restoration. Respondents (145), (198), (196) and (261) request that the plan be modified to further reflect Draft NPF4 (November 2021) Policy 33: Soils to recognise that renewable energy generation proposals on peatland can be acceptable. The Council acknowledges that there are disparities between the PLDP2, Draft NPF4 (November 2021) (CD3) and now NPF4 (November 2022) (CD4). However, the Council argues that it has reflected the NPF4 position as closely as deemed appropriate for local circumstances, given the context and setting of East Ayrshire. PLDP2 has been prepared to support action to address climate change; this involves supporting and encouraging renewable energy developments, but also protecting peat, peatland and other carbon rich soils, which are important national assets which have climate resilience implications and a role to play in achieving net zero. The Council consider their approach, in terms of its starting point being a presumption against peatland disturbance/removal, to be entirely reasonable weighing up local context and national objectives.

The Council integrated the contents of draft NPF4 (November 2021) Policy 33: Soils, where appropriate into NE11, including criterion b) which seeks to ensure that development proposals minimise disturbance to soils and protect them from damage, including erosion and compaction. NPF4 (November 2022) (CD4) adds additional detail: that proposals should be designed and constructed *(i) In accordance with the mitigation hierarchy by first avoiding and then minimising the amount of disturbance to soils on undeveloped land; and (ii) In a manner that protects soil from damage including from compaction and erosion, and that minimises soil sealing.* Policy NE11 is not contrary to NPF4 Policy 5 and the Council consider its current wording to be appropriate and robust. However, in order to address the concerns of respondents over the compatibility of LDP2 and NPF4 policies and in order to streamline the decision making/determination process and use of both the LDP2 and draft NPF4, if the Reporter is minded to amend NE11 to include the full requirements of criterion a) (i) and (ii) of NPF4, then the Council would not oppose this.

In relation to draft NPF4 (November 2021) Policy 33: Soils criterion (c) and subsequent NPF4 (November 2022) Policy 5: Soils criterion (c), the Council has integrated the policy requirements that it considers appropriate and reflective of local circumstances. Within East Ayrshire, Class 1, 2 and 5 peatland, deep peat and other carbon rich soils tend to be concentrated along the eastern side of the authority area and are not extensive. See CD30 which illustrates these locations. As such, the Council considers that these resources should be protected from all types of development where appropriate. Whilst LDP2 has been prepared to support action to address climate change throughout, such as support for renewable energy developments, this needs to be balanced against other important matters, including the loss of and/or disturbance of peat and carbon rich soils, an important asset and carbon sink in East Ayrshire. As such, the Council does not agree that NE11 should be amended to specify that renewable energy development is acceptable on peat and carbon rich soils. Should such development be proposed, this will be weighed against compliance with all applicable LDP2 policies, with NE11 being one of many applicable policies.

In relation to draft NPF4 (November 2021) Policy 33: Soils criterion (d) and subsequent NPF4 (November 2022) Policy 5: Soils criterion (e), the Council strongly oppose the integration of circumstances in which commercial extraction of peat is supported into

LDP2 policy. East Ayrshire accommodates no commercial extraction of peat, however, has a history of peatland disturbance due to extensive mineral extraction. Considerable work is now underway by partnership organisations, to reverse this and restore peatland habitats. The Council consider the integration of this criterion would be significantly detrimental and counteractive to these efforts. The Council remain steadfast in their opposition of this criterion. Therefore, in response to the general concerns raised over the compatibility of LDP2 and NPF4 policies, the Council is of the view that policy provision of commercial extraction of peat is a particular circumstance where local circumstances can justify the retention of the LDP2 position.

### **Policy NE10: Protection of Prime-Quality Agricultural Land**

#### Housing on Prime-Quality Agricultural Land - (128), (146) and (195)

Policy NE10 seeks to prevent the unacceptable and irreversible loss of prime quality agricultural land within East Ayrshire, a limited resource. A similar policy to NE10 is contained within the adopted EALDP (2017). The protection of prime agricultural land is supported by NPF4 (Policy 5) (CD4) and Scottish Planning Policy (paragraph 80) (CD26). This is a nationally important and limited resource, the loss of which cannot be mediated. In relation to the interpretation of NE10 by the above representations, it should be highlighted that the allocated housing sites within Volume 2 of the Plan meet the Housing Land Requirements for East Ayrshire for the Plan period. These are sustainably located sites, within settlement boundaries, with access to infrastructure, services and facilities. Policy RES1 of the LDP2 sets out the circumstances in which residential development on non-allocated sites may be supported.

If a proposed development is located on prime-quality agricultural land, Policy NE10 will be applicable. Consequently, the Council disagrees with 195 which argues that there is a clear need for new housing, which justifies the use of prime quality agricultural land. As outlined above, the housing opportunity sites allocated within the settlement maps of Volume 2 meet the Housing Land Requirements for East Ayrshire for the Plan period. There is therefore no justification, at this point in time, for the use of prime agricultural land to deliver new housing. The merits of a given application for housing development on agricultural land will be individually assessed and weighed against compliance with applicable PLDP policies. This is considered to be a reasonable and fair approach. As such, the Council do not agree that NE10 should be amended to specify that residential development on prime-quality agricultural land is acceptable where it is sustainable and to meet demand/need. Where this is indeed the case, this will be weighed-up by the application process and use of the Plan in its entirety.

#### Map of Prime-Quality Agricultural Land - (192) and (196)

192 and 196 request that a map be included within the Plan to show the location of assets such as prime-quality agricultural land. The Council would like to highlight why this was not (yet) included. The map in question will also include Local Nature Conservation Sites which are currently being reviewed. The Council agree that this map will bring value to Policy NE10 and the Plan, enabling users to see where Prime-Quality Agricultural Land is located within East Ayrshire and as such this factual illustration should be included as a non-notifiable modification to the East Ayrshire

Proposed Local Development Plan 2. This map has been provided for the Examination. See CD30.

Respondent (196) requests that wording in Volume 1 and Volume 2 be amended as appropriate to reflect the location of a map which illustrates the locations of prime quality agricultural land to which Policy NE10 relates. As outlined above, the Council agrees with the addition of this map. With the inclusion of the Map, wording in Volume 1 and 2 will need to be amended to remove the reference to the map being present in Volume 1. The Council suggest the following modifications to wording for consideration by the Reporter:

Volume 1, paragraph 169 should be amended to read “...*The Plan therefore safeguards prime-quality agricultural land from development, unless the development can be justified. **The Soils Map** (Appendix 1) **illustrates the location of areas of Prime Quality Agricultural Land in East Ayrshire.***”

Volume 2, final paragraph on page 3, should be amended to read “*These categories of land are given a degree of protection by LDP policy and these particular areas, together with the policies which relate to them, are shown on separate policy maps either within this document or on the **Nature Conservation Map** (Appendix 2) or **Soils Map** (Appendix 1).*”

### **Policy NE11: Soils**

#### ScottishPower Renewables (196)

Respondent (196) seeks clarity on what constitutes necessary disturbance, degradation or erosion. The Council will assess and considered this on an individual case-by-case basis and necessity will be determined by the proposal. The current wording allows a degree of flexibility to be applied, to best reflect the scope and scale of any subsequent development. The council consider it to be unreasonable and impractical to specify and define necessary and unnecessary disturbance, degradation or erosion in the development plan.

#### Map of Soils – (106), (157), (196) and (312)

The above respondents have highlighted that the map outlining soil related assets is not present within Volume 2, as outlined, and have requested that this be added to the LDP2. As outlined within the Council's summary response to NE10 above, the Council would like to highlight why this was not (yet) included. The map in question will also include Local Nature Conservation Sites which are currently being reviewed. The Council agree that this map will bring value to Policy NE11 and the Plan enabling users to see where Class 1, 2 and 5 is located within East Ayrshire and as such this should be included as a non-notifiable modification to the East Ayrshire Proposed Local Development Plan 2. This map has been provided for the Examination. See CD30.

Respondent (196) requests that wording in Volume 1 (paragraph 173) and Volume 2 be amended as appropriate to reflect the location of a map which illustrates the locations of prime quality agricultural land to which Policy NE10 relates. As outlined above, the Council agrees with the addition of this map. With the inclusion of the Map,

the wording of Page 3 (Volume 2) will need to be amended to remove the reference to the map being present in Volume 1.

In response to the comments provided by the respondents the Council suggest the following modifications to wording for consideration by the Reporter:

Volume 1, Policy NE11 (page 85) should be amended to read “Any detailed survey work must fully consider those areas identified as Class 1, 2 or 5 areas of carbon rich soil, deep peat and priority peatland habitat by NatureScot. (See **Appendix 1 for Soils Map**).”

Volume 1, paragraph 173 should be amended to read “***The Soils Map (Appendix 1) illustrates the location of areas of Class 1, 2 or 5 carbon rich soils.***”

Volume 2, final paragraph on page 3, should be amended to read “*These categories of land are given a degree of protection by LDP policy and these particular areas, together with the policies which relate to them, are shown on separate policy maps either within this document or on the Nature Conservation Map or Soils Map.*”

### **Strengthening of Policy NE11**

#### Addition of term “and constructed” - (106)

The respondents suggests that “and constructed” be added into the first paragraph of Policy NE11. The Council consider the current wording of NE11 to be appropriate and effective. Whilst it is noted that the NPF4 (CD3) contains the terms ‘and constructed’ the council consider this addition to policy NE11 to be unnecessary. Whenever planning permission is granted it is assumed that construction will be undertaken in line with that permission, or enforcement action may be necessary. All planning policies are therefore written on the assumption that development will be undertaken as consented. The addition of ‘and constructed’ is therefore not necessary. Should ‘and constructed’ be added to NE11, for consistency there would be an argument for reviewing to a whole suite of LDP2 policies, which do not specify the need for proposals or designs to be carried into construction.

#### Addition of term “soil sealing” - (106)

The respondents suggests that “soil sealing” be added into the first paragraph of Policy NE11. The Council consider the current wording of NE11 to be appropriate and effective. This reflects the wording of Draft NPF4 (CD3) Policy 33: Soils criterion (b), this was the most up to date policy at the time of the production of the PDLP2 and consultation period. However, should the Reported be minded to make the suggested amendment, then the Council have no significant objection, as this would bring policy NE11 more in line with Policy 5 a) (ii) of NPF4 which states “In a manner that protects soil from damage including from compaction and erosion, and that minimises soil sealing The Council have no strong objection to this amendment.

#### Addition of terms “baseline depth, quality and stability” - (106)

The respondents suggests that “baseline depth, quality and stability” be added into

Policy NE11 (paragraph 3). The Council acknowledge these comments, however, highlight that the current wording of NE11 covers this as it states: *“Where peat and other carbon rich soils are present, a detailed site specific survey of peatland habitats which identifies depth, quality and stability of soil is required.”* The addition of baseline is not considered necessary or to add anything materially different to the policy.

#### Expansion of likely effects – (106)

The respondents recommend that the likely effects be expanded to include soil disturbance, greenhouse gas emissions and loss of carbon. The Council consider the current wording of NE11 to be appropriate and effective. This reflects the wording of Draft NPF4 (CD3) Policy 33: Soils criterion (c), this was the most up to date policy at the time of the production of the PDLP2 and consultation period. However, should the Reported be minded to make the suggested amendment, then the Council have no significant objection.

#### Replace ‘Peatland Management Plan’ with ‘Peat Management Plan’ – (106)

The Council acknowledge the comments provided by the respondent. The use of the term “Peatland Management Plan” was taken from Draft NPF4 criterion (c), this was the most up to date policy at the time of the production of the PDLP2 and consultation period. Since the publication of the NPF4, Policy 5: Soils has been amended to the term “peat management plan”. The Council consider the current wording to be appropriate. However, should the Reporter be minded to make the suggested amendment, then the Council have no significant objection.

#### Wording around pristine or near natural peatland – (106)

The Council acknowledge the comments provided by the respondent. The Council consider the current wording of NE11 to be appropriate and effective. This reflects the wording of Draft NPF4 Policy 33: Soils where appropriate in relation to local circumstances, this was the most up to date policy at the time of the production of the PDLP2 and consultation period. The Policy requires a comprehensive assessment of likely effects which need to be fully justified to the Council. The Policy also requires a *detailed site specific survey of peatland habitats which identifies depth, quality and stability of soil*. Within the Peatland Management Plan, applicants are required to *demonstrate that any unnecessary disturbance, degradation or erosion has been avoided or minimised, including appropriate mitigation measures*. This would include pristine or near natural peatland, although not explicitly stated. However, should the Report be minded to expand to integrate the recommendations of respondent (106), then the Council have no significant objections.

#### Wording around vegetation displacement – (106)

The Council acknowledge the comments provided by the respondent. The Council consider the current wording of NE11 to be appropriate and effective. This reflects the wording of Draft NPF4 Policy 33: Soils where appropriate in relation to local circumstances, this was the most up to date policy at the time of the production of the PDLP2 and consultation period. The Council consider that the comments relating to vegetation displacement would be covered by the assessment and requirement for a



Peatland Management Plan which requires applicants to detail mitigation measures implemented on site. The Council consider NE11 to be a detailed and long policy and that the suggested wording around vegetation displacement to be very specific. As such, the Council do not consider it to be appropriate or necessary to integrate these comments into NE11. However, should the Reporter be minded then the Council would not have any significant or pressing objections.

Align with wording of SPP (Paragraph 205) - (310)

Suggests that Policy NE11 should be amended to align with the wording of Scottish Planning Policy (paragraph 205) (CD26) to include all soils of value for carbon sequestration, including peat, peatland and carbon rich soils. The Council does not consider it necessary to amend the policy on this basis as the subheading of this section of the policy is "Peat and Carbon Rich Soils". This makes it implicit that this is the area to which the policy content relates. If the Reporter is minded, the Council has no objection to the current wording being substitute for that suggested by the respondent, to improve the clarity of the policy.

Absolute protection of carbon rich soils - (312)

In response to the respondents (312) suggestion that the policy should be strengthened to not simply minimise adverse impacts but to protect carbon rich soils from any development and not permit the disturbance and removal of peat at all, the Council considers the approach of the LDP2 to be appropriate and fair, making allowances for conservation purposes and restoration, which would have a balancing impact on any losses. The Council does not consider it necessary to amend the policy on this basis. Within NE11, the sentence which follows on from the area the respondent references promotes restoration, as such, enhancement is covered by this wording.

Commercial extraction unacceptable (312)

In response to the respondents (312) suggestion that the policy should be strengthened by stating that commercial extraction is unacceptable, the Council consider the current wording of the LDP2 to be appropriate, fair and does express of lack of support for commercial extraction. The suggested modification is not considered to bring any more clarity or value to the Plan, therefore the Council does not consider it necessary to amend the policy on this basis.

**Reporter's conclusions:**

**Background/overview**

1. In relation to issues where representations suggest that there is potentially significant divergence between the policies of the proposed plan and NPF4, reporters invited parties who have submitted representations to make any further comments on the issues they have raised now they are aware of the final form of national policy. This puts them on the same footing as the council which was able to draft its responses in light of the approved version of NPF4, whereas those lodging representations commented in light of the draft version of NPF4.

2. I note the council's comments about the difficulty of aligning the proposed plan with NPF4, given the overlapping timescales. I accept that the proposed plan has been produced under transitional arrangements and recognise that a final dovetailing of policies between the two tiers of the development plan will not take place until the council carries out the next review of the plan.

3. Whilst I consider that an ideal position would be removal of duplication between the two parts of the development plan, the role of this examination is limited to presenting conclusions and recommendations on issues raised in representations. Given the nature of the representations on soils and agricultural land in this examination, my focus has been to ensure consistency with NPF4 even when this involves some duplication. Reporters hope that, by taking this approach, where appropriate, they have been able to recommend modifications to the plan which provide the best alignment possible at this time. This is also intended to be consistent with the council's approach of seeking to incorporate policies on the range of topics covered by NPF4 into the proposed plan.

4. Although it does not follow exactly the structure set out above by the council, for clarity, I deal firstly with issues relating to proposed Policy NE10 and then issues relating to proposed Policy NE11.

### **Policy NE10: Protection of prime quality agricultural land**

#### Simplification of Policy NE10: Protection of prime-quality agricultural land to reflect Draft NPF4 (196)

5. The council recognises that proposed Policy NE10 is more stringent than NPF4 Policy 5: Soils but considers this is acceptable given the relatively small area of prime and locally good quality land in East Ayrshire and its location around settlements. The council contends that differences in policy wording and criteria are not substantive, are appropriate for local circumstances and will not undermine the planning process in East Ayrshire. On this basis, it does not consider it necessary to revise the proposed policy.

6. However, I consider that proposed Policy NE10 differs fundamentally from NPF4 Policy 5 b) in three ways:

- Unlike Policy 5 b) i. it does not provide support for essential infrastructure where there is a specific locational need and no other suitable site.
- Unlike Policy 5 b) ii. it does not provide support for the development of production and processing facilities for local produce where no other local site is suitable.
- Unlike Policy 5 b) iii. it does not provide for generation of renewable energy or extraction of minerals where there is secure provision for restoration.

7. The modification to Policy NE10 I have recommended below provides consistency with national policy in relation to proposed development of essential infrastructure, production and processing facilities, renewable energy and extraction of minerals. I appreciate that some of these types of development may not be appropriate in close proximity to communities. Other policies of the proposed plan would enable the council to exercise the required control. However, alignment with NPF4 requires that where the



development would meet the criteria set out in NPF4 Policy 5 b), planning permission cannot be refused on the basis that the proposed development site comprises prime agricultural land.

8. There are also three elements of proposed Policy NE10 where the wording differs in more minor ways from NPF4 policy.

9. Firstly, as well as prime land, the proposed plan refers to 'good quality, locally important land', whereas NPF4 Policy 5 b) refers to 'land of lesser quality that is culturally or locally important for primary use, as identified by the LDP'. The council advises that, as Draft NPF4 Policy 33: Soils did not include the wording used in NPF4 Policy 5: Soils, it was unable to include provision for this particular policy test.

10. However, the Soils Map referred to below defines locally important agricultural land in East Ayrshire as class 3.2 land shown on the Macaulay land capability for agriculture maps. The basis of this proposal is not justified, presumably for the reason I have noted in the preceding paragraph. However, NPF4 requires only that local development plans identify and protect land of lesser quality that is culturally or locally important for primary use and does not define how this should be interpreted. The proposed plan does not indicate that this land is culturally important. However, NPF4 requires that the land identified is either culturally or locally important, not both. I accept that class 3.2 land has a particular local value for food production in East Ayrshire given the relatively limited area of prime land.

11. I do not consider it necessary to modify the plan. This is a matter to which the council may wish to consider in more detail in preparing the next version of the local development plan.

12. Secondly, proposed Policy NE10 requires development on prime land to be 'necessary to meet an established need or be small-scale in nature and directly related to a rural and/or agricultural business.' The equivalent parts of NPF4 Policy 5 provide support for 'small-scale development directly linked to a rural business, farm or croft or for essential workers for the rural business to be able to live onsite' whilst layout and design is required to minimise the amount of protected land required.

13. Both policies seek to ensure that the proposed development is required, for business reasons, to be situated on prime land and that it is designed in order to protect as much of the protected land as possible. The modifications to proposed Policy NE10 I have set out below seek to ensure that the local development plan policy embraces all the related elements of NPF4 Policy 5. In particular, I have endeavoured to choose a form of words that ensures there is no ambiguity in relation to development to meet an established need. It is clear from NPF4 that established need in this context is in relation to one of the four exceptions to policy set out in Policy 5 b).

14. Thirdly, the requirements of NPF4 Policy 5 a) i. and ii. relating to design and construction are not reflected fully in the proposed policy. I note that the council is supportive of a modification to improve alignment on this point. The recommended modification below seeks to address this.

Support for renewables in NE10 better to reflect NPF4 (196)

15. I have dealt with this matter under the previous sub-heading.

Housing on prime-quality agricultural land (128), (146) and (195)

16. NPF4 Policy 5 b) provides specific support for housing on prime land only where it is for essential workers for a rural business, farm or croft. The modifications to proposed Policy NE10 recommended below are intended to provide consistency with this national policy position. The proposed plan also provides support for development proposals on prime and good quality, locally important land where this is 'necessary in order to meet an established need'. Given the concentration of land of this nature in close proximity to settlements, I accept that this is necessary to allow development on allocated sites. I do not consider it appropriate for the local development plan to build in a wider provision to allow development on prime land where it is sustainable and proposed to meet demand/need.

17. In coming to this conclusion, I note that the reporter who has dealt with matters relating to housing land supply under Issue 17 – Housing Land Supply concludes that the proposed plan complies with the housing land requirement set out in NPF4.

18. I do not consider that it would be appropriate to modify the proposed plan on the lines suggested.

Map of prime-quality agricultural land (192) and (198)

19. Although not included in the proposed plan, for the purpose of the examination, the council has provided a map showing prime quality agricultural land and good quality, locally important land. As with the Nature Conservation Sites Map referred to under Issue 13 above, I consider that it would be helpful to include this map in Volume 2 of the proposed plan.

20. The council has recommended that the map be included as a non-notifiable modification. However, as with the Nature Conservation Sites Map, I am concerned that this approach would go beyond what is allowed in legislation. I consider that it would be appropriate for the council to make minor adjustments to existing maps on this basis in order to reflect the reporter's recommended modifications but not to add new maps.

21. Consequently, I have recommended below a modification to include the soils map in Volume 2 of the proposed plan, along with a commensurate change to the text in both volumes of the plan.

**Policy NE11: Soils**

Simplification of Policy NE11: Soils to reflect Draft NPF4 (145), (196), (198) and (261)

22. The council considers that differences in policy wording and criteria between proposed Policy NE11: Soils and NPF4 Policy 5: Soils are not substantive, are appropriate for local circumstances and will not undermine the planning process in East

Ayrshire. On this basis, the council considers that only minor modifications to the proposed policy are justified.

23. However, I consider that proposed Policy NE11 differs from NPF4 Policy 5 c) in four significant respects. Specifically, whilst the proposed policy provides support for disturbance and/or removal of peat and carbon-rich soils where it is essential for in-situ conservation or restoration of peatland, it does not provide support for:

- Essential infrastructure where there is a specific locational need and no other suitable site.
- Generation of energy from renewable sources that optimises the contribution of the area to greenhouse gas emissions reduction targets.
- Small-scale development directly linked to a rural business or farm.
- Development that would support a fragile community in a rural area.

24. It seems to me that in-situ conservation work, referred to in the proposed policy, is akin to work to restore peatland. Therefore, I consider that exemption to be generally consistent with NPF4 Policy 5 c) v. which provides support for restoration of peatland habitats.

25. The council considers that it is important to protect its limited areas of peat and carbon rich soils in light of the climate crisis and that the policy focus should be on restoration and enhancement, which is often carried out by voluntary organisations. This reflects part c) v. of NPF4 Policy 5 but it does not, in my judgement, provide justification for not potentially allowing the limited types of development I have described above, which are supported by national policy.

26. Therefore, the modification to proposed Policy NE11 I have recommended below is designed to take account of NPF4 Policy 5 c) in relation to support for development proposals for essential infrastructure, renewable energy, small-scale rural business, and development that supports a fragile rural community.

27. Proposed Policy NE11 also differs from the provisions of NPF4 Policy 5 in relation to proposals for commercial peat extraction. Policy NE11 states that the council will not support any export of peat from a site for commercial purposes. However, Policy 5 provides support for commercial peat extraction where:

- the extracted peat supports the Scottish whisky industry;
- there is no reasonable substitute;
- the area of extraction is minimised and a residual depth of peat of at least one metre is retained;
- the time period for extraction is minimised; and
- there is an agreed comprehensive restoration plan.

28. As I have noted above, the council considers that the proposed policy is justified by local circumstances, not least the extensive restoration of peatland required as a result of disturbance due to mineral extraction. The proposed plan states that, historically, commercial peat extraction has not taken place in the council area. Therefore, it may be unlikely that proposals will come forward. However, I consider

that, in principle, there is no good reason why national policy support for peat extraction to support the Scotch whisky industry should not apply to East Ayrshire.

29. The modification to Policy NE11 I have recommended below provides alignment with NPF4 on this issue.

30. The other parts of proposed Policy NE11 relating to the requirements for site assessment and peat management plans are broadly consistent with the terms of NPF4 Policy 5 d). Policy NE11 goes into more detail in relation to storage and restoration of peat but I consider this simply outlines good practice without departing from national policy. Sections a) i. and ii. of NPF4 Policy 5 provide more detail on design and construction. As I have noted above, the council is supportive of a modification to improve alignment between national and local policy on these matters. The modification I have recommended below seeks to address this.

Clarity regarding disturbance, degradation and erosion (196)

31. I share the council's view that providing a definition of 'unnecessary disturbance, degradation or erosion' in paragraph 4 of proposed Policy NE11 would go beyond the level of detail appropriate to a local development plan. I also agree with the council that, in any case, this may vary from case to case. I consider that this is a matter explored most effectively with the development management case officer on an application-by-application basis.

32. I do not consider that a modification to the proposed plan is required.

Map of Soils (106), (157), (196) and (312)

33. I have recommended below that the council's Soils Map be included in Volume 2 of the proposed plan. This map shows the location of Class 1, 2 and 5 peat and carbon rich soils in East Ayrshire. I have also recommended a commensurate modification to the introductory text in Volume 2.

Addition of term 'and constructed' (106)

34. I do not consider it necessary to include a reference to construction in the context of providing support for development proposals. The modification I have recommended below refers to the proposed layout and design of proposals. I am satisfied this takes account of the policy intent of NPF4 Policy 5 a). The modification sets out the approach required if a proposal is to receive planning permission. If planning permission is granted, the developer is then required to construct the development in accordance with the permission. If that is not the case, the developer may be subject to enforcement action.

35. I do not consider it necessary to modify the plan.

Addition of term 'soil sealing' (106)

36. The final paragraph of the modification to Policy NE11 I have recommended below requires that design and layout of proposals minimise soil sealing. This reflects

the wording at NPF4 Policy 5 a) ii. I note that the council is supportive of this proposed change.

Addition of terms 'baseline depth, quality and stability' (106)

37. I consider that the wording of the proposed policy regarding the requirements for a site-specific survey are broadly consistent with the wording of NPF4 Policy 5 d) i.. However, for the avoidance of doubt, I have amended the reference to 'depth' to read 'baseline depth' in the modified policy recommended below. I have also added reference to 'habitat condition' to improve alignment with this part of Policy 5.

Expansion of likely effects (106)

38. In order to improve consistency with NPF4 Policy 5 d) ii. and iii., the modification to proposed Policy NE11 I have recommended below requires that site surveys include reference to the likely effects on soil disturbance and likely net effects on climate emissions and loss of carbon. I note that the council does not object to this change.

Reference to 'Peatland Management Plan' (106)

39. The adopted version of NPF4 Policy 5 d) refers to 'Peat Management Plan'. In order to avoid any potential confusion, this is also the wording I have used in the modification to proposed Policy NE11 recommended below

Pristine or near natural peatland (106)

40. It is suggested that the proposed policy be modified to require developers to demonstrate that proposed development does not disturb pristine or near natural peatland and peat greater than one metre in depth. This would go beyond the requirements of NPF4 Policy 5. As such, I do not consider it would be appropriate to modify the proposed policy along the lines proposed.

41. I consider that the proposed modification to proposed Policy NE11 I have recommended below provides the protection sought against degradation and erosion and that this is generally consistent with NPF4.

Vegetation displacement (106)

42. The recommended modification to proposed Policy NE11 requires that peat management plans demonstrate how the site will be restored or enhanced to provide a functioning peatland system. I consider that the addition of a specific reference to reintegrating displaced peat and peatland vegetation would be a level of detail beyond that required in a local development plan. These are matters which can be addressed adequately through the development management process.

43. I do not consider it necessary to modify the plan to address this suggestion.

Peat, peatland and carbon-rich soils (310)

44. NPF4 Policy 5 c) and d) refer to 'peatland, carbon-rich soils and priority peatland

habitat'. Proposed Policy NE11 refers to peat and carbon-rich soils. To align the wording of the local development plan policy with national policy, I have included the wording from NPF4 in the modified policy recommended below. I note that the council does not object to this change.

Absolute protection of carbon rich soils (312)

45. The absolute protection of carbon rich soils from development would not be compatible with NPF4 Policy 5 which provides for development on peatland, carbon-rich soils and priority peatland habitat in a small number of specified circumstances. As such, a modification to the proposed policy along the lines suggested would not be appropriate.

46. The modified policy recommended below requires that, where appropriate, prospective developers submit plans required for enhancing the site to provide a functioning peatland system capable of achieving carbon sequestration. I do not consider any further modification is required on this point.

Commercial extraction unacceptable (312)

47. NPF4 Policy 5 e) allows for new commercial peat extraction in certain circumstances to support the Scottish whisky industry. This is reflected in the modified policy recommended below. An absolute bar on commercial extraction would not comply with national planning policy. As such, a modification on the lines suggested would not be appropriate.

**Reporter's recommendations:**

I recommend that the plan be modified as follows:

1. Deletion of the last sentence of the paragraph under the sub-heading 'Agricultural Land' and substitution with the following sentence:

'A Soils Map detailing areas of prime quality agricultural land and good quality, locally important agricultural land can be found in Volume 2.'

2. Deletion of Policy NE10: Protection of prime-quality agricultural land and substitution with the following policy:

'Policy NE10: Protection of agricultural land

The council will seek to ensure there is no unacceptable and irreversible loss of prime quality and good quality, locally important agricultural land. Prime quality land is defined as land identified in classes 2 and 3.1 on the Macauley Land Capability for Agriculture maps of Scotland. Good quality, locally important agricultural land is defined as land identified in class 3.2 on these maps.

Development proposals on prime or locally important agricultural land will not be permitted unless it is for one or more of the following purposes:



- Land allocated for development in this plan.
- Small-scale development directly related to a rural and/or agricultural business, including housing to enable essential workers for the business to live on site.
- The development of production and processing facilities utilising produce from the land where no other local site is suitable.
- Essential infrastructure where there is a specific locational need and no other suitable site.
- The generation of energy from renewable sources or the extraction of minerals and there is secure provision for restoration.

In all the above exceptions, the layout and design of the proposal must minimise the amount of protected land that is required and protect soil that remains in situ from damage, including from compaction and erosion, and must minimise soil sealing.'

### 3. Deletion of Policy NE11: Soils and substitution with the following policy:

#### 'Policy NE11: Soils

Development proposals on undeveloped land must be designed to:

- avoid, if possible, and, if avoidance is not possible, minimise disturbance to soils;
- protect soils from damage, including from compaction and erosion; and
- minimise soil sealing.

#### Proposed development on peatland, carbon-rich soils and priority peatland habitat

In recognition of the role of peatland and carbon-rich soils as valuable carbon stores, or 'sinks', the council will seek to minimise adverse impacts from development on such soils, including by the release of CO<sub>2</sub> to the atmosphere. The council will support and promote the restoration of peatland habitats where there is potential for such habitats to become active carbon stores and help to reduce net carbon emissions.

There will be a presumption against the disturbance and/or removal of Class 1, 2 and 5 peatland, deep peat and other carbon-rich soils unless it is essential for one or more of the following:

- In situ conservation purposes.
- Restoration of peatland habitats.
- Essential infrastructure and there is a specific locational need and no other suitable site.
- Generation of energy from renewable sources that optimises the contribution of the area to greenhouse gas emissions reduction targets.
- Small-scale development directly linked to a rural business or farm.
- Development proposals that would support a fragile community in a rural area.

#### Minimising disturbance to soils

Where development is proposed on peat and other carbon-rich soils, a detailed site-

specific survey of peatland habitats is required which identifies:

- Baseline depth, habitat condition, quality and stability of carbon-rich soils.
- Likely effects of development, including on soil disturbance.
- A comprehensive assessment and justification of the likely net effects of development on climate emissions and loss of carbon.

Any detailed survey work must consider fully the potential impact on Class 1, 2 and 5 areas of carbon-rich soil, deep peat and priority peatland identified by NatureScot and shown on the Soils Map in Volume 2 of this plan.

Where an assessment identifies peat on site, a peat management plan will be required. This must show:

- that adverse impacts including unnecessary disturbance, degradation and erosion have been avoided, where possible, or minimised through best practice, where this is not possible;
- with other plans, as appropriate, that the site can be restored or enhanced to create a functioning peatland system capable of achieving carbon sequestration;
- how peat is to be carefully handled to retain its existing structure and integrity for reuse; and
- storage of peat to be undertaken in purpose-designed peat storage areas.

All storage of peat and its use in the restoration of a site must be carried out to the satisfaction of the council, NatureScot and the Scottish Environment Protection Agency.

If peat that has not been identified as Class 1, 2 or 5 by NatureScot is required to be removed in order to access mineral reserves, a full justification for its removal must be provided.

#### Commercial peat extraction

Development proposals for new commercial peat extraction will only be supported where:

- the extracted peat is required to support the Scottish whisky industry;
- there is no reasonable substitute;
- the area of extraction is the minimum necessary and the proposal retains an in situ residual depth of peat of at least one metre across the whole site, including drainage features;
- the time period for extraction is the minimum necessary; and
- there is an agreed comprehensive site restoration plan which will progressively restore, over a reasonable timescale, the area of extraction to a functioning peatland system capable of achieving carbon sequestration.'

4. Deletion of the first paragraph following Policy NE11: Soils and substitution with the following paragraph:

'Policy NE11 adheres to the principles set out within National Planning Framework 4 (NPF4) Policy 5: Soils where relevant and applicable to the context and setting of East Ayrshire. The Coalfield Environment Initiative (CEI) has undertaken significant restoration works to enhance bog and peatland areas within East Ayrshire. As such, the council does not consider the extraction of peat for commercial purposes to be appropriate with the sole exception of extraction to support the Scotch whisky industry, as provided for in NPF4.'

5. Deletion of the bullet point 'prime quality agricultural land' on page 3 of Volume 2 and insertion of a new eighth paragraph on page 3 (i.e. after the paragraph which begins 'All areas shaded green...') to read:

'A separate Soils Map shows the location of prime and good quality, locally important agricultural land and Class 1, 2 and 5 areas of carbon-rich soil, deep peat and priority peatland habitat. Nature conservation sites are also shown on a separate map.'

6. Inclusion of the Soils Map produced for the local development plan examination (CD30) in Volume 2 of the plan.

Issue 15	Environmental Protection	
Development plan reference:	Policies NE12 and NE13	Reporter: Steve Field
Body or person(s) submitting a representation raising the issue (including reference number):		
EPC-UK (101) SEPA (106) Coal Authority (172) AN Other (192) Scottish Water (205)		
Provision of the development plan to which the issue relates:	The content and wording of the approach to environmental protection, specifically Volume 1, Policies NE12 and NE13 (pages 87-89)	
Planning authority's summary of the representation(s):		
<p><b>Policy NE12: Water, Air, Light and Noise Pollution</b></p> <p><u>SEPA (106)</u></p> <p>Recommend that reference within the policy is made to appropriate mitigation measures to provide clarity of requirements.</p> <p>Provide comment in relation the pending Supplementary Guidance, making recommendations that this should include consideration of local air quality and, where appropriate, include siting and design options that would help improve local air quality. SEPA provide examples, including the incorporation of green infrastructure, location of buildings away from paving edges and mixed building heights as well as short block lengths.</p> <p><u>AN Other (192)</u></p> <p>Suggest wording improvements/modifications in relation to the Water Framework Directive (2000/60/EC) in order to give priority to maintain and improving the quality of all water bodies and groundwater.</p> <p>The precautionary principle should be applied in relation to hydrology and water resources.</p> <p>Given that water is a precious resource, the Council must be more definitive in preventing surface and groundwater pollution and exploitation from new developments setting out a clear position from a policy perspective.</p>		

The Council does not require industrial developments to provide comprehensive private water supply assessments which delineate water catchment areas. The Council should set a requirement for rigorous assessment for potential developers within LDP2. AN recommend that these requirements be specifically applied to onshore windfarm proposals (Policy RE12).

#### Scottish Water (205)

Provide amended wording modifications to Policy NE12 to make the policy more robust. No further comment or explanation is provided alongside the suggested amendment.

### **Policy NE13: Contaminated Land**

#### SEPA (106)

The policy title should be changed to “Potentially Contaminated Land” to ensure that the policy can be applied to sites where contamination may be a constraint, not simply where it has been previously confirmed.

Amendments should be made to the policy wording, to incorporate brownfield land as well as land which is known or suspected to be contaminated.

The reference to risk assessment should be expanded to cover a site investigation, Risk Assessment and Remediation as appropriate for the development site.

The whole of PAN 33 is applicable, not simply Annex 1; the wording should be amended to reflect this.

#### Coal Authority (172)

Recognise the inclusion of NE13 relating to Contaminated Land but have concerns that there is no relevant policy to address risks posed by land instability as a result of past mining activity and consider this to be a policy omission which must be addressed. In turn, the Coal Authority suggest a number of amendments be made to NE13 to incorporate their concerns.

Highlight the importance the Proposed Plan addresses the potential risks posed to new development by past coal mining activity with information requirements around land instability.

### **Miscellaneous Comments**

#### EPC-UK (101)

Highlights that despite the Rural Protection Area designation, there is no policy that deals with development close to or impacting hazard sites.

(101) request that a policy be formulated to detail how the Council will deal with development proposals in and around Hazard sites, in relation to protecting staff,

communities and the significant operations themselves from unreasonable and unacceptable encroachment.

#### SEPA (106)

Provide general overarching comments on the 12 cemetery sites identified within Volume 2 in relation to contamination. Cemeteries pose a risk of pollution to groundwater, which can be mitigated. Mitigation is suggested to include: natural ground conditions to allow attenuation of pollutants as well as the design of the cemetery is amended to minimise pollutant loading.

SEPA recommend all cemetery expansion sites are assessed utilising their “Guidance on Assessing the Impacts of Cemeteries on Groundwater” to determine if they are viable.

Advice on land contamination issues should be sought from the Local Authority contaminated land specialists, who lead on these matters under Part IIA of the Environmental Protection Act 1990.

Highlight that the Local Authority is responsible for local air quality management and recognise that mitigation for air quality has been assessed as part of the SEA which will need to be progressed in conjunction with the Spatial Strategy.

All sites within or immediately adjacent to a publicly sewered area should connect to the public sewer in keeping with the principles of the Urban Waste Water Treatment Directive and protect and improve objectives of the Water Framework Directive (WFD).

Recommend contacting Scottish Water regarding availability and feasibility of sewer connection as well as potential solutions for specific sites where capacity is constrained.

#### **Modifications sought by those submitting representations:**

#### **Policy NE12: Water, Air, Light and Noise Pollution**

#### SEPA (106)

Although no specific wording is provided, SEPA recommend that the policy be modified in relation to air quality to include - reference to appropriate mitigation measures in order to provide clarity on requirements.

#### AN (192)

Modify NE12, paragraph 1, to make it clearer that the council will adopt and comply with the Water Framework Directive (2000/60/EC) rather than stating ‘in line with’. It is presumed that AN would like policy NE12 to read – **“The Council will adopt and comply** ~~in line with~~ the Water Framework Directive (2000/60/EC). ~~“The Council will give priority to maintaining and improving the quality of all water bodies and ground water.”~~



Although no specific wording is provided, it is presumed that (192) seek to modify NE12 to incorporate the precautionary principle in relation to hydrology and water resources.

Although no specific wording is provided, it is presumed that (192) seek to modify NE12 to be more definitive in preventing surface and groundwater pollution and exploitation from new developments, setting out its position more clearly.

Although not explicitly stated, it is presumed that (192) seek to modify NE12 to include a requirement for industrial developments to provide comprehensive private water supply assessments which delineate water catchment areas. No specific wording has been provided to this effect.

Although no specific wording is provided, it is presumed that (192) seek to modify NE12 to set a requirement for rigorous assessment for potential developers within LDP2.

#### Scottish Water (205)

Modify NE12 (page 88) to read – “Development will be required to connect to the public sewerage system, where possible, and manage surface water through sustainable drainage systems (SuDS). Where it is not possible to connect to the public system, drainage should be an appropriately designed private sewerage system **and outfall** or septic tank and outfall. **The use of a private sewerage system will require approval from SEPA**”

#### **Policy NE13: Contaminated Land**

##### SEPA (106)

Modify the title to be – NE13: **Potentially** Contaminated Land.

Modify the wording of NE13, to read – “In cases where a development is proposed on **brownfield** land, **or land** which is known or suspected to be contaminated, the Council will...

Modify the wording of NE13, to read - “...In this regard, developers will be required to carry out a **Site Investigation**, Risk Assessment **and Remediation as appropriate** of the development site as detailed in PAN33: Development of Contaminated Land; Annex 4. Where site conditions are appropriate, consideration should be given to both radioactive and non-radioactive sources of contamination.”

##### Coal Authority (172)

Modify the title to be – NE13: Contaminated Land **and Unstable Land**

Modify NE13 to read – “In cases where a development is proposed on land which is known or suspected to be contaminated **or unstable**, the Council will require the developer to investigate and identify the nature of the contamination **or instability** and to detail the remedial measures to be undertaken to treat or remove that contamination,

as an integral part of any planning application. In this regard, developers will be required to carry out a Risk Assessment of the development site as detailed in PAN33: Development of Contaminated Land, Annex 1. Where site conditions are appropriate, consideration should be given to both radioactive and non-radioactive sources of contamination. **Where land instability has been identified, associated with past coal mining activity, development proposals should be supported by a Coal Mining Risk Assessment.**

### Miscellaneous Comments

#### EPC-UK (101)

Although no specific wording has been provided, (101) request that the plan be amended and a new policy be formulated to - detail how the Council will deal with development proposals in and around Hazard sites, in relation to protecting staff, communities and the significant operations themselves from unreasonable and unacceptable encroachment.

### Summary of responses (including reasons) by planning authority:

#### **Policy NE12: Water, Air, Light and Noise Pollution**

##### Reference to appropriate mitigation measures (106)

Policy NE12 sets out environment protection objectives in relation to water quality, air quality as well as light and noise pollution. Although no specific wording is provided, SEPA recommend that the policy be modified in relation to air quality to include reference to appropriate mitigation measures in order to provide clarity on requirements. The Council understand the desire to see this explicitly stated in policy and recognise the benefits that this could bring. Should the Reporter be so minded, the Council has no objections to explicit reference to appropriate mitigation measures being made in Policy NE12, subsection 'Air'. It is suggested that this take the form of an amendment to the first sentence of the Air subsection to read:

**'All developers will be required to ensure their proposals have minimal adverse impact on air quality and should have regard to the mitigation hierarchy to address any impacts of their development.'**

##### Wording around private sewerage system, outfall and septic tank (205)

205 has suggested some modifications to this policy with no explanation to support their reasoning. The Council consider the current wording of NE12 to be sufficient and effective. The changes proposed are minor. However, should the Reporter be minded, then the Council has no significant objections or concerns around the suggested modifications.

##### Clarity around wording of Water Framework Directive (2000/60/EC) (192)

192 has suggested some modifications to the wording of this policy around the Council's stance and the Water Framework Directive (2000/60/EC). 192 suggests that

the policy be modified from “In line with the Water Framework Directive (2000/60/EC), the Council will give priority...” to “The Council will adopt and comply with the Water Framework Directive (2000/60/EC). The Council will give priority...”. The Council considers these suggested modifications to be negligible and not to alter the core content of the policy. As such, the Council does not agree that the suggested modifications are necessary.

#### Precautionary Principle (192)

(192) consider that the precautionary principle should be applied in relation to hydrology and water resources. Although not explicitly stated, it is presumed that (192) seek this to be a modification to NE12. The Council acknowledge this comment, however, considers that the ‘Water Environment and Resources’ subsection of NE12 to be robust and effective in its requirements. Although the policy does not explicitly state that a precautionary approach must be adopted, it sets a precedent against adverse impacts in terms of pollution, ecology and biodiversity, requires developers to integrate design solutions and explore how best to maintain water quality. The policy content is precautionary in nature and sets clear requirements for prospective developers where the water environment or resources may be affected. As such, the Council does not consider it necessary to modify NE12 to explicitly state that a precautionary approach should be adopted.

#### Preventing groundwater pollution (192)

(192) suggests that the council need to be more definitive in preventing surface and groundwater pollution and exploitation from new developments by setting out a more clear position in the Proposed Plan. While noted, (192) provides no specific suggestions in how they would like this recommendation to be achieved. In the view of the Council, NE12 is robust, effective and detailed, specifically with regards to the Water Environment and Resources. NE12 requires applicants to demonstrate that changes to the levels of surface and groundwater, changes to river flows and water quality can will not have an unacceptable adverse impact on natural habitats, water abstraction schemes or give rise to unacceptable increase in flood risk. The Council consider this to appropriately cover the concerns raised by (192), and as such, disagree that the policy should be modified.

#### Industrial developments, comprehensive private water supply assessment and the need for rigorous assessment (192)

It has been highlighted that the council does not require industrial developments to provide comprehensive private water supply assessments, which delineate water catchments areas and that Scottish Water does not allow such development on their public water catchment areas. (192) argues that the Council should set rigorous assessment requirements for potential developers. The Council acknowledge these comments, however, disagree that there is a requirement for this to be set out within the policy framework. Scottish Water are a statutory consultee, where relevant and applicable, the comments provided within their consultation responses holds significant weight in the determination of a given planning application. As such, the Council do not consider it to be necessary to elaborate on this point within the policy and consider the current wording to be an appropriate level of detail.

(192) also outline that such rigorous assessment should be applied to onshore windfarm developments. Where relevant, any renewable energy development will require to be assessed against policy NEW12, therefore the view of the Council remains that NE12 provides a robust policy framework to assess impacts on private water supplies.

### **Policy NE13: Contaminated Land**

#### Wording to include brownfield land (106)

SEPA suggest NE13 be amended to read: *“In cases where a development is proposed on **brownfield** land, **or land** which is known or suspected to be contaminated, the Council will the developer to investigate and identify the nature of contamination...”*. The addition of brownfield land, and the associated alterations to the wording, sets an additional requirement on developers, so all brownfield land will need to be investigated for contamination. While the Council consider the current wording of the policy to be fair and robust in its approach to remediating contaminated land, it has no significant objections to this modification should the Reporter be minded to include it.

#### Policy title change to “Potentially Contaminated Land” (106)

It has been suggested that the policy title be modified to read “Policy NE13: Potentially Contaminated Land” (106). This suggestion has been made to ensure that the policy is applied to sites where contamination might be a constraint in addition to sites where it has been confirmed. While the Council understand this perspective behind this suggestion, it does not consider this modification to be necessary as the policy content covers land which is potentially contaminated, for example “where development is proposed on land which is known or suspected to be contaminated”. The Council consider the addition of the term “potentially” to be ambiguous and would not add value to the policy. As such, the Council disagree with this amendment and consider the current policy title to be appropriate and clear.

#### Expanding wording to cover Site Investigation and Remediation and the whole of PAN33 (106)

It has been recommended that the policy be modified to cover site investigation and remediation, not simply a risk assessment. While the Council consider the current wording of the policy to be fair and robust in its approach to remediating contaminated land, it has no significant objections to the modification suggested.

Similarly, it has been highlighted that Policy NE13 makes specific reference to Annex 1 of PAN33: Development of Contaminated Land, however, the whole of PAN33 should be applicable, not simply Annex 1. The Council acknowledge and agree with this. As such, should the Reporter be minded to pursue the suggestion to modify NE13, the Council would have no objection to amending the second sentence of policy NE13 to read:

‘In this regard, developers will be required to carry out a **Site Investigation, Risk Assessment and Remediation as appropriate** of the development site as detailed in PAN33: Development of Contaminated Land’

Wording to include unstable and instability from past coal mining activity (172)

The Council acknowledges the concerns raised by the Coal Authority with regards to the Proposed Plan having no provision or policy framework which relates to the risks posed by past coal mining activity. The Council also acknowledges the suggested amendments to NE13: Contaminated Land and understands why this seems like the most logical policy to expand and integrate their concerns. However, the Council do not consider this to be an appropriate or necessary modification. The Coal Authority are a statutory consultee. Where a planning application is submitted within the constraint of former coal risk, then the Coal Authority will be consulted on the application. The comments provided within their consultation response(s) holds significant weight in the determination of a given planning application. As such, the Council do not consider it to be necessary to widen the policy to incorporate unstable land, and thus, consider the current wording to be an appropriate level of detail.

Requirement for a Coal Mining Risk Assessment

The Council acknowledges the concerns raised by the Coal Authority with regards to the proposed modification to NE13 to include the following sentence: *“Where land instability has been identified, associated with past coal mining activity, development proposals should be supported by a Coal Mining Risk Assessment”*. The comments provided in the subsection above are also relevant here as this is a matter routinely raised and considered through the Development Management process. The Council do not consider it to be necessary to widen the policy to incorporate the need for a Coal Mining Risk Assessment, and thus, consider the current wording to be an appropriate level of detail.

Policy title change to “Contaminated Land and Unstable Land” (172)

It has been suggested that the policy title be modified to read “Policy NE13: Contaminated Land and Unstable Land”. This is only applicable and relevant if the modifications outlined within the section(s) above are applied to the policy. As outlined above, the Council do not consider these to be appropriate or necessary.

**Miscellaneous Comments**A new Policy relating to development around hazard sites (101)

(101) highlights that there is no policy that deals with development close to or impacting hazard sites. (101) requests that a policy be formulated to detail how the Council will deal with development proposals in and around Hazard sites, in relation to protecting staff, communities and the significant operations themselves from unreasonable and unacceptable encroachment. The Council acknowledge that there is no explicit policy relating specifically to this issue. However, the Council argue that the Plan, in its entirety, addresses issues relating to safety and environmental protection of the environment, but also residents and visitors. When an application is submitted, it is considered against a host of constraints, using a constraint register within the Council’s GIS system to determine who should be consulted within a proposal. In addition, Policy SS2, against which all applications will be assessed, requires all development to

be fully compatible with surrounding established land uses, which gives a clear policy hook to consider fully the appropriateness of developments proposed in close proximity to hazardous sites.

#### Cemetery extensions and contamination (106)

The Council recognise and acknowledge that the Local Authority contaminated land specialists, lead on these matters under Part IIA of the Environmental Protection Act 1990 and that advice should be sought on these matters. Should a proposal for expansion come forward during the Plan period, then they will be consulted on its merits.

The Council acknowledge the comments provided in relation to cemetery sites and their potential to contaminate groundwater. The 12 sites allocated within LDP2 have been allocated as safeguarded sites for expansion, should there be demand and this be necessary within the Plan period. Any proposal would still need to be assessed against the relevant policies of the Plan. (106) recommend all cemetery expansion sites area assessed utilising their “Guidance on Assessing the Impacts of Cemeteries on Groundwater” to determine if they are viable. The Council acknowledge this recommendation, however, note that whilst the areas are safeguarded for future use, there is currently no plans in terms of the likely burial capacity of these areas, which would be necessary to fully assess the sites at present. The Council acknowledge the suggested mitigation measures provided and assessment measures and will in turn update the accompanying SEA Site Proforma Assessment Sheets in order to include and reflect these measures provided by (106) and to make reference to the Guidance on Assessing the Impacts of Cemeteries on Ground Water. Should the expansion of an existing cemetery be necessary, then the relevant enhancement and mitigation measures contained within the Environmental Report will need to be implemented and integrated into the proposal under Policy SS2: Overarching Policy (vii). This is considered to adequately cover the concerns raised.

#### Local Air Quality Management and Mitigation (106)

The Council recognise and acknowledge that the Local Authority is responsible for local air quality management and recognise that mitigation for air quality has been assessed as part of the SEA, which will need to be progressed in conjunction with the Spatial Strategy.

#### Sites should connect to the public sewer in keeping with UWWTD and WFD (106)

The Council recognise and acknowledge the comments provided relating to the all sites should connect to the public sewer in keeping with the principles of the Urban Waste Water Treatment Directive and the Water Framework Directive (WFD).

#### Consultation with Scottish Water required (106)

(106) recommend contacting Scottish Water regarding availability and feasibility of sewer connection as well as potential solutions for specific sites where capacity is constrained. The Council recognise and acknowledge this requirement. During the summer of 2021, Scottish Water were consulted on residential sites which we



submitted before the Main Issues Report and during the Call for Sites) and given the opportunity to provide comment on sites submitted to the Planning Authority. Scottish Water are also a statutory consultee, who will be consulted on applicable and relevant planning applications.

## Reporter's conclusions:

### Policy NE12: Water, Air, Light and Noise Pollution

#### Reference to appropriate mitigation measures (106)

1. Those parts of proposed Policy NE12 that relate to the water environment and resources and noise refer to the potential requirement for mitigation measures. There is no comparable reference in that part of the policy that refers to air quality. I consider that it would balance and strengthen the policy to make a reference to mitigation in the paragraph relating to air quality. I have recommended a modification below based on the wording suggested by the council.
2. The suggestion that the council's proposed supplementary design guidance includes advice on siting and design to help improve local air quality is helpful. This request falls outwith the scope of the examination as it is not proposing a modification to the local development plan. However, I consider that the proposed policy provides sufficient of a policy hook to enable the council to incorporate this. In my view, this does not require a modification to the proposed plan.

#### Wording around private sewerage system, outfall and septic tank (205)

3. It is suggested that the reference to an outfall in that part of proposed Policy NE12 which relates to the water environment and resources be changed so that it refers to private sewerage systems but not septic tanks. My understanding is that, whilst a septic tank cannot discharge directly to a water course, it can discharge to land through an infiltration system. I have recommended a minor modification to the wording of the policy to indicate that this requirement applies to an outfall only where this means of discharge is appropriate.
4. I have recommended the addition of a second paragraph to the preamble to proposed Policy NE12 under the heading 'Protecting the Water Environment and Resources' to highlight that use of a private sewerage system will require approval from the Scottish Environment Protection Agency (SEPA). This is not strictly necessary as it relates to a separate regulatory process but does provide a useful prompt for users of the plan. I note that the council is content with this change.

#### Clarity around wording of Water Framework Directive (2000/60/EC) (192)

5. My understanding is that the Water Framework Directive is embodied in Scots law. Consequently, the council has a statutory obligation to comply with the regulations that arise from that legislation. As such, I consider that there is nothing to be gained by changing the existing wording of proposed Policy NE12 in so far as it relates to the priority the council will give to maintaining and improving water bodies and ground water in line with the Directive. I do not consider it necessary to modify the plan on this



point.

Precautionary principle (192)

6. Although application of the precautionary principle is not stated explicitly in proposed Policy NE12 it is clear from the stated presumption against proposed development that may cause environmental harm that this is the council's approach. Other than in relation to minor issues addressed elsewhere in this chapter of the report, I also note that neither Scottish Water, which is responsible for providing sufficient and potable supplies of drinking water and waste-water treatment, and SEPA, the principal environmental regulator, has objected to the wording of the proposed policy.

7. I conclude that it is not necessary to modify proposed Policy NE12 to refer to the precautionary principle.

Preventing groundwater pollution (192)

8. The first paragraph of proposed Policy NE12 states that, in general terms, the council will not support proposals that would impact adversely on water catchment areas, water courses, lochs and reservoirs, either in terms of pollution or biodiversity. The policy then goes on to provide more detailed guidance. I consider that this provides a suitably strong and comprehensive framework within which to assess planning applications which may impact on the water environment. As I have noted above, neither Scottish Water nor SEPA has objected to the proposed policy in substantive terms. No proposed additional or alternative wording has been suggested.

9. I conclude that it is not necessary to modify proposed Policy NE12 in relation to prevention of groundwater pollution.

Industrial developments, comprehensive private water supply assessment and the need for rigorous assessment (192)

10. The penultimate and final paragraphs of that part of proposed Policy NE12 which relate to the water environment and resources set out what the council requires of developers where proposals would potentially impact on a private water supply. I consider that this provides a suitable policy framework for dealing with planning applications, including for proposed industrial and windfarm developments, that may impact on private water supplies.

11. The policy also indicates that it will be necessary for council environmental health officers and Scottish Water, a statutory consultee, to be involved in the assessment process.

12. Scottish Water and SEPA have not objected to this part of the proposed policy.

13. I conclude that it is not necessary to modify proposed Policy NE12 in relation to protection of private water supplies.

**Policy NE13: Contaminated Land**

Wording to include brownfield land (106)

14. Proposed Policy NE13 requires that, where development is proposed on land which is, or may be, contaminated developers will be required to carry out investigation and propose appropriate remediation. As proposed, this relates to any land. Although I appreciate that brownfield sites are more likely to be contaminated, I do not consider it necessary to specify that the policy applies to brownfield sites. Whether or not a risk assessment is required will be informed by the council's contaminated land register and the council's environmental health officer. Whereas, as the council observes, assessment of all brownfield sites would introduce a potentially unnecessary additional requirement on some developers.

15. I do not consider it necessary to modify Policy NE13 to include a specific reference to brownfield sites.

Policy title change to 'Potentially contaminated land' (106)

16. It is clear from the first sentence of proposed Policy NE13 that the policy relates to land where contamination is suspected as well as known to be present. I do not consider changing the name of the policy to include the word 'potentially' would make a material difference to the effect of the policy.

17. I have not recommended a modification on this point.

Expanding wording to cover site investigation and remediation and the whole of PAN 33 (106)

18. Where contaminated land is, or may be, an issue on a proposed development site, the second sentence of proposed Policy NE13 requires the developer to carry out a risk assessment as detailed in PAN 33: Development of Contaminated Land, Annex 1. However, Annex 1 of Pan 33 sets out a three-stage remediation process: site investigation, risk assessment and site restoration. Annex 2 also refers to the need for post-works monitoring. I consider that aligning the proposed policy more closely with the guidance in PAN 33 would strengthen the council's position in dealing with planning applications relating to contaminated land.

19. Annex 1 of the PAN deals specifically with the remediation process, which is most relevant to the terms of Policy NE13 but, as I have noted, Annex 2 is also relevant and, whilst much of the main part of the PAN deals with the responsibility of councils under the contaminated land regime, I consider it would be helpful to users of the plan if the proposed policy linked to the PAN as a whole.

20. I have recommended below modified wording based on that provided by SEPA and endorsed by the council with an additional reference to monitoring.

Wording to include unstable land and instability from past coal mining activity, requirement for a coal mining risk assessment and policy title change to 'Contaminated and Unstable Land' (172)

21. Whilst potentially linked in the case of land subject to former coal mining activity,

contaminated land and site instability present different issues for the council and prospective developers. For example, PAN 33, which I have referred to in the previous section of this report, does not also address the implications of land instability for the planning system.

22. As the council advises, it holds maps indicating areas of previous mining activity and, where appropriate, would consult the Coal Authority, a statutory consultee, on development proposals. As the council also points out, the authority's response carries significant weight in determining planning applications so would be instrumental in determining whether planning permission can be granted and, if so, subject to what conditions. East Ayrshire is an area which has a long history and considerable experience of dealing with such matters and I have no evidence that current arrangements are failing.

23. I consider it is reasonable to rely on the development management process to deal with this matter. Consequently, I do not consider it necessary to include reference to unstable land or instability in the title and text of proposed Policy NE13 nor to include a reference for relevant planning applications to be supported by a coal mining risk assessment.

24. I have not recommended any change to proposed Policy NE13 to address the matters raised.

### **Miscellaneous Comments**

#### A new policy relating to development around hazard sites (101)

25. Section (ii) of proposed Policy SS2: Overarching Policy requires that proposed development is fully compatible with surrounding uses and has no unacceptable impacts on the environmental quality of the area. Given there is potentially a wide range of circumstances where proposed development could conflict with an established hazard site, I consider it would be impractical to frame a more specific policy than that proposed by the council. As the council indicates, proximity of a planning application to such a site would trigger appropriate technical consultations. This could include the Health and Safety Executive. Depending on the responses to these consultations and any representation received, including from the site owner or operator, proposed Policy SS2 gives the council a policy hook to refuse any applications which would impact to an unacceptable degree.

26. I do not consider it necessary to modify the plan by including a bespoke policy on protection of hazard sites.

#### Cemetery extensions and contamination (106)

27. The recommendation that proposed cemetery extensions in the plan should be assessed using SEPA's document Guidance on Assessing the Impacts of Cemeteries on Groundwater is sound advice. This is acknowledged by the council. However, I note the council's comment that no potential burial capacity for these 12 sites has been identified, meaning that any assessment at this stage would be premature. Once an assessment has been carried out, the council acknowledges that it would need to

update SEA site proforma assessment sheets, as appropriate.

28. I do not consider that it is necessary to modify the plan to address this process specifically.

Local air quality management and mitigation, sites should connect to the public sewer and consultation with Scottish Water (106)

29. I note SEPA's comments and the council's response in each case. I do not consider any modification to the proposed plan is required in relation to these matters.

### **Reporter's recommendations:**

I recommend that the plan be modified as follows:

1. The preamble to Policy NE12: Water, Air, Light and Noise Pollution be modified by adding a new second paragraph under the sub-heading, as follows:

'The use of a private sewerage system will require approval from SEPA.'

2. Policy NE12; Water, Air, Light and Noise Pollution be modified as follows:

(i) By deleting the second sentence from the sixth paragraph under the heading 'Water Environment and Resources' and substituting the following sentence:

'Where it is not possible to connect to the public system, drainage should be to an appropriately designed private sewerage system or septic tank and, if applicable, outfall.'

(ii) By deleting the first sentence from the paragraph headed 'Air' and substituting the following sentence:

'All developers will be required to ensure their proposals have minimal adverse impact on air quality and should have regard to the mitigation hierarchy to address any impacts of their development.'

3. Policy NE13: Contaminated Land be modified by deleting the second sentence and substituting the following sentence:

'In this regard, developers will be required to carry out site investigation, risk assessment, remediation and monitoring of the development site as detailed in PAN33: Development of Contaminated Land.'

Issue 16	General Housing	
Development plan reference:	Volume 1 Chapter 5 - Section 5.1, Policies RES1, RES2, and RES4	Reporter: Stephen Hall
Body or person(s) submitting a representation raising the issue (including reference number):		
Mactaggart & Mickel Homes Ltd (111) Homes for Scotland (128) Persimmon Homes (141) Gladman Developments (146) Jim Caldwell (155) Naturescot (157) Barratt Homes (195) Hallam Land Management Ltd (206) Harcourts Development (UK) Ltd (282) Suffolk Ltd (283) Philip C. Smith (Commercials) Ltd. and Strathearn Estates Ltd. (294) Scottish Government (310)		
Provision of the development plan to which the issue relates:	Communities and Housing – The content and wording of the Plan in relation to new housing development, affordable housing and compact growth (RES1, RES2 and RES)	
Planning authority's summary of the representation(s):		
<u>Volume 1, Chapter 5 – Section 5.1</u>  <u>Scottish Government (310)</u>  The plan should clarify what specialist housing need, if any, was identified as part of the HNDA and what the plan intends to do to support the delivery of other specialist housing, if a need was identified. Due regard should also be given to the requirement, published in Local Housing Strategy guidance, to set targets for wheelchair accessible housing across all tenures. To meet the requirements of paragraph 132 of SPP which states 'as part of the HNDA, local authorities are required to consider the need for specialist provision that covers accessible and adapted housing, wheelchair housing and supported accommodation, including care homes and sheltered housing. Where a need is identified, planning authorities should prepare policies to support the delivery of appropriate housing and consider allocating specific sites. Draft NPF4 also states that an equalities led approach to addressing identified gaps in provision should be taken and it is unclear from the proposed plan whether this need has been considered and if a need was identified.		

## **Policy RES1 – New Housing Development**

### Mactaggart & Mickel Homes Ltd (111)

Policy RES1 should be revised to include a mechanism to allow sites to come forward and be granted planning permission to deliver residential development where a shortfall in the 5-year effective housing land supply emerges.

### Homes for Scotland (128), Gladman Developments (146), Barratt Homes (195)

Policy RES1 is essentially a policy mechanism to deal with land supply issues during the Plan's lifetime to ensure that housing needs can continue to be met without automatically reverting to a full-scale LDP review. Policy RES1 is far too limited. There is no circumstance that would enable a 'normal' housing site to be given permission unless all of the sites in the Housing Land Pipeline were underway. In this respect, there is not genuine departure policy in the Plan, in the event that the housing land pipeline is failing to deliver at the expected rate.

### Persimmon Homes (141)

In principle the respondent is supportive of the aim of the policy to provide a mechanism to deal with land supply issues during the lifetime of the LDP by setting out circumstances in which the Council would be able to give permission for developments that are not allocated or in the LDP Housing Land Pipeline. The wording does however require review to allow for circumstances that would enable a 'normal' housing site to be given permission if not all of the sites in the Housing Land Pipeline were underway. Provision should be made for the Council to draw from non-allocated sites if allocated sites are consistently under delivering and there are no sites in the long-term supply capable of 'plugging the gap'.

It is suggested that to maintain consistent housing delivery that the LDP includes a Housing Delivery Pipeline. Ultimately, for the development strategy to succeed, housing delivery over the plan period must meet or exceed the total minimum housing land requirement as set by the LDP. The Housing Land Audit will be used to monitor housing delivery and where total completions since the beginning of the plan period are higher or lower than both the accumulating housing land requirement and the Housing Delivery Pipeline non-allocated sites should be brought forward.

### NatureScot (157)

(157) are supportive of the plan-led approach to new housing development, and the need for there to be flexibility is understood. However, criteria (iv) of policy RES1 appears to make provision for housing development on any sites identified as Vacant and Derelict Land (VDL), with no limits on the size or location of site. East Ayrshire has a number of large VDL sites located outwith settlements, development of which for housing would be unlikely to be consistent with the plan Spatial Strategy, the principles of 20 Minute Neighbourhoods and the availability of infrastructure to support development. Policy SS4: Development of Vacant and Derelict Land specifies that development of VDL will be supported where the site is located within settlement boundaries. Policy RES1 therefore goes beyond Policy SS4 with regards to



development of VDL.

## **Policy RES2 – Affordable Housing**

Homes for Scotland (128), Persimmon Homes (141), Gladman Developments (146) and Barratt Homes (195), Scottish Government (310)

Policy RES2 states that a higher contribution than 25% might be sought within the Kilmarnock & Loudoun SHMA “where it is justified by evidence of need”. It is unclear what this means and what the specific triggers are that would justify evidence of need? The Proposed Plan allocates for 1,700 affordable units and the requirement, minus generosity, is 1,080. Does any failing in the Housing Land Pipeline such that these targets would remain undelivered constitute a mechanism to require greater than 25% affordable homes to be delivered? Any additional affordable requirement should be defined clearly now to ensure that sites are deliverable and viable, rather than left as an unknown until the developer seeks planning consent. Additionally, at what point can this “justification” of need be introduced? If an application takes a long time to be determined, can an evidence of need be introduced prior to a decision being made that was not present when the application was validated?

(310) states that the Plan does not given an indication of what the increased percentage requirement is likely to be.

Jim Caldwell (155)

The requirement for a blanket 25% affordable housing policy will lead to many developments for new housing being unviable, particularly on brownfield sites. Whilst it is acknowledged that there is a requirement for more affordable housing in the Kilmarnock area, the Council should instead adopt an approach whereby affordable housing requirements are assessed based on the merits of individual projects, and taking into account the economic benefits of development. This would create a more supportive policy stance, and facilitate the scale of development, which will create employment opportunities and will have a wider positive economic impact within East Ayrshire, rather than constraining development based on an arbitrary figure of 25%. In addition, our client would encourage the Council to update and be more flexible in their definition of affordable housing, in recognition of the range of alternative models that can help in securing affordable homes for the region.

Hallam Land Management Ltd. (206)

Policy RES2 states that the Council’s preference is that affordable housing will be provided on site. We also note the policy includes Note 1 and 2 relating to additional explanation and that Supplementary Guidance on affordable housing will support this policy. Our preference would be for a greater level of additional clarification to be included within an additional note to the policy itself. The additional note is required to clarify where the policy potentially would not be applied, or where there is flexibility in its application to enable affordable housing to be provided off-site, or by developer contribution. For example, where a site would be rendered unviable by the requirement for affordable housing provision where previously unknown ‘abnormal’ site costs arise. It would be for the supplementary guidance to set out how the policy will be

implemented by stating the particular circumstances in which flexibility would be applied and the way in which this would be assessed. This Policy states that a higher contribution than 25% might be sought within the Kilmarnock & Loudon SHMA “where it is justified by evidence of need”. It is considered that the meaning of this is unclear as it does not state what the threshold are which would justify evidence of need. At what point can justification of need be required?

Harcourts Development (UK) Ltd (282) and Suffolk Ltd (283)

The policy should be expanded and be explicit to include that affordable housing will be linked to the examination of a viability assessment. It is noted that a higher contribution may be sought within those areas where it is justified by evidence of need. Equally however, the policy must also account for a reduction in affordable housing where it is justified, particularly where the housing is proposed as part of an enabling development (such as the proposed enabling development to restore Loudoun Castle and Estate or help to deliver significant tourism development as sought by the Proposed Plan). Such enabling development must be the minimum necessary and a requirement for affordable housing will increase the amount of housing required to meet the offset the conservation deficit. The policy should therefore specify affordable housing is only required on general housing development, and will not be required for enabling developments that are in accordance with Policy HE5.

Philip C. Smith (Commercials) Ltd. and Strathearn Estates Ltd. (294)

(294) considers that the requirement for a blanket 25% affordable housing policy in the Kilmarnock and Loudoun sub-housing market area will lead to many developments for new housing being unviable, particularly on brownfield sites. Whilst it is acknowledged that, there is a requirement for more affordable housing in the Kilmarnock area, East Ayrshire Council should instead adopt an approach whereby affordable housing requirements are assessed based on the merits of individual projects, and taking into account the economic benefits of development. This would create a more supportive policy stance, and facilitate the scale of development, which will create employment opportunities and will have a wider positive economic impact within East Ayrshire, rather than constraining development based on an arbitrary figure of 25%.

In addition, the Council is encouraged to update and be more flexible in their definition of affordable housing, in recognition of the range of alternative models that can help in securing affordable homes for the region.

**Policy RES4 – Compact Growth**

Homes for Scotland (128) and Barratt Homes (195)

There are concerns that references to density could be misunderstood. It is the density of people within an area that is important for supporting facilities and services, which is not necessarily the same as density of housing units. It is particularly important to build family homes if you wish to support a primary school within your 20-minute neighbourhood for example. If a 20-minute neighbourhood is to work as it is intended, we should be planning for 100 people per hectare and we should be planning to ensure that bus stops are not more than a 5-minute walk from a home. This implies an

optimum average density of 46-60 units/ha and this should be reflected in the policy approach. At these densities, services and amenities, such as schools, health centres, pubs and corner shops, the following facilities could feasibly be supported. However, policy RES4 should be clear that local circumstances, such as to maintain townscape or residential amenity that would not tolerate higher or lower densities will also be acceptable.

In their representation, (128) refers to a briefing note prepared by consultants (RD32), which addresses misconceptions in the density requirements to support the provisions of aims in draft NPF4.

(128) are of the view that several terms require being better defined in the glossary, namely 20 Minute Neighbourhoods, Compact Growth, Inclusive Design, and Local Living.

#### **Modifications sought by those submitting representations:**

##### **PLDP2 Volume 1, Chapter 5 – Section 5.1**

##### **Scottish Government (310)**

The plan should clarify what specialist housing need, if any, was identified as part of the HNDA and what the plan intends to do to support the delivery of other specialist housing, if a need was identified.

##### **Policy RES1 – New Housing Development**

##### **Mactaggart & Mickel Homes Ltd (111)**

(111) request that policy RES1 be amended to include a criterion which will allow sites to be granted planning permission for housing if it can be demonstrated that there is a shortfall in the 5-year effective housing land supply. The following additional wording is suggested for addition to Policy RES1:

*“If the Housing Land Audit identifies a shortfall in the 5 year effective housing land supply, and this cannot be addressed through the early release of sites within the established housing land supply, the Council will seek to remedy such a shortfall by approving other housing development which are demonstrated to be consistent with the National Planning Framework and all other Plan policies, with a preference for brownfield sites, and other sites only being considered where it has been demonstrated that a suitable site does not exist within the urban area and where all other criteria can be met. Proposals will be required to provide a new defensible boundary; be appropriate to the scale and character of the specific settlement and local area; demonstrate positive social, economic and environmental benefits; not prejudice the delivery of allocated housing sites; be demonstrated to be effective and capable of delivering completions in the next 5 years as demonstrated through supporting evidence in accordance with PAN 2/2010; and provide the required infrastructure”.*

Homes for Scotland (128), Gladman Developments (146), Barratt Homes (195)

Amend RES1 as follows (where the removal of wording is suggested these are highlighted as scored out and suggested new wording is highlighted in bold italics):

“The Council will encourage and support the residential development of Housing Opportunity and certain Miscellaneous Opportunity sites identified on the LDP maps.

New homes on land not allocated for housebuilding in the LDP ***should*** be supported ***and additions to the Housing Land Pipeline should be limited to circumstances where*** ~~other than in circumstances where~~ the planning authority determines that:

- (i) overall progress in the build-out of sites included in the Housing Land Pipeline is exceeding delivery timelines set out in the ***Housing Land Pipeline*** ~~most up-to-date Delivery Programme for the plan;~~ or
- (ii) ***there is significant under delivery of housing required to achieve the Housing Land Pipeline and Housing Land Requirement*** ~~the proposal is supported by an agreed timescale for build-out; and~~
- ~~(iii) the proposal is otherwise consistent with the plan Spatial Strategy, the principles of 20 Minute Neighbourhoods and the availability of infrastructure to support development.~~

OR

- (iv) the proposal is for a new home or homes within a defined settlement boundary, on a small site or within a site identified in the latest published Vacant and Derelict Land Survey.

OR

- (v) the proposal is for the delivery of a development of affordable homes as part of a Local Authority-led or supported affordable housing plan.

OR

- (vi) the proposal is consistent with Rural Housing development policies.

Residential developments will require to meet with the Public and Private Open Space Standards set out in Schedule 9 of the LDP and may be required to provide a proportion of units as affordable housing and in addition make developer contributions where additional demands are placed on facilities, infrastructure or services that would necessitate new facilities or exacerbate deficiencies in existing provision. Ancillary, associated uses such as small-scale retail for day-to-day purchases and leisure, recreational and community facilities at a neighbourhood scale will be supported in appropriate locations within new housing developments where they meet with all relevant LDP policies.

***If accumulating housing delivery is 10% less or 10% more than shown in the Housing Delivery Pipeline, longer term deliverable sites should be brought forward. If accumulating housing delivery is 20% less or 20% more than shown in the Housing Delivery Pipeline for two consecutive years, then longer term deliverable sites and/or unallocated sites should be brought forward, which are consistent with the plan spatial strategy and other relevant policies. The***

***development management process should ensure that such sites can be commenced within 2 years of receiving planning permission.”***

***This policy process is outlined graphically in Figure 1. It is also important to emphasize that infrastructure capacity constraints can be met by developers as well as providers.***

***A presumption in favour of sustainable, non-allocated sites is introduced in circumstances wherein the Accumulating Delivery either exceeds or falls short of the Housing Delivery Pipeline by 20% or more, for 2 consecutive years.***

***NOTE: All respondents outline this policy process in graphic form (Graphic 1) in their representations.***

#### Persimmon Homes (141)

Although the respondent explicitly suggests no modifications, it is assumed that it is requested that policy RES1 be amended to allow for circumstances that would enable a ‘normal’ housing site to be given permission if all of the sites in the Housing Land Pipeline were not underway.

#### Naturescot (157)

Amend criteria (iv) of Policy RES1 to remove reference to VDL, to read as follows: “(iv) the proposal is for a new home or homes within a defined settlement boundary or on a small site”.

### **Policy RES2 – Affordable Housing**

#### Homes for Scotland (128), Persimmon Homes (141), Gladman Developments (146) and Barratt Homes (195)

(128, 146) suggests revising the wording of the last sentence of criterion ii of policy RES2 to read as follows:

(ii) on all sites of 30 or more houses proposed in the Kilmarnock & Loudoun sub housing market area. Within such developments, 25% of houses will require to be affordable in nature. However, a higher contribution might be sought within the Kilmarnock & Loudoun sub housing market area ***where it is clearly evidenced that there are specific local concerns regarding the under-delivery of affordable homes.***

(195) suggests revising the wording of criterion i and Note 1 of policy RES2 to read as follows:

***“The Council will require the provision of affordable housing: (i) on those sites specifically identified and reserved for such purposes on the LDP maps; (ii) on all sites of 40 or more houses proposed in the Kilmarnock & Loudoun sub housing market area. Within such developments, up to 25% of houses will require to be affordable in nature.***

*Note 1: Early discussion with the Council's Planning and Housing Services will be required to establish the most appropriate mix **and percentage** of affordable housing to be provided. Affordable Housing can cover a wide range of end users including families, older and ambulant people with disabilities, and young people that are vulnerable.*

Philip C. Smith (Commercials) Ltd. and Strathearn Estates Ltd. (294)

The Council should amend policy RES2 by adopting an alternative approach whereby affordable housing requirements are assessed based on the merits of individual projects, and taking into account the economic benefits of development.

A more flexible definition of affordable housing is encouraged.

Scottish Government (310)

The Plan should make it clear what the increased percentage requirement is likely to be, in terms of higher affordable housing requirements.

Jim Caldwell (155)

Although (155) does not explicitly suggest modifications to policy RES2 it is suggested that the Council adopt an approach whereby affordable housing requirements are assessed based on the merits of individual projects, and taking into account the economic benefits of development. It is, therefore assumed that policy RES2 should be modified to set out the approach suggested.

Hallam Land Management Ltd. (206)

(206) suggest no modifications.

Harcourts Development (UK) Ltd (282) and Suffolk Ltd (283)

(282) and (283) suggest no modifications.

## **Policy RES4 – Compact Growth**

Homes for Scotland (128) and Barratt Homes (195)

(128) and (195) request that policy RES4 makes it clear that local circumstances, such as to maintain townscape or residential amenity that would not tolerate higher or lower densities, will also be acceptable.

## **Glossary**

Homes for Scotland (128)

The definition of 20 Minute Neighbourhood be amended to read: “Appropriately dense neighbourhoods designed in such a way that all people can meet the majority of their daily needs within a reasonable walk, wheel, cycle or public transport trips. This is

achieved when residential development integrates where appropriate with green spaces, local shops, community and municipal facilities, health and social care services, and public transport hubs. The concept applies differently in rural areas and towns, where the latter are more likely to provide a larger array of services and shops that enable local living.”

The definition of Compact Growth be amended to read: “Model of urban growth that seeks to control the density of settlements to avoid or minimise unnecessary and unsustainable urban expansion on greenfield land, making optimal use of available land safeguarding it for future uses, and encouraging local living. It also enables more efficient public transport and delivers infrastructure at a lower per capita cost. This can be achieved by prioritising brownfield, vacant and derelict land where these sites can be delivered within the Plan period and are viable, and developing sites to appropriate densities within settlements.”

A definition for Inclusive Design be added to the glossary; however, no definition has been proposed.

The sentence “This can be achieved by the delivery of 20 minute neighbourhoods” be removed from the definition of Local Living.

#### **Summary of responses (including reasons) by planning authority:**

### **Volume 1, Chapter 5 – Section 5.1**

#### **Specialist housing (310)**

Although the Plan does not explicitly refer to specialist housing, it is embedded in the PLDP2 Spatial Strategy (policy SS2 and page 29), its policies e.g. DES1, RES1, RES2 and in the Housing Technical Paper (CD34), which sets out the approach taken to determining the housing supply target and minimum all-tenure housing land requirement (MATHLR). The HNDA (CD36) has informed the MATHLR. Explicit reference is made in the Plan and associated documents, including the Housing Technical Paper (CD34) and draft Affordable Housing Supplementary Guidance (CD33) to the Council’s Local Housing Strategy (LHS) (CD85) and Strategic Housing Investment Plan (SHIP) (CD35). The LHS and SHIP set out specific requirements concerning specialist living and identify sites to be developed for specialist housing purposes through the affordable housing supply programme update. The SHIP also specifically highlights a wheelchair accessible housing target (Page 3 of CD35).

The MATHLR addresses both market and affordable housing for each East Ayrshire sub-housing market area with further detail regarding the background to the MATHLR being set out in the Housing Technical Paper. Given the strategic nature of LDP2, it does not break down the housing supply target and MATHLR further. SPP, paragraph 132 (CD26) states that - “Where a need is identified, planning authorities should prepare policies to support the delivery of appropriate housing and consider allocating specific sites.” The Council is therefore of the view that it has met the requirements of SPP as the LDP2 has considered the HNDA (CD36) when determining the MATHLR. In addition, the need for specialist housing provision is met through LDP2 policy and sites allocated in the Plan, particularly those allocated for affordable housing purposes.



These sites are linked to the SHIP affordable housing supply programme (CD35). The Council is of the opinion that no changes are required to the Plan.

### **Policy RES1 – New Housing Development**

#### **Amendment to support development where there is shortfall in housing land supply (111)**

Policy RES1 sets out an approach to supporting new housing development, which is in line with SPP (CD26), in that the Plan allocates a range of sites, which are effective or expected to become effective in the plan period to meet the housing land requirement in full. It also reflects NPF4 (CD3), in that it identifies a housing target for East Ayrshire, in the form of a housing land requirement and establishes a deliverable housing land pipeline for the housing land requirement by identifying short, medium and long-term sites. Sites allocated for residential purposes in LDP2 have been divided into Short Term, Medium Term, and Longer Term delivery as set out in Schedule 3 (CD32). Determination of timescales for the delivery of allocated housing sites during the Plan period has been informed by programming from the 2021 Housing Land Audit. As stated in the Plan, the LDP Action Programme and Housing Land Audit will both be used to manage the development pipeline. As part of this management, the Council will, as per NPF4 policy principles on Quality Homes (CD4), consider enabling earlier delivery of long-term deliverable sites or areas identified for new homes beyond 10 years. Long-term sites are identified in Schedule 3 of the Plan. The annual Housing Land Audit (CD72, 73 and 74) will monitor the delivery of housing land to inform the pipeline and the actions to be set out in the Action Programme.

It is important to highlight that LDP2 is a 5-year local development plan prepared in line with the Scottish Government's Transitional Arrangements (CD25) and the housing land pipeline reflects this plan period. It cannot be compared to a 10 year local development plan.

Policy RES1 provides a degree of flexibility in its criteria. Policy RES1 states that development will be acceptable in principle on those sites identified in the Plan as development opportunity sites for housing and sets out the scenarios where development might be deemed acceptable in principle on sites that are not allocated in the Plan.

It is therefore the Council's view, that a mechanism to allow sites to come forward and be granted planning permission to deliver residential development where a shortfall in the 5-year effective housing land supply emerges is not necessary as policy RES1 fully reflects the policy requirements as set out in SPP (CD26) and the NPF4 (CD4).

#### **Restrictive nature of RES1 (128), (141), (195)**

The Council disagrees with (128) that policy RES1 is far too limited and that there is no circumstance that would enable a 'normal' housing site to be given permission unless all of the sites in the Housing Land Pipeline were underway. It should be noted that no definition is provided by (128) to indicate the meaning of 'normal'. However, (141) does refer to 'non-allocated sites' in their representation. It is therefore assumed that the respondents are referring to sites not allocated in LDP2 as development opportunity

sites for housing or future growth sites.

Policy RES1 sets out an approach to supporting new housing development, which is in line with SPP (CD26), in that the Plan allocates a range of sites, which are effective or expected to become effective in the plan period to meet the housing land requirement in full. It also reflects NPF4, in that it identifies a housing target for East Ayrshire, in the form of a housing land requirement and establishes a deliverable housing land pipeline for the housing land requirement by identifying short, medium and long-term sites. Sites allocated for residential purposes in LDP2 have been divided into Short Term, Medium Term, and Longer Term delivery as set out in Schedule 3 (CD32). As stated in the Plan, the LDP Action Programme and Housing Land Audit will both be used to manage the development pipeline. As part of this management, the Council will, as per NPF4 policy principles on Quality Homes (CD4) consider enabling earlier delivery of long-term deliverable sites or areas identified for new homes beyond 10 years if necessary. The annual Housing Land Audit (CD72, 73 and 74) will monitor the delivery of housing land to inform the pipeline and the actions to be set out in the Action Programme.

It is important to highlight that LDP2 is a 5-year local development plan prepared in line with the Scottish Government's Transitional Arrangements (CD25) and the housing land pipeline reflects this plan period.

Policy RES1 provides a degree of flexibility in its criteria. Policy RES1 sets out, in a policy context that development will be acceptable in principle on those sites identified in the Plan as development opportunity sites for housing and the scenarios where development might be deemed acceptable in principle on sites that are not allocated in the Plan.

The LDP2 Spatial Strategy directs most new housing development to the Kilmarnock & Loudoun area, which is a reflection of market demand, past trends and the ambition of the LDP to encourage sustainable growth. Although the Cumnock and Doon Valley areas are expected to accommodate a smaller amount of housebuilding, an added surplus of 50% and 100% of allocated housing land respectively has been provided in those areas to enable growth. The selection of each allocated housing site has been carefully made to ensure that it is as sustainably located and compliant with the principles of 20 minute neighbourhoods as possible, whilst taking into account housing growth required in the Local Authority area during the Plan period. The site assessment process has considered active travel, public transport, infrastructure, constraints and other factors to ensure that development will be undertaken in the most suitable place. All sites identified in the Plan are therefore deliverable sites and the Plan contains a generous supply of land that goes above and beyond the housing land requirement and therefore offers a wide range and offer of sites for housing development. It is also important to state that prior to the publication and consultation of the Proposed LDP2, various opportunities to submit sites for consideration and inclusion in the Plan as development opportunity sites were provided. All sites that were submitted were robustly scrutinised as part of the preparation of the LDP2 Main Issues Report and Proposed Plan. The land allocated for housing development in the Proposed Plan is sufficient to meet the housing land requirement.

Notwithstanding, clause (iv) of policy RES1 accommodates non allocated sites within

settlement boundaries including on vacant and derelict land, providing further opportunities for housing to be developed.

#### Use of vacant and derelict land for housing development (157)

The Council disagrees with the respondent's point that policy RES1 criterion (iv) appears to make provision for housing development on any sites identified as Vacant and Derelict Land. Policy RES1 criterion (iv) seeks to encourage and incentivise the development of vacant and derelict land on certain sites within a settlement boundary. It does not apply to all VDL sites but only those sites within settlement boundaries, on a small site or within a site identified in the latest published Vacant and Derelict Land Survey (CD86). In other words, only sites within settlement boundaries that are small in size or within a site identified in the VDL Survey. However, the Council acknowledges that the existing wording of criterion (iv) might not be clear enough. Therefore, if the Reporter is minded to agree, the Council suggest amending criterion (iv) as follows:

"The proposal is for a new home or homes on a small site or within a site identified in the latest published Vacant and Derelict Land Survey ***in either case located within a defined settlement boundary.***"

#### **Policy RES2 – Affordable Housing**

##### Delivery of affordable homes (128), (141), (146), (195), (310)

The policy RES2 criterion (ii) requirement that a higher contribution might be sought within Kilmarnock and Loudoun sub-housing market area where it is justified by evidence of need, has been informed by draft NPF4 policy 9 – Quality Homes (CD3). The policy has not substantially changed in NPF4 Policy 16 (CD4) – which in criteria e supports a higher contribution where justified by need. This requirement does not relate to the under delivery of affordable homes in relation to the housing land requirement or delivery pipeline but more to recognise that in settlements where there is high demand for new housing there might be a need for a higher contribution of affordable homes where this is justified by evidence of need. This need will be determined on a case-by-case basis and based on Council/RSL waiting lists and the ability of a particular settlement to sustainably accommodate development within its boundaries. For example, this might apply in such cases where a high demand for affordable housing exists within a settlement but the Council or RSL does not own or is unable to purchase sufficient land in that location to address that demand. A higher contribution will be determined on a case-by-case basis. In terms of site viability, the provision of affordable housing is a requirement of NPF4 and therefore the Plan is in line with the national planning policy requirements as set out in NPF4 (CD4). It is the view of the Council that no changes are required to policy RES2 criterion (ii).

##### Affordable housing on a site by site basis (155)

The purpose of requiring the provision of affordable housing on certain sites is principally in line with draft NPF4 (CD3), however there are significant benefits in doing so. It not only addresses health inequalities but also creates more diverse and high quality places and offers a good mix of affordable homes for people. For these reasons and the fact that policy RES2 is in line with NPF4 (CD4), the Council does not agree

that an alternative approach focussed on assessing the need for affordable housing provision based on the merits of individual projects is a better approach. Indeed NPF4 (CD4) states: *‘Proposals for market homes will only be supported where the contribution to the provision of affordable homes on a site will be at least 25% of the total number of homes unless there are locations where the LDP dictates otherwise.’*

The Council’s definition of affordable housing is set out in the Glossary of the Plan in Chapter 9 of PLDP2 Volume 1. This refers to a wide range of affordable housing types, including social rented, shared equity and self-build plots. The Council is of the view that this definition is sufficient in providing a wide range of affordable housing types. It is a definition, which parallels that of NPF4 (CD4): *‘Good quality homes that are affordable to people on low incomes. This can include social rented, mid-market rented, shared-ownership, shared-equity, housing sold at discount (including plots for self-build), self-build plots and low cost housing without subsidy.’*

#### The need for clarification on the flexibility of the policy (206)

The Council does not agree that further clarification is required in policy RES2 as to instances where the policy might not be applied or where flexibility can be applied in the form enabling affordable housing off-site or in the form of developer contributions. Policy RES2 clearly sets out the requirements for affordable housing provision in East Ayrshire, which is essentially a developer contribution. It sets out that affordable housing provision is only a requirement on sites identified for such purposes or sites of 30 or more residential units in the Kilmarnock and Loudoun sub-housing market area. It is clear from this that it does not apply to Cumnock or the Doon Valley sub-housing market area. The detailed guidance concerning affordable housing provision is set out in draft supplementary guidance (CD33). The policy and guidance make it clear that the Council’s preference is for on-site affordable housing provision. Further, the guidance sets out the circumstances where an off-site alternative site or commuted sum payment might be considered. Local Development Plan 1 (CD48) contains a very similar policy, tested at Examination, which does not set out where further flexibility may be applied. The Council is of the view that the policy contains a sufficient level of detail and clearly sets out the policy requirements.

The policy RES2 criterion (ii) requirement that a higher contribution might be sought within Kilmarnock and Loudoun sub-housing market area where it is justified by evidence of need, has been informed by draft NPF4 policy 9 – Quality Homes (CD3) and NPF4 policy 16 (CD4). This requirement recognises that in settlements where there is high demand for new housing, there might be a need for a higher contribution of affordable homes where this is justified by evidence of need. This need will be determined on a case-by-case basis and based on Council/Registered Social Landlord waiting lists and the ability of a particular settlement to sustainably accommodate development within its boundaries. For example, this might apply in such cases where a high demand for affordable housing exists within a settlement but the Council or RSL does not own or is unable to purchase sufficient land in that location to address that demand. It is the view of the Council that no changes are required to policy RES2 criterion (ii).

Impact on development viability (282), (283), (294)

In terms of site/development viability, the provision of affordable housing is a requirement of NPF4, therefore the Plan is in line with these national planning policy requirements as set out in draft NPF4 (CD3). The purpose of requiring the provision of affordable housing on certain sites is principally in line with the NPF4 (CD4), however there are significant benefits in doing so. It not only addresses health inequalities but also creates more diverse and high quality places and offers a good mix of affordable homes for people. It applies to all sites of 30 or more units in the Kilmarnock and Loudoun sub-housing market area to ensure that the benefits of affordable housing provision are achieved. It is the view of the Council that no changes are required to policy RES2.

It is assumed that (294), in referring to a definition of affordable housing means the types of affordable housing. Section 7, page 4 of the draft Affordable Housing Supplementary Guidance (CD33) acknowledges that the term ‘affordable housing’ encompasses a wide range of types of housing. It sets out the range of tenure types that can contribute to affordable housing as per Planning Advice Note 2/2010 (CD52). The Council is of the opinion that no changes are required to policy RES2.

**Policy RES4 – Compact Growth**

Amendment to give greater scope to reflect local circumstances (128), (195)

The purpose of the 20-minute neighbourhood principle is to design neighbourhoods in such a way as to reduce the need to travel and have people living in areas where there is good access to local services and amenities, including education, retail, public transport and active travel, greenspaces and health and social care. The Council is of the opinion that policy RES4 reflects this principle and the aim for residential development proposals to be of an appropriate density is justified. Principally, the local development plan needs to address climate change and reflect NPF4 (CD4), in terms of its spatial strategy and policies. Its spatial strategy recognises the need for liveable places to be consistent with the national ambition for net zero and nature recovery. Of course, in the assessment of any application, a range of policies will be looked at to ensure the site design is appropriate, including for example in terms of the inclusion of open space. Higher density development supporting compact growth will assist in sustaining public transport and local living. The Council is of the view that there is therefore justification for referring to densities in policy RES4 and no changes are required to be made to the policy.

**Glossary**

Definition of 20 Minute Neighbourhoods (128)

The aim to achieve “compact” neighbourhoods reflects the national policy direction as asserted in NPF4 (CD4); the requirement for any proposed density to be “appropriate” is set out in policy RES4 (“The Council will seek that residential development proposals are of an appropriate density”). As such, it is not agreed that “Compact neighbourhoods” should be replaced by “appropriately dense neighbourhoods.”

20 Minute Neighbourhoods are defined to maximise the extent to which “all people can meet the majority of their daily needs within a reasonable walk, wheel, or cycle”, with no reference to “public transport trips” In the context of East Ayrshire, which comprises many towns and settlements within accessible rural areas, most places within and around settlements are within a 20 minute public transport trip, rendering the notion of a 20 Minute Neighbourhood indistinguishable from any other neighbourhood and thus useless. For this reason, it is the Council’s view that the definition of 20 Minute Neighbourhoods should, for the context of East Ayrshire, not include public transport trips, notwithstanding the Plan’s encouragement of public transport usage before private car in accordance with the transport mode hierarchy.

20 Minute Neighbourhoods, in the context of East Ayrshire as defined above, are achieved when residential development is dense, otherwise not “all people” would be able to “meet the majority of their daily needs within a reasonable walk, wheel or cycle”. As such, it is not agreed to remove “is dense and” from the definition.

It is a key aim of the Plan (through policies DES1, OS1, RES4, TC1, TC3, and TC4 among others) that residential development be integrated with green spaces, local shops, community and municipal facilities, health and social care services, and public transport hubs. It is therefore not agreed to add “where appropriate”, as it would always be appropriate.

#### Definition of Compact Growth (128)

The aim of the Compact Growth policy principle is to increase settlement density instead of further urban expansion; it is not the object of the concept to control density it in any other way than upwards. As such, it is the Council’s view that “increase” remains the appropriate word and not “control”. This is not just to avoid “unnecessary and unsustainable” urban expansion but to generally minimise any urban expansion; as such it is not agreed to add “unnecessary and unsustainable” to the definition.

The Plan seeks to “prioritise” brownfield, vacant and derelict land, by supporting development on these sites at all times (policies SS4, SS10, SS12, PLAY1, RES1, RH2); the extent to which these are prioritised does not depend on whether they can be delivered within the Plan period or on whether they are viable for any specific use, and as such, the Council does not agree to add “where these sites can be delivered within the Plan period and are viable” to the definition. The Council also does not agree to replace “higher” densities with “appropriate”, again referring to the argument set out above.

#### Definition of Inclusive Design (128)

It is considered that the notion of Inclusive Design is self-explanatory and that as such its definition is not necessary. However, should the Reporter be minded, the Council would have no issue with the inclusion of a definition, and recommend the following wording: “Inclusive Design is the design of an environment so that it can be accessed and used by as many people as possible, regardless of age, gender or disability”.

### Definition of Local Living (128)

20 Minute Neighbourhoods, by being designed in such a way that their residents can “meet the majority of their daily needs within a reasonable walk, wheel or cycle”, by definition facilitate and encourage Local Living, this is, satisfying most of one’s daily needs within the local area. As such, it is not agreed that the phrase “this can be achieved by the delivery of 20 minute neighbourhoods” should be deleted.

### **Reporter’s conclusions:**

1. The proposed plan was prepared at a time when Scottish Planning Policy (SPP) was still in force, and the replacement National Planning Framework 4 (NPF4) was only in draft form. Since that time, SPP has been withdrawn, and NPF4 adopted by the Scottish Ministers. Because of this change of circumstance I sought the views of parties as to the implications of the adoption of NPF4 for the matters covered in their representations on the housing topic. The council was subsequently given the opportunity to respond to these views. I have taken all these submissions into account in my conclusions.

### **Specialist Housing**

2. Part of the policy intent of the Quality Homes section of NPF4 is stated as meeting diverse housing needs. LDPs are expected to take account of such diverse needs. However, I am not aware of any strict requirement to, for instance, allocate specific sites for specialist housing. Previous requirements set out in the now-withdrawn Scottish Planning Policy no longer apply.

3. The Scottish Government’s Local Development Planning Guidance states that plans should have regard to providing land for any requirement established in the evidence report for accessible or adaptable homes. However I note that the proposed plan was prepared in advance of the publication of this guidance, and, as a transitional plan, was not required to be supported by a new-style evidence report.

4. The proposed plan contains limited coverage of specialist housing, but it does make extensive provision for the release of land for housing generally (as discussed further at Issue 17), and normally requires a 25% affordable housing contribution. Policy RES2: Affordable Housing states that affordable housing can cover a wide range of end users including older and ambulant people with disabilities. I am therefore satisfied that the plan provides for a supply of land on which specialist housing could potentially be built.

5. The proposed plan is informed by the Housing Need and Demand Assessment (HNDA). Among the key development plan issues for specialist housing provision identified in the HNDA is a requirement for land for new build assisted living developments, though it is stated that these are already planned for within the Strategic Housing Investment Plan (SHIP). A possible need for new build supported accommodation for young people leaving care is also identified. The SHIP identifies at least one site (Quarryknowe, Auchinleck) which is to be developed for assisted living, and a number of further sites to include community care needs housing.



6. The council points to its Local Housing Strategy (LHS) and SHIP as being the documents wherein specific requirements concerning specialist living are set out. The LHS contains a commitment to ensure all new affordable housing developments are built to varying needs design standards, and includes actions to increase the supply of social rented housing suitable for older people and people with mobility needs.

7. I agree that it is for the LHS to look to comply with any requirements set out in national LHS guidance, and to take the lead as the council's main corporate response to specialist housing issues. The LDP has an important contribution to make, in providing a supply of land for specialist housing provision. I am satisfied that the proposed plan achieves this through its provision for an affordable housing land supply, which is explicitly stated to encompass housing for a wide range of end users including people with disabilities.

8. However, I do also find that it would be useful to provide some further context in the plan regarding what specialist needs are known to exist, using information taken from the HNDA. I therefore recommend below the inclusion of such a paragraph.

### **Policy RES1 – New Housing Development**

9. The Quality Homes section of NPF4 requires LDPs to allocate deliverable land to meet the 10 year local housing land requirement, and also identify areas suitable for new homes beyond 10 years. There is expected to be a deliverable housing land pipeline providing a view of the phasing of housing allocations. Policy 16(f) states that development proposals for new homes on land not allocated for housing in the LDP will only be supported in limited circumstances. Most relevant of these circumstances for the purposes of representations on this topic is for delivery of sites to be happening earlier than identified in the deliverable housing land pipeline.

10. The Scottish Government's Local Development Planning Guidance provides further advice on the requirements and expectations for LDPs. Although mainly tailored for LDPs prepared fully under the new system, the section on transitional arrangements notes the opportunities presented by the examination process to reconcile any identified inconsistencies with NPF4.

11. The LDP is required to take account of NPF4. I also consider it to be unhelpful for policies in these two parts of the development plan to be out of alignment. As noted by the Local Development Planning Guidance, this examination is an opportunity to bring the plan into line with NPF4 so long as the matter has been raised in representations and the process is proportionate and fair.

12. It is the case that transitional arrangements have served to continue the effect of the previous development planning regulations with regard to this plan. But these largely relate to procedural aspects of the way the plan is prepared, and certain broad matters of content. The regulations are not concerned with detailed policy approaches. Therefore I find it quite consistent for the proposed plan to follow the 'old' outgoing development plan regulations in procedural terms, but follow the 'new' NPF4 in terms of policy content.

13. The main matter raised by representees is the absence of any 'exceptions'

provision in Policy RES1 to allow for the approval of housing development on unallocated sites in circumstances such as there being a shortfall in the housing land pipeline. I find there is no basis in NPF4 to support the inclusion of any such exceptions provision. NPF4 is clear as to the procedure to be followed in circumstances where sites earlier in the deliverable housing land pipeline are not delivering as programmed. Measures are to be considered to enable earlier delivery of long-term deliverable sites (7-10 years) or areas identified for new homes beyond 10 years.

14. Although NPF4 Policy 16 is a development management policy not directly aimed at development plans, it is nevertheless important that LDP policies take account of NPF4 unless there is a clear justification for a different local approach. Policy 16(f) sets out the circumstances where development proposals for new homes on land not allocated in the LDP may be supported. No exception is included for circumstances of a shortfall in the five year housing land supply or any other housing supply shortfall.

15. The wording of Policy RES1 of the proposed plan closely matches that of Policy 16(f) (though I do discuss a slight discrepancy below). Were the proposed plan to introduce an additional exception along the lines suggested by representees, this would run explicitly counter to the policy approach set out in NPF4. No representee has pointed to any particular local circumstance sufficient to justify such a radical departure from the clear national policy position on this matter. I therefore conclude that no such exception should be introduced into Policy RES1.

16. A graphical representation of a planned housing delivery pathway over time, and indicating how differing policy approaches should be applied if delivery strays outside this pathway, has been put forward by several representees. The idea of representing housing policy in this graphical manner is inventive. However what is shown is essentially a way of illustrating an exceptions policy for circumstances of under-supply. I have already determined that there is no basis for incorporating such an approach into the plan.

17. There is some criticism regarding the way the council has addressed NPF4's requirement for a deliverable housing land pipeline to be established. NPF4 expects this pipeline to be contained within the LDP delivery programme. Delivery programmes are features of the new development planning system introduced by the 2019 Planning Act. As a transitional plan, there is no requirement for the East Ayrshire LDP to be accompanied by a delivery programme. Rather, the plan is accompanied by an old-style action programme. This is a slightly different nature of document, being a table of actions associated with each policy and proposal of the plan.

18. The council's approach has been to identify the delivery timescale ('short', 'medium', 'long', or 'future growth site') for each of the allocated housing sites at Schedule 3 of the plan itself, and as a 'timescale' column in the action programme. Given the absence of a formal delivery programme, I consider this to have been a reasonable alternative approach. Schedule 3 and the action programme together appear to me to broadly comply with the description of the pipeline given in NPF4 and in the Local Development Planning Guidance, in that they express the expected phasing of the various sites. It is the case that it will not be possible to update Schedule 3 outside of a formal review of the plan, though I note the council's stated intention to review the LDP in the short term. However, the Planning (Scotland) Act 2019

(Commencement No. 12 and Saving and Transitional Provisions) Regulations 2023 require that when action programmes associated with adopted LDPs are reviewed as required, at least every 2 years, they will become delivery programmes. This will provide an opportunity to monitor and, if necessary, adjust the expected timescale for each site, and bring the expression of the pipeline into even closer alignment with the expectations of NPF4. On this basis I conclude that no modification is required.

19. There are some small discrepancies between Policy RES1 and Policy 16(f) of NPF4. The most concerning of these relates to the ordering of the various clauses, and affects the meaning of the policy. Policy 16(f) identifies the following circumstances for supporting development on non-allocated sites, all of which must apply:

- i) there being an agreed timescale for build-out;
- ii) consistency with the spatial strategy etc; and
- iii) EITHER delivery happening earlier than the pipeline; consistency with rural homes policy; small scale opportunities within settlements; OR fewer than 50 affordable homes.

20. By contrast Policy RES1, in its most straightforward reading, allows for development on non-allocated sites in these circumstances, all of which must apply:

- i) delivery happening earlier than the pipeline;
- ii) there being an agreed timescale for build-out; and
- iii) EITHER consistency with the spatial strategy etc.; new homes within settlements; affordable homes; OR consistency with rural housing policies.

21. Thus Policy RES1 would appear to rule out the development on unallocated sites of rural homes or new homes within settlement boundaries unless delivery is happening earlier than envisaged by the pipeline. This approach is contrary to NPF4, and I doubt is the policy intention. I therefore recommend a rejigging of the existing policy wording below, to bring Policy RES1 more closely into line with national policy. I also note that Policy RES1 does not limit the release of unallocated land for affordable homes to a maximum of 50 homes, as NPF4 Policy 16(f) does. However this matter has not been raised in representations, and I therefore consider it to be beyond the scope of the examination. It may also be that affordable housing proposals of this scale on unallocated sites are an unlikely prospect in East Ayrshire.

22. As highlighted by NatureScot, the proposed wording of criterion (iv) of Policy RES1 could be read as offering support for new homes on any small site or within any site identified in the Vacant and Derelict Land Survey. As the council confirms above, the intention is only to support housing development on such sites when they are within a settlement boundary. This latter approach appears to me to more closely aligned with that set out at Policy 16(f) of NPF4. To clarify this point, I have therefore incorporated a suitable adjustment to the wording of Policy RES1 in the recommended modification below.

## **Policy RES2**

23. The main matters raised in representations on this topic are, firstly, seeking clarity regarding when an affordable housing contribution of over 25% may be sought, and, secondly, seeking greater policy flexibility where a threat to the viability of a

development is demonstrated, or to allow for alternative models of delivery or product. Other matters raised include the site size threshold for applying the policy, and the policy's application to enabling development.

24. Policy 16(e) of NPF4 states that the affordable housing contribution should be 'at least 25% of the total number of homes, unless the LDP sets out locations or circumstances where: (i) a higher contribution is justified by evidence of need, or (ii) a lower contribution is justified ...'. In my view, the most straightforward reading of this policy is that 25% will apply, unless the LDP specifically applies a higher or a lower requirement. If the LDP does apply a different requirement, then this must be justified by evidence of need.

25. Proposed LDP Policy RES2 is not specific about the circumstances where a higher contribution will be applied, and does not apply any contribution other than 25% (and 0% in the south of the plan area). The policy simply says that higher contributions 'might be sought' where justified by evidence of need. In my view, this is not the approach envisioned by NPF4. Instead, NPF4's expectation is for any such higher contribution to be clearly set out in the plan itself, and justified at the time of plan preparation. I consider that the open-ended reference in Policy RES2 to the possibility of higher contributions is excessively vague, and does not serve to deliver the certainty and investment confidence that development plans should set out to provide.

26. According to the council's Housing Technical Paper, the proposed plan provides for an affordable housing land supply of 1,718 homes. This includes allowances for the 25% contribution from sites in the Kilmarnock and Loudoun sub housing market area, sites specifically allocated for affordable housing, and further sites emerging through the SHIP. This compares to a figure of 1,410 for the affordable component of the minimum all-tenure housing land requirement (MATHLR), as reported in the Housing Technical Paper. Based on the council's own figures, there would therefore appear to be a surplus of around 300 homes in the overall affordable housing land supply. The equivalent surplus for the Kilmarnock and Loudoun sub housing market area alone is given as 236 homes.

27. On the basis of these figures, it appears that there is no current justification for any affordable housing requirement above 25%, nor any indication that a higher requirement may be required in at least the short term. In this context I note the council's stated intention to review the LDP relatively soon. I therefore conclude that the housing supply figures provide no obvious support for Policy RES2 to contain any indication that a contribution of over 25% may be required.

28. I note the council's arguments above regarding the potential for individual settlements to have a particularly high demand for affordable housing that is not reflected in the wider figures. However, I consider it would have been necessary for the council to have demonstrated the existence of such settlements in order to properly justify their proposed policy approach. I also note that, as a general principle, people in housing need may reasonably be expected to seek accommodation across a housing sub-market, and not solely in individual settlements. The main settlements in the Kilmarnock and Loudoun sub housing market area are relatively closely spaced (all are within 13 kilometres of Kilmarnock), and served by regular public transport services.

29. For these various reasons, I conclude that the reference to sometimes requiring an affordable housing contribution of over 25% should be removed from Policy RES2. However, I also consider that the reference to 25% of houses requiring to be affordable should be replaced by a reference to 'at least 25%'. This phrasing reflects that of Policy 16(e) of NPF4, and removes any ambiguity that higher contributions would be actively resisted by the council.

30. I am not attracted by the suggestion that the appropriate affordable housing contribution should be determined by the council on a site-by-site basis. Such an approach would run counter to achieving the certainty and predictability in decision-making that development plans are intended to deliver. Furthermore, the 25% standard requirement is stipulated by NPF4.

31. No evidence is provided to support the suggestion that the threshold for applying the affordable housing requirement should be raised from 30 to 40 units. From my experience considering such policies across Scotland, I do not consider 30 units to be an unusually low threshold. I have therefore not considered this matter further, and recommend no change to this aspect of the policy.

32. It is important for broad policy principles to be established in LDPs, with supplementary guidance being reserved for matters of detail. In this case, I consider the main principle to be the requirement for certain sites to make a 25% affordable housing contribution. It may be that certain exemptions or adjustments to this requirement may be applicable in particular circumstances, but it seems to me that these are matters of detail that the council may legitimately set out in its forthcoming supplementary guidance, and not necessarily in the headline policy.

33. The supplementary guidance already exists in draft form (CD033), and will be adopted (possibly with amendments) as statutory supplementary guidance in due course. It describes the occasions where the council will entertain the achievement of the affordable housing contribution by means of off-site provision, either through the provision of an alternative site, or of a commuted sum.

34. The draft supplementary guidance does not currently allow for lower affordable housing contributions in cases where an applicant can argue that the 25% requirement would render development unviable. However, if there were to be such an allowance, I consider that the supplementary guidance would be an appropriate document in which to set this out. This would be a matter for the council to determine in consultation with interested parties.

35. The headline approach of seeking a 25% contribution is clearly supported by the equivalent requirement in NPF4. I would not rule out the possibility that there may be occasions (as for instance on sites with abnormally high remediation costs) where the existence of such a requirement might render a development unviable. But the LDP cannot be expected to address each individual circumstance. Ultimately the ability remains for planning authorities to depart from such development plan requirements and take account of other material considerations (which could include effects on site viability) when determining planning applications.

36. A particular case that has been highlighted is the applicability of the affordable

housing requirement to enabling development. Policy HE5 of the proposed plan allows for enabling development to cross fund the restoration of listed buildings, but states that any such development should be the minimum necessary to bridge the funding gap. It is argued that, since the allowable number of new homes permissible under this policy provision is already set at this minimum level, there would be no further flexibility to fund an affordable housing contribution.

37. I note that Policy HE5 requires any case for enabling development to be accompanied by a detailed business plan and financial information. It seems to me, therefore, that any effect the affordable housing requirement may have on the funds that can be made available for the listed building restoration can be taken into account in the case for the scale of enabling development sought. Thus it may be that the overall numbers of new homes necessary to deliver the desired benefit may be higher than if the affordable housing requirement were not applied. But it seems unlikely that the 25% requirement need necessarily prevent the enabling development approach from operating.

38. That said, if the council sought to disapply its affordable housing requirement in the particular and relatively unusual case of enabling development, I consider this would be a matter of detailed policy that could potentially be included in the final version of the supplementary guidance (though I note there is no such reference in the current draft version).

39. As regards different models of affordable provision, the glossary definition of affordable housing provided in chapter 9 of the proposed plan already encompasses social rented, mid-market rented, shared-ownership, shared equity, housing sold at discount (including plots for self-build), self-build plots and low-cost housing without subsidy. This list matches that set out in the glossary to NPF4. I consider it demonstrates the council's willingness to accept a wide range of types of provision as being compliant with its affordable housing requirement. I note that the draft supplementary guidance provides more information about several of these models of delivery. I am not aware of other significant models of affordable housing delivery that have been omitted from the glossary definition. For these reasons I am satisfied that there is no need for the plan to provide any further flexibility in its definition of affordable housing.

#### Policy RES4

40. The representations on this policy refer to a density of 46-60 housing units per hectare that is argued to be compatible with the concept of 20-minute neighbourhoods. It is not clear whether the representees are arguing for these densities to be included as a policy requirement within Policy RES4.

41. Policy 15 of NPF4 covers local living and 20-minute neighbourhoods, and so addresses broadly similar concerns as Policy RES4. Policy 15 does not promote any particular density, but the direction to LDPs includes for approaches to 'take into account the local context, consider the varying settlement patterns and reflect the particular characteristics and challenges faced by each place'. This wording would appear to militate against the setting of a prescriptive density requirement.



42. Policy RES4's approach is to seek (unspecified) higher densities in areas within 800 metres of town centres and good quality public transport. The policy also acknowledges the need to protect and enhance the character, amenity and environmental quality of the surrounding area. It seems to me that these provisions reflect the text of NPF4 Policy 15 quite well. While the setting of density standards might have the benefit of providing a level of certainty on this point, it would run the risk of failing to respond to local circumstances, unless extensive caveats were built in.

43. Overall, I consider that the council's more flexible approach of setting a general expectation of higher densities in appropriate locations is the correct one, and is broadly compliant with NPF4.

44. As sought by the representations, criterion (i) of the policy already provides the called-for flexibility for higher density development to reflect the character, amenity and environmental quality of the surrounding area. No further change is required.

### Glossary

45. Changes to the definition of 20 minute neighbourhoods in the glossary are proposed to:

- refer to 'appropriately dense' rather than 'compact' neighbourhoods;
- include reference to public transport as a means of meeting daily needs;
- remove the reference to residential development being dense; and
- state that integration with local facilities etc. is only necessary 'where appropriate'.

I deal with these in turn.

46. The concept of the 20 minute neighbourhood has been brought to prominence in the Scottish planning system through its inclusion in NPF4. I therefore consider it particularly important that the plan's definition is compatible with that contained in NPF4. There are several differences between the definitions, but I will limit my consideration to the above matters raised in the representation.

47. The NPF4 wording does not mention density, but does say such neighbourhoods will be 'often compact'. Most new development in East Ayrshire will be in urban areas, and in this context I consider the reference to compact neighbourhoods is acceptable.

48. The NPF4 definition refers to people meeting their needs by sustainable and active travel methods. I consider such methods could include public transport. However, in the particular context of East Ayrshire, I accept the council's argument above that including developments within a 20 minute public transport ride of facilities (or even a 10 minute ride if the concept is to be properly understood as a return journey), would greatly limit the usefulness of the concept as it would include most potential development sites. On balance therefore, I am prepared to retain the council's approach and not refer to public transport.

49. As mentioned above, the NPF4 definition does not refer to density, but does say that 20 minute neighbourhoods will often be compact. The proposed plan's definition already states that 20 minute neighbourhoods are compact, and I consider that this captures the concept of density to a degree. However, compactness and density are



not exactly the same thing, and on balance I consider that the implicit requirement for neighbourhoods to be dense is not wholly compliant with the NPF4 definition. Nor is it fully compliant with Policy RES4 of the plan, which only requires 'appropriate density'. On balance therefore I consider that the reference to development being dense should be removed in order to improve compatibility with the NPF4 definition.

50. The NPF4 definition states that 'housing would be planned together with local infrastructure'. This seems to me to be compatible with the proposed plan's definition, which states that in 20 minute neighbourhoods residential development integrates with such infrastructure. There is no suggestion in NPF4 that such 'planning together' should only happen where appropriate, and I agree with the council that integration should always be sought. I therefore decline to recommend any modification on this point.

51. Changes are also sought to the glossary definition of compact growth to:

- refer to controlling density rather than increasing it;
- state that it is 'unnecessary and unsustainable' urban expansion that is to be minimised;
- limit the prioritisation of brownfield, vacant and derelict land to deliverable and viable sites; and
- refer to 'appropriate' rather than 'higher' densities.

I consider these in turn.

52. There is no definition for compact growth in NPF4, and I therefore consider the council has more freedom to define this term in the way it chooses. However it remains necessary for the definition to be consistent with national policy, and with the headline Policy RES4 in the proposed plan.

53. The thrust of both NPF4 and Policy RES4 is to promote appropriate densities for the local context. On individual sites, this may often mean higher densities, but not always. However, the glossary definition seems to me to be describing the effect of applying the compact growth model across a settlement over time. Therefore, while it may remain appropriate to develop individual sites at a range of densities, I consider it is not inappropriate for the glossary to describe the compact growth model as seeking to increase densities overall. No change is required.

54. I consider it reasonable for any definition of compact growth to include the minimisation of urban expansion. This seems to me to go to the heart of the concept. The definition does not say that urban expansion is always incompatible with compact growth, only that existing urban brownfield land should be prioritised. This is a concept that is already well-established in the plan's spatial strategy. No change is required.

55. Deliverability and viability are certainly important considerations when seeking to promote the redevelopment of brownfield land, but I am not convinced that this needs to be stated here, in what is intended as a high level description of a broad planning concept. While important, I consider deliverability to be a secondary matter that I would not expect to see referred to in this context. No change is required.

56. As I have already noted, NPF4 and Policy RES4 of the proposed plan both refer to 'appropriate' densities, rather than inevitably 'higher' densities, and there is therefore

some logic to importing that terminology into the definition of compact growth. However, the particular context here is one of enabling more efficient public transport and delivering infrastructure at a lower per capita cost. I consider that those particular considerations are normally associated with higher densities, and I am therefore prepared to accept the reference to 'higher' densities on this occasion.

57. The representee points out the absence of a definition for 'inclusive design'. I note that the council has no objection to including a definition, and has provided a suitable form of words. I consider that this term may not be fully understood outside the planning profession, and on this basis I recommend the inclusion of the council's proposed wording.

58. The representee seeks to remove the reference to 20 minute neighbourhoods from the glossary definition of local living. It seems to me that the concepts of local living and of 20 minute neighbourhoods are very closely allied, almost to the point of being two descriptions of the same idea. Outside of the glossary, the only reference to 'local living' is in Policy RES4, where it is explicitly stated to be enabled by 20 minute neighbourhoods. I therefore find that it is reasonable to refer to 20 minute neighbourhoods in the definition of local living, and that no change is required.

#### **Reporter's recommendations:**

I recommend that:

1. the following new paragraph be inserted into the plan after the existing paragraph 179:

'Affordable and market provision may include specialist housing for people with particular needs. The East Ayrshire Housing Needs and Demand Assessment (HNDA) projected a total need for adapted housing of 2,000 in 2037, estimated that there were 147 wheelchair users in housing need in 2018, and identified a need for 20-25 new supported accommodation places for young people moving on from care. The HNDA also identified a requirement for one site, or two smaller sites for gypsy/ travellers.'

2. criteria (i) to (vi) of Policy RES1; New Housing Development are deleted and replaced with the following criteria:

- '(i) the proposal is supported by an agreed timescale for build-out; and
- (ii) the proposal is otherwise consistent with the plan Spatial Strategy, the principles of 20 Minute Neighbourhoods and the availability of infrastructure to support development; and
- (iii) either
  - overall progress in the build-out of sites included in the Housing Land Pipeline is exceeding delivery timelines set out in the most up-to-date Action Programme for the plan; or
  - the proposal is consistent with Rural Housing development policies; or
  - the proposal is within a defined settlement boundary, and is either on a small site or within a site identified in the latest published Vacant and Derelict Land Survey; or
  - the proposal is for the delivery of a development of affordable homes as part of

a Local Authority-led or supported affordable housing plan.'

3. criterion (ii) of Policy RES2: Affordable Housing be deleted and replaced with:

'(ii) on all sites of 30 or more houses proposed in the Kilmarnock and Loudoun sub housing market area. Within such developments, at least 25% of houses will be required to be affordable in nature.'

4. the second sentence of the definition of '20 minute neighbourhood' in chapter 9.1 (Glossary) be amended to read:

'This is achieved when residential development integrates with ... [continue as in proposed plan]'

5. the following new definition be included in chapter 9.1 (Glossary):

**'Inclusive Design** - The design of an environment so that it can be accessed and used by as many people as possible, regardless of age, gender or disability.'

Issue 17	Housing Land Supply	
Development plan reference:	Volume 1, Spatial Strategy, paragraphs 47-50 and Chapter 5, paragraphs 184-180	Reporter: Stephen Hall
Body or person(s) submitting a representation raising the issue (including reference number):		
Fenwick Community Council (71) Homes for Scotland (128) Stewart Milne Homes (144)		Gladman Developments Ltd (146) Barratt Homes (195)
Provision of the development plan to which the issue relates:	The sections of the Plan relating to the housing land supply, specifically Spatial Strategy, paragraphs 47-50 and Chapter 5, paragraphs 184-180	
Planning authority's summary of the representation(s):		
<p><b>Housing Land Supply &amp; Minimum All-Tenure Housing Land Requirement</b></p> <p><u>Fenwick Community Council (71)</u></p> <p>There were 3449 new house starts in East Ayrshire between 2010 and 2019. This resulted in a net increase of 1594 dwellings during that period. The population in East Ayrshire reduced from 122410 to 122010 during that same period. This suggests that building more houses does not lead to population growth. When the population of East Ayrshire between 1991 and 2019 was compared to the number of households, there was no statistical correlation.</p> <p>National Records for Scotland (NRS) forecast that East Ayrshire's population will reduce by 3% during the LDP2 period. The Council can do little to influence this demographic shift and any stabilisation or growth in population must come from net inward migration. A MATHLR of 4050 houses implies the Council expects the net population of East Ayrshire to grow by around 5000 people or by 4% between 2023 and 2032. A total net inward migration of 7% or around 8500 people would be required to achieve this. Whilst it is reasonable to assume that Council policy will have some impact on migration, such a dramatic turnaround in such a short time is not a credible expectation.</p> <p>Respondents to the LDP2 MIR indicated that their preferred option for housing growth was MIR Issue 12 Preferred Option 1, a model of high economic growth with a consequential modest growth in population. This resulted in a MATHLR of 1655 units over 10 years, derived from a house allocation target of 1271 units plus 880 over 13 years, with a 10% to 20% generosity. The resulting implied LDP2 target was 1986 dwellings (figures determined through the HNDA). This represented what the majority of respondents to the MIR consultation supported and was a democratic mandate.</p> <p>The Scottish Government proposed a MATHLR of 350 dwellings in February 2021 as</p>		

part of the preparation of the Draft NPF4. This figure was based on population projections by NRS. East Ayrshire Council argued in June 2021 that the number was unrealistic and should be increased to 4100 (later revised to 4050), based on the build rate. House builders agree that they expect to build at a rate of 460 per annum up until 2025 according to the 2020 Housing Land Audit and that this should continue.

This approach disregards the HNDA and does not refer to social housing or affordable housing, ignores the results from the public consultation on the Main Issues Report and was informed only by house builders and not by any other stakeholders such as Housing Associations and Community Councils. Demolitions were not accounted for in the determination of the MATHLR; only new build houses were considered. The 4050 MATHLR was then approved by the Scottish Government and featured in the Draft NPF4, which was released for consultation in November 2021, became legally binding on EAC Cabinet in March 2022.

The 52% is unjustified and toxic. The Council added a 30% 'flexibility allowance' to the 3100 Housing Supply Target to arrive at 4050 houses, then a further 'generosity' of 52% to arrive at a total indicative housing land supply of 6145 dwellings. Developers are not constrained on which sites they should complete and will choose to develop the most commercially viable sites and only build in the most desirable areas, whilst ignoring the rest of the Housing Market Area. This will result in house building predominantly occurring in northern parts of East Ayrshire and will overburden towns and villages within the Glasgow commuter belt, such as the northern part of Kilmarnock, Dunlop, Stewarton, Kilmaurs and Fenwick. These communities already experience strained infrastructure because of a surge in housebuilding without sufficient infrastructure during the last decade. Further development will mean those communities will experience a disproportionate amount of house building, which will potentially undermine their infrastructure and community cohesion.

The number of people per household is forecast to reduce from 2.18 per household in 2022 to 2.12 by 2032. This by itself projects a need for 1314 new households during the LDP2 period. It is considered that the primary reason is due to an ageing demographic in East Ayrshire. If correct, this would reduce the MATHLR forecast when projecting for a high immigration scenario.

Our recommendation would be to honour the MIR and adopt a MATHLR of 1956, comprising of a HST of 1655 plus a 20% an urban 'flexibility' of 20%, because most of these houses will be built in urban areas. This suggests that two of every three housing sites should not be housing sites. This MATHLR implies that the population of East Ayrshire will approximately grow in line with the national forecast of 1.1%. This in itself is probably too high, but reflects the democratic mandate in the MIR to aim for a high growth economy and moderately growing population. This target will be reviewed mid-way through the forecast period at 2027 for LDP3, so there is scope to increase it or decrease it if it is wrong. In future, we suggest MATHLR targets are net targets, to account for demolitions.

#### Stewart Milne Homes (144)

The council's decision to allocate additional land for housing beyond the figures arising from the calculation of the Housing Land Requirement is welcomed. However, it is

noticeable that the Cumnock sub-housing market area has been allocated the lowest proportion of new units. There is no obvious reason for this and (144) objects to this imbalance. While the Ayrshire Growth Deal within East Ayrshire is focussed on Kilmarnock, Cumnock is also identified for major funding. New housing development makes a significant contribution towards local economic activity and is essential in order to support the Growth Deal investment. For this reason, a greater proportion of the proposed new housing should be allocated to sites within the Cumnock SHMA.

#### Gladman Developments (146)

(146) suggest that to ensure the most effective spatial strategy, East Ayrshire should endeavour to demonstrate that other spatial options have been considered. Where strategies have been deemed inappropriate, the Council should provide detailed reasoning for the reporter to review. Significant development has been centred in the Kilmarnock area. A broader distribution strategy may deliver greater benefits across the entirety of East Ayrshire. We suggest that it is important to understand the extent to which this is the case. Further information supporting the spatial strategy should be provided.

Around 58% of the total allocated indicative housing land supply is located in Kilmarnock. There is therefore a risk that delivery may be slowed by the threat of market saturation. Only around 7% allocated indicative housing land supply is located in Stewarton. Stewarton is recognised as a sustainable location for housing growth. Therefore, it should receive further housing allocations to ensure a proportionate and deliverable supply of housing land to make certain the council's housing land requirement can be met. The settlement could reasonably be expected to deliver a greater quantum of growth. Perceived infrastructure constraints can and should be addressed by well planned growth and this is not a sufficient reason to restrict growth to the settlement

A suitable spread of growth among the most sustainable settlements, of which Stewarton is a part of, is a more sustainable and reliable strategy to ensure the sites that are allocated for housing growth can be delivered within the plan period. Therefore, the council should review site ST-X6 (map ref. Lainshaw Estate Stewarton – ST-X6) and look to allocate it to ensure they can meet their housing requirement figure within the plan period.

#### Homes for Scotland (128), Gladman Developments (146) & Barratt Homes (195)

Paragraph 185 of Volume 1 of PLDP2 outlines that 35% of the Minimum All-Tenure Housing Land Requirement is to comprise affordable homes. Does this figure capture the affordable homes that would be delivered on private sites through Policy RES2, in addition to those entirely delivered through the SHIP and other similar processes? It is the view of (195) that clarity is required in the plan on how this relates to the requirement for 25% affordable housing on sites in the Kilmarnock and Loudoun area.

#### Homes for Scotland (128)

A significant number of sites are forward programmed in Schedule 3 of Vol 1 of PLDP2 (RD31), far ahead of what is indicated through their agreed programming in the



Housing Land Audit (HLA). Appendix 2 to the consultation response sets this out in more detail. There are also additional sites referred to as 'Future Growth Site (Housing)', although there are no indicative capacities provided for these sites. Sites that are not programmed to deliver completions up to 2035 in the Audit have been removed from the first 10 years of the Pipeline.

Sites that are not listed in the 2020 HLA have been retained in the Pipeline at this time, as it is assumed that these are more recent windfall sites. Removing those sites that it has been agreed are unable to deliver completion up to 2035 in the 2020 HLA, and those without a developer attached, the Indicative Capacity of the Pipeline is reduced to 5140 units. This falls significantly short of the 6145 homes slated to be required as part of PLDP2.

It is considered to be important that the group of 'Future Growth Site (Housing)' sites should be extensive, in order to allow for a wide range of sites to be potentially drawn from. However, it is clear that land must be allocated to allow for the delivery of 1005 additional homes over the first 10 years of the Plan. These allocated sites must be introduced to cover the delivery of sites across each of the Short', 'Medium' and 'Long' term stages of the Pipeline.

**Note:** There are further supporting details within representation 128 (RD31 and RD72).

#### Barratt Homes (195)

Paragraph 50, bullet 1 of PLDP2 Volume 1 sets out the Housing Land Requirement (HLR) for East Ayrshire, providing an overall figure for the indicative capacity of all allocations as 6145 homes. Whilst this is supported, it could perhaps be better expressed to make it clear that the development of all the sites allocated in the plan will be supported and not just 4050 out of a possible 6145.

Only 13 of 39 sites identified in the Kilmarnock & Loudoun Sub-Housing Market Area are new sites. Of 39 sites, 50% have a capacity of 50 or fewer units and 25% have a capacity of 25 or fewer units. Of new allocations, only 2 have a capacity of more than 100 units; 5 have a capacity of 10 or fewer units. 67% of new homes to be built in this area within the LDP2 period are legacy sites that were allocated in the 2017 LDP.

Given the number of legacy sites, (195) is of the view that the Council should justify the continued inclusion of these sites. Development of some of the legacy sites is underway and some others are to be developed by house builders. However, it is considered that the assessment of these sites should have included information on why the Council are confident that these sites will deliver the number attributed to them in the plan period. If there is any doubt, then additional sites should be allocated to ensure that housing needs would be met within the LDP2 period. The legacy sites as presented in PLDP2 are listed below with the year the Council identified that they became effective. The date sites become effective has not been listed since the 2016 HLA but reference to that HLA and the 2017 HLA enabled us to identify the years the Council claimed these sites became effective.



Effective Since	Ref	Settlement	Address/Description	Indicative Capacity
2010	CR-H1	Crookedholm	Grougar Road (E)	60
2010	CH-H3	Crosshouse	Irvine Road	39
2004	DL-H1	Darvel & Priestland	Burn Road	15
2008	DL-H3		Jamieson Road	40
2010	FW-H3	Fenwick & Laigh Fenwick	Stewarton Road	10
2009	FW-H2		Main Road	29
2002	GA-H2	Galston	Brewland Street	17
2010	GA-H1		Belvedere View	144
2000	HU-H1	Hurlford	Galston Road	100
1991	KK-H1	Kilmarnock	Altonhill	800
1994	KK-H9		Maxholm	300
2000	KK-H10		Moorfield	58
2010	KK-H3		Fardalehill (E)	249
2010	KK-H14		Treesbank	269
2010	KK-H12		Northcraigs	485
2010	KK-H4		Fardalehill (W)	800
2013	KK-H7		Irvine Road	133
2014	KK-H6		Glasgow Road (W)	45
2014	KK-H5		Glasgow Road (E)	79
2017	KK-H13		Sutherland Drive	10
2017	KK-H16		Western Road (N)	10
2017	KK-H15		Western Road (S)	47
2013	KM-H3	Kilmaurs	Irvine Road	65
2017	KM-H1		Crosshouse Road	128
2010	ST-H1	Stewarton	Draffen East	70
2010	ST-H2		Kilwinning Road	350

(195) are also concerned that the Council gives the impression in PLDP2 that all allocated sites will be built out during the LDP2 period. This will not be the case given the time it will take post-allocation for new sites to gain planning permission, put in place any required legal agreements and gain necessary site licenses. Please see the supporting statement 'Start to Finish' for further details (RD72).

**Note:** There are further supporting details within representation (195) (Supporting Document RD72).

#### Modifications sought by those submitting representations:

Fenwick Community Council (71) requests that the MATHLR for LDP2 should be 1986 dwellings and not 4050 dwellings.

Stewart Milne Homes (144) seeks for the Cumnock Sub-HMA to be apportioned a greater share of the MATHLR as presented in P-LDP2

Gladman Developments (146) seeks for a proportion of housing land supply to either be directed away from Kilmarnock and/or for additional capacity to the allocated in Stewarton.

**Summary of responses (including reasons) by planning authority:****Housing Land Supply & Minimum All-Tenure Housing Land Requirement**Main Issues Report (MIR) Democratic Mandate & Oversight (71)

The consultation for the MIR element of the Local Development Plan (LDP) preparation process as set out in the Town and Country Planning (Development Planning) (Scotland) Regulations 2008 (CD87) does not constitute the final adopted version of the LDP. In this respect, the MIR does not comprise any form of democratic mandate or ratification and is instead a means of consulting the public as part of the preparation of the LDP, to set out the main issues to be considered, and seek input on them. Whilst it is the Council's intention that the options in the MIR should be aligned closely with those in the Proposed Plan, in this case proposals to change how housing numbers were arrived at were issued by the Scottish Government in the period between the publication of the MIR and PLDP2.

PLDP2 was subject to scrutiny throughout its preparation as part of the Member Officer Working Group (MOWG) process, a series of meetings at which each element of the Proposed Plan was approved by a cohort of Elected Members after lengthy discussion with a range of Council officers from different services, as well as the Ayrshire Roads Alliance (ARA). Thereafter, a draft MATHLR (CD88) was presented to Members during a briefing session on 25 November 2021, during which no comments on the figures as presented were received. A MATHLR of 4050 units was again presented to Council Cabinet on 19 January 2022 (CD89) and subsequently approved. The determination of the MATHLR has therefore been subject to a suitable level of democratic oversight.

Discussions between the Council and the Scottish Government/ Centre for Housing Market Analysis (CHMA) to determine a MATHLR for East Ayrshire took place during spring and summer 2021 (CD22a-d). This determination was based on a methodology prepared by the CHMA as set out in the Draft NPF4: Housing Land Requirement - Explanatory Report (CD90). Various proposals were discussed, including an initial proposal of 4100 units, the determination of which was considered by the CHMA not to be sufficiently robust. A final figure of 4050 dwellings (PLDP2, Volume 1, Table 2) was agreed upon after extensive discussions with the CHMA, submitted in September 2021 and subsequently included in Draft NPF4 (CD3) when it was released for consultation in November 2021. The inclusion of the 4050 MATHLR in Draft NPF4 (CD3) and NPF4 (CD4) indicates that the Scottish Government considers that figure is robust and credible.

Determination of Minimum All-Tenure Housing Land Requirement (71), (144)

The determination of the MATHLR was a complex process. However, the approach taken to establish a MATHLR was approved by the CHMA and the Scottish Government, and supported by East Ayrshire Council Elected Members. More details on the determination of the MATHLR are set out in the East Ayrshire LDP2 Housing Technical Paper (CD34). The Paper sets out the division between affordable and private market housing, across each Sub-Housing Market Area in East Ayrshire and for East Ayrshire as a whole, and the process taken to arrive at that division. The MATHLR represents the Council's ambition to grow the population of East Ayrshire as set out in

the MIR (para. 2.5) (CD1) and Proposed LDP2 Aim 3 (Vol 1 para. 2.2).

Paragraph 110 of SPP (CD26) states that the planning system should ‘identify a generous supply of land for each housing market area within the plan area to support the achievement of the housing land requirement across all tenures, maintaining at least a 5-year supply of effective housing land at all times’. A generous supply of land in the East Ayrshire housing market area of 6145 units has therefore been provided to enable flexibility and choice, and to ensure that legacy sites carried forward from the 2017 LDP, albeit effective, are supplemented by a range of new sites as proposed during the LDP2 call for sites. It should be noted that the total indicative capacity of housing sites allocated in PLDP2 is around 10% lower than in the 2017 LDP and 10% higher than the 2010 Local Plan. Over the long term, therefore, the total indicative unit capacity of land allocated in subsequent Plans has remained relatively static, the aforementioned time periods following soon after the recession of 2007-2009 and its resultant downturn in house completions.

Whilst it is acknowledged that a 52% generosity has been applied to the MATHLR East Ayrshire-wide, it is considered that the allocation of land to accommodate 4050 units alone would comprise a significant risk for the Council in terms of housing land supply. The 2021 Housing Land Audit (CD74) programmes that 494 dwellings will be completed per annum during the 2021/2022 to 2025/2026 time period, higher than the 405 units per annum MATHLR. It is furthermore the Council’s contention that regardless of the proportion of total indicative capacity in relation to the MATHLR, the allocation of a generous amount of housing land should not be viewed as a negative, but rather as a positive means to ensure that sufficient range and choice is afforded to developers, the Council and Registered Social Landlords. Indeed, the delivery of affordable housing is now to a significant degree reliant on the construction of private market housing through an LDP and Proposed LDP2 requirement to deliver it as a proportion of larger housing sites.

The MATHLR is described as a Minimum All-Tenure Housing Land Requirement, that is to say, that the allocation of land below that level would not be acceptable, but that it is expected that the figure should be surpassed. Indeed, NPF4 (CD4) states “to promote an ambitious and plan-led approach, the Local Housing Land Requirement is expected to exceed the 10 year Minimum All-Tenure Housing Land Requirement (MATHLR)”. The Council has provided this additional buffer in all parts of East Ayrshire. In the Kilmarnock & Loudoun Sub-HMA, an addition of 51% has been made above the MATHLR. In the Cumnock Sub-HMA, a 48% addition has been made and in the Doon Valley Sub HMA, a 108% addition has been made. This is to ensure that sufficient land has been made available for development. Each site proposed for allocation in PLDP2 is considered suitable for development and either sustainable or capable of being made sustainable through appropriate developer contributions and/or environmental mitigation. This applies regardless of the location of the site within East Ayrshire as a whole, north or south.

Because of the process undertaken to determine the MATHLR, and the approval of the Scottish Government, it is not considered appropriate or necessary to amend the MATHLR to that proposed in representation (71).

### Main Issues Report & Housing Need & Demand Assessment (71)

Housing land supply is a main issue in the production of the LDP and therefore featured prominently in the MIR. Each growth scenario detailed in the MIR corresponded to that from the 2018 East Ayrshire Housing Need and Demand Assessment (HNDA) (CD36). The HNDA 'High Growth' option was considered to constitute the most likely scenario from which the determination of a Housing Supply Target (HST) and Housing Land Requirement (now described as the Minimum All-Tenure Housing Land Requirement or MATHLR) could be made, because it was considered to reflect best the increase in house completions programmed in the 2019 Housing Land Audit (CD72).

However, the HNDA (CD36) is not to be confused with the MATHLR, and the Scottish Government Centre for Housing Market Analysis (CHMA) advises that the HNDA should be used as a guide to setting an HST and HLR (now MATHLR). Indeed, the MIR states that housing requirements set out in the HNDA 'will be adjusted...to take into consideration the other factors which influence the housing supply target' before a generosity allowance is applied. It should be noted that the preparation of PLDP2 has taken place at the juncture of two legislative frameworks. It has therefore been informed by Scottish Planning Policy (CD26) and the Draft NPF4 (CD3). Certain details in the MIR pertaining to generosity applied have since had to be amended as a result of the work required to input the MATHLR into Draft NPF4 guidance.

As noted in the representation, the HNDA is 'the foundation upon which the LDP is built in relation to housing land requirements'. Consequently, whilst the 'High Growth' scenario received the greatest support as part of the MIR consultation, the HNDA is not the sole or final determinant of the HST or MATHLR and is instead the starting point from which a determination may be made.

### House Completions to Achieve Population Growth (71)

It is acknowledged that a firm link between the allocation of housing land and population growth can be difficult to establish. However, an insufficient allocation of housing land is likely to mitigate against any such ambition. The MATHLR was determined based on household and not population growth, each of which requires its own considerations. Nevertheless, to match the average rate of household growth in Scotland based on urban and rural expectations as set out in the LDP2 Housing Technical Paper (see CD34) is considered to constitute a reasonable approach to pursuing population growth.

It is hoped that initiatives like the Ayrshire Growth Deal (AGD) will attract people to live in East Ayrshire; sufficient land must be made available for that to take place. Whilst it is anticipated that some homes completed will be marketed towards commuters, it is hoped that initiatives like the AGD will encourage more people to work close to home, in East Ayrshire, thereby reducing carbon emissions. Should a reasonable proportion of 6145 homes as allocated for be built, any additional completions would likely be accompanied by desirable household and population growth, to the benefit of East Ayrshire, its businesses, town centres, people and civic life.

Allocation of Housing Land & Pressure on Services in Northern East Ayrshire (71)

With respect to the total indicative capacity of 6145 dwellings, the Council is aware that not all allocated sites will be built out. This is a consequence of providing a surplus. However, the contention that all other parts of the Council area outside Kilmaronock and Annick will be overlooked by developers is untrue. It should be noted that the 2021 Housing Land Audit (CD74) programmes the completion of 704 dwellings in the Cumnock Sub-HMA and 60 in the Doon Valley Sub-HMA, around 153 per annum.

The developer contributions framework includes a number of incentives that would make the southern part of East Ayrshire more attractive to house builders, including a somewhat lower existing burden on school and medical facilities that would reduce developer costs and the absence of any requirement to provide affordable housing. Within the Cumnock Sub-HMA and Doon Valley Sub-HMA, land has been allocated to accommodate around 900 dwellings and 200 dwellings respectively. These factors, it is hoped, will make the area more attractive relative to the north of the area, which is under greater pressure, and will lead as far as possible to a dispersal of development throughout the Council area.

Throughout East Ayrshire, it is intended that the LDP2 Developer Contributions Supplementary Guidance (CD21) will help to lessen pressure on key public services, and will be imposed where a development will place additional demands on infrastructure, services, facilities and amenities that would necessitate new facilities or exacerbate deficiencies in existing provision. New infrastructure will therefore be delivered in those places where there is evidence of additional pressure being placed upon existing infrastructure. This approach is considered to constitute a reasonable means of allowing for development where pressure on services and facilities arises, whilst at the same time ensuring that any such impacts are reasonably mitigated; there is broad support for such an approach throughout a house building industry that is conscious that any development should not act to prevent future growth.

Affordable Element of MATHLR (128), (146), (195)

To clarify, the affordable contribution was determined according to a method set out in the LDP2 Housing Technical Paper (CD34). In this regard, it should be noted that the affordable contribution in Kilmaronock & Loudoun Sub-HMA comprises 32.5% rather than 35% of the MATHLR (the remaining quantities coming from other sub-HMAs). To summarise, the affordable requirement was determined using a method that encompassed affordable policy sites, the Strategic Housing Investment Plan (SHIP) 2022-2027 (CD35) and the 2018 HNSA (CD36), which was used to temper the slightly ambitious predictions within the SHIP 2022-2027.

The 25% affordable housing contribution in the Kilmaronock & Loudoun Sub-HMA forms part of the calculation of the MATHLR requirement and each site from which it is expected a contribution would be made because of its indicative capacity is set out in Section 5D of the Paper. These would be delivered in addition to those detailed in the SHIP, which can only encompass delivery during the period of that Plan. Delivery of the SHIP often takes place within sites the allocation of which could not have been predicted or made during the preparation of the Proposed Plan. The 35% MATHLR will have no influence on the 25% site requirement, if applicable, and it is not proposed

other than under the requirements of PLDP2 Policy RES2: Affordable Housing criterion (ii) that any delivery above 25% would be required.

The SHIP 2022-2027 (CD35) predicted that 909 affordable dwellings would be completed during the lifetime of that Plan and it is anticipated that further units would be completed either within affordable policy allocated sites or within windfall sites during the remainder of the 2023 to 2033 LDP2 period. As a proportion of the 4050 MATHLR, the 35% contribution is therefore considered reasonable and realistic.

It should be noted that the affordable portion of the MATHLR was determined at a time when information released during the build-up to the publication of the Draft NPF4 (CD3), and indeed Draft NPF4 (CD4) itself, contained no guidance as to how to establish such a requirement in the context of the overall MATHLR figure. Nevertheless, the Council believes that the affordable proportion presented is reasonable given housing need and demand in East Ayrshire, particularly in the southern part of the area where direct RSL and Council delivery is expected to feature heavily during the lifetime of LDP2.

#### Pressure on Services in Fenwick (71)

The matter of housing land allocation in Fenwick is addressed in Issue 31.

#### Development in Stewarton (146)

The repercussions of development in Stewarton and the approach taken by the Council in PLDP2 to remedy constraints to facilities and infrastructure are addressed in Issue 42. However, comment with respect to the approach taken in the PLDP2 Spatial Strategy, in terms of the distribution of allocated housing sites might be made as follows. It is considered that the Reporter has sufficient information before them in para. 47 of Vol 1 of PLDP2 to understand the strategy taken to the distribution of housing development in East Ayrshire during the Plan period. Furthermore, the LDP2 Main Issues Report, which informed the preparation of P-LDP2, includes several statements and options that pertain to focussing most housing development in the Kilmarnock area.

Whilst it is suggested that additional housing land should be allocated in Stewarton, it must be noted that Kilmarnock has been selected as the location for most growth during the LDP2 period specifically because it is of such a size as to sustainably accommodate development without placing significant pressure on infrastructure. No overburden would occur and, should any issues arise, they would be addressed through PLDP2 Policy INF4 Developer Contributions, which will be implemented where a development will place additional demands on infrastructure, services, facilities and amenities that would necessitate new facilities or exacerbate deficiencies in existing provision.

By contrast, and as explored in Issue 42, Stewarton is subject to substantial pressure on facilities and infrastructure that cannot be remedied by developer contributions alone; a more targeted approach must be taken to growth in that settlement. In this respect, the allocation of additional housing land in Stewarton during the Plan period would put at risk the strategy set out in paras. 64 to 66 of Vol 1 of PLDP2.

Stewarton is considered a somewhat less sustainable place for growth than Kilmarnock; as has been mentioned, Stewarton is subject to additional pressures not experienced by Kilmarnock. However, Stewarton and Kilmarnock each fall within the same Sub-Housing Market Area and the significant interest expressed in development in Kilmarnock through the call for sites process is indicative that demand for dwellings in the settlement remains robust. There is no concern that the housing market in that settlement might overheat.

Concerning the suggestion that a broad distribution strategy would deliver benefits across the entirety of East Ayrshire, the Council concurs, and for that reason, PLDP2 proposes a wide distribution of allocated housing sites across the Council area. These are summarised in Figure 5 and Schedule 3 of Vol 1 of PLDP2 and laid out in more detail in Vol 2 of PLDP2.

#### Effectiveness of Legacy Sites (195)

With respect to the suggestion that the Council must justify the inclusion of sites in the Kilmarnock & Loudoun Sub-HMA that have been carried forward from the 2017 LDP into PLDP2, the following table sets out the Council's comments on each site listed. '2021 HLA' refers to those sites assessed as being effective in the 2021 Housing Land Audit (CD74), which was approved by Homes for Scotland in February 2022.

Ref	2021 HLA	Suitability for Allocation
CR-H1	Yes	Permission granted on 14/09/2021
CH-H3	Yes	Planning application being determined as at 27/10/2022
DL-H1	No	New site
DL-H3	No	Live consent and site suitable as within settlement envelope
FW-H3	Yes	Permission in principle granted 29/03/2021
FW-H2	Yes	Application withdrawn but indication of interest remains
GA-H2	No	Partially built out and suitable as within settlement envelope
GA-H1	No	Only large-scale suitable site in Galston
HU-H1	Yes	Pre-application interest expressed in 2021
KK-H1	No	New site
KK-H9	Yes	Live consent at time of site assessment and brownfield land
KK-H10	Yes	Permission granted on 16/08/2022
KK-H3	Yes	Development underway as at 27/10/2022
KK-H14	Yes	Interest expressed and Homes for Scotland consider effective
KK-H12	Yes	Development underway as at 27/10/2022
KK-H4	No	New site
KK-H7	Yes	Planning application being determined as at 27/10/2022
KK-H6	No	New site and permission granted on 21/09/2022
KK-H5	No	New site
KK-H13	No	Forms part of the Strategic Housing Investment Plan 22' to 27'
KK-H16	Yes	Consent granted at LRB and site considered effective
KK-H15	No	New site
KM-H3	Yes	Development underway as at 27/10/2022
KM-H1	No	Site is viable and one of four in Kilmaurs proposed in P-LDP2
ST-H1	Yes	Development underway as at 27/10/2022
ST-H2	No	New site (not carried forward from 2017 LDP)

Each site listed above is therefore suitable for allocation in LDP2, either because it



presents favourable or sustainable characteristics, or because interest has been expressed in its development, or because development is already underway and anticipated to continue during the LDP2 period, or because a planning application has been made and is in the process of being determined.

With regard to any impression in PLDP2 that all allocated sites in the Plan will be built out during the LDP2 period, it is considered that whilst the table set out in Schedule 3 (CD32) places sites into 'Short', 'Medium' and 'Long' term categories, that these are merely indicative of when sites might be developed. It is anticipated that a proportion of those sites in Schedule 3 will not be developed during the LDP2 period because around 50% of them comprise a surplus above the MATHLR in order to allow for flexibility and choice. The Council would have no objection if the Reporter were agreeable to a small amendment to the wording in para. 50 of Vol 1 of PLDP2 to clarify that 4050 comprises the MATHLR but that development within all allocated sites will be supported.

As is set out in the LDP2 Housing Technical Paper (CD34), the MATHLR comprises the HST with generosity added, meaning that it is anticipated that 3130, rather than 4050 or 6145 units, would require be completed during the Plan period. A surplus of land to accommodate around 2095 dwellings above the MATHLR has been made in LDP2, 1697 or 81% of which is located in the Kilmarnock & Loudoun Sub-HMA. Again, the timing of the preparation of this Plan, in terms of SPP and NPF4 is of relevance to how the MATHLR has been arrived at.

A supply of around 2700 dwellings is programmed in the 2021 HLA (CD74) after the anticipated adoption of LDP2 in 2023 and up the end of the ten-year Plan period, a figure that it is anticipated will be augmented once further interest is expressed in the development of sites and consents are granted. It is hoped that this supply will contribute towards surpassing the MATHLR of 4050 units.

A sufficient supply of housing land has therefore been proposed for allocation in PLDP2 and there is no requirement to allocate any additional sites.

#### Indicative Capacity in Housing Delivery Pipeline (128)

The 6145 total indicative allocated residential capacity should not be confused with the 4050 MATHLR. It does not constitute a requirement of any kind and instead comprises all land allocated exclusively for residential development in PLDP2. Sufficient land has been allocated in PLDP2 to meet the MATHLR and to offer a 52% supplement to exceed the MATHLR. No further allocation is required.

Were any of the sites with a total indicative capacity of 1006 dwellings proposed in the representation removed from supply, the 4050 MATHLR would still be met, with a total indicative capacity of 5140 dwellings or a surplus of 27%. However, any sites removed from the supply of 6145 units would not be deliverable during the LDP2 period other than in exceptional circumstances. That many are legacy sites carried forward from the 2017 LDP does not diminish their quality or suitability for development. No evidence has been provided to detail which sites would form a replacement for those that it is suggested should be removed. The Council is of the view that each site proposed for allocation in PLDP2 should be allocated in LDP2. All have been subject to thorough

assessment and found to be most suitable of those considered for allocation.

With respect to the effectiveness or otherwise of sites, the issue of their delivery according to the 2021 Housing Land Audit is addressed in the 'Effectiveness of Legacy Sites' sub-issue above. The 2020 HLA (CD73) as cited in the representation has now been superseded and new information is available to the Council. It cannot be foreseen in the HLA whether all sites proposed for allocation in PLDP2 would eventually become effective. The HLA is informed by information that is subject to change from year to year and it can only realistically programme ahead by five years. The Council must reaffirm that its approach has been to allocate sufficient land to more than meet the MATHLR and to ensure flexibility and choice of sites.

With respect to those Future Housing Growth Areas (FHGAs) that are included in PLDP2, it is considered that the range, capacity and distribution presented in Vol 2 of PLDP2 is sufficient to offer an estimate of likely future growth. The indicative capacities presented in the Housing Site Appraisal Methodology (HSAM) (CD8) anticipated that FHGAs in PLDP2 would be capable of accommodating more than 1900 dwellings.

#### **Reporter's conclusions:**

1. The proposed plan was prepared at a time when Scottish Planning Policy (SPP) was still in force, and the replacement National Planning Framework 4 (NPF4) was only in draft form. Since that time, SPP has been withdrawn, and NPF4 adopted by the Scottish Ministers. Because of this change of circumstance I sought the views of parties as to the implications of the adoption of NPF4 for the matters covered in their representations on the housing topic. The council was subsequently given the opportunity to respond to these views. I have taken all these submissions into account in my conclusions.

#### **Scale of the Housing Land Requirement**

2. NPF4 sets a minimum all-tenure housing land requirement (MATHLR) for East Ayrshire of 4,050 houses. The estimated capacity of the land allocated in the proposed plan is 6,145. (This figure does not include any additional allowance for windfall sites or unallocated sites with planning permission.) The proposed plan therefore provides for a significant excess above the MATHLR figure.

3. Fenwick Community Council is critical of the process followed to arrive at the 4,050 MATHLR figure, principally because it considers it reliant on an unfeasible level of inward migration, and divorced from the much lower figures discussed at the main issues report stage and in the housing need and demand assessment (HNDA).

4. I note that the 4,050 figure is now established in NPF4, which is a statutory component of the development plan, approved by the Scottish Parliament. It would be highly unusual for a LDP to undercut the MATHLR figure established by NPF4. I consider that such an approach could only be contemplated in the most exceptional circumstances.

5. It is the case that the current MATHLR is significantly higher than the initial default estimate of 350 produced by the Scottish Government Centre for Housing Market

Analysis. However, the council argued that this should be increased to reflect its ambitions for population growth, the outcomes from its own housing need and demand assessment, and to reflect anticipated demand. In support of this last consideration, the council pointed to high programmed rates of house completions in its housing land audit (averaging 490 dwellings per year between 2021 and 2026), and past rates of completions running at an average of 367 dwellings per annum in the 2010 to 2019 period.

6. These arguments appear to have been accepted by the Scottish Government, leading to the MATHLR figure of 4,050 we see included for East Ayrshire in NPF4, and quoted in the proposed plan. I note from Table 2 of the council's housing technical paper that this figure represents a 29% uplift above the 'housing supply target' (that is, the actual number of houses that the council expects to be built). Such a flexibility allowance reflects the 25% (urban) and 30% (rural) flexibility applied nationally by the Scottish Government in the generation of the MATHLR figures, as explained at paragraphs 51 to 53 of the Draft NPF4 Housing Land Requirement Explanatory Report.

7. I find there is no sufficient reason to base the plan on any lower figure than the MATHLR set out in NPF4. This is the clear national expectation, appears to be reflective of actual demand on the ground and includes an appropriate additional flexibility allowance. It may be that the levels of development that underlie the 4,050 figure respond to, and anticipate, a level of in-migration to the council area, perhaps of Glasgow-based commuters. This does not seem to me to be unusual, or necessarily undesirable, especially in the context of the council's stated aim to stabilise East Ayrshire's population and stimulate population growth.

8. The proposed plan allocates sites sufficient to meet 152% of the MATHLR. The community council is also critical of this approach, which it characterises as adding an excessive flexibility allowance or 'generosity' to the core housing numbers. It argues that because the MATHLR figure itself contains a 30% flexibility allowance (I calculate this at 29%), to then add a further 52% to arrive at the 6,145 housing allocation in the proposed plan is unjustifiable. It argues that this will lead to developers cherry-picking the most attractive sites leading to undue pressure in the north of the council area.

9. I note that NPF4 expects LDPs to promote an ambitious approach, and allocate more land than is required to meet the MATHLR. The amount of housing land proposed to be allocated in East Ayrshire is undoubtedly high. The likely result of the council's approach is that some sites will remain undeveloped and continue in their current use over the medium term. But this would not in itself be necessarily problematic. On the other hand, a less ambitious allocation would have brought with it the possible risk of there being insufficient land to meet higher-than-expected housing need or demand.

10. I accept that there may be some possible downsides to allocating any amount of land above the MATHLR figure. These include causing some unnecessary uncertainty to communities and in the planning of some infrastructure. I also acknowledge the theoretical risk of housebuilders 'cherry-picking' the most attractive sites, and leaving sites in areas more in need of regeneration undeveloped.

11. However, I note that the most recent housing land audit programmes the

completion of around 153 houses per annum in the Cumnock and Doon Valley sub-housing market areas. I also noted the extensive ongoing development activity in north Kilmarnock. This indicates to me an ongoing willingness among developers to invest in locations beyond the attractive smaller towns and villages in the north of the plan area.

12. On balance, I consider that the council's generous approach to housing land supply is to be supported. It aligns with national policy, and in particular NPF4's expectation to promote an ambitious approach. It should also serve to promote the availability of a wider range and choice of site and so improve the functioning of the housing market.

13. Turning to other matters raised by the community council, I agree that there is an imperfect relationship between building additional houses and achieving population growth. Other factors, such as the health of the local economy will also play an important role. But I am content that a council seeking to boost its population may reasonably consider additional housebuilding to be one important strand of its approach. Conversely, an inadequate housing supply may lead to out-migration, or to people with jobs in East Ayrshire living elsewhere.

14. The council's housing technical paper does not explain how any demolitions are accounted for. However, I note that the NPF4 MATHLR response template prepared by the council in February 2021 refers to the demolition and replacement of existing dwellings among the justifications for raising the MATHLR. From this it seems clear that a component of the MATHLR is intended to reflect housing to be built to replace demolished homes.

15. I consider issues raised around democratic mandate and the content of the main issues report to be largely outside the scope of this examination. My focus must be on the content of the proposed plan, and the extent to which this is sufficient and appropriate within the scope of the matters raised in representations.

16. The proposed LDP was written when Scottish Planning Policy was still extant, and NPF4 only existed in draft form. It may be for this reason that there are some inconsistencies in terminology between the plan and the adopted NPF4. It would be beneficial to resolve these in order to allow a smooth read-across between the two components of the development plan. In particular, paragraphs 184 to 189 of the plan refer to a 'housing land requirement' ('HLR') in place of the MATHLR.

17. Below I recommend changes to these paragraphs to introduce the MATHLR terminology from NPF4. I am also aware that NPF4 introduces terminology in terms of a local housing land requirement and a deliverable housing land supply. I return to these matters below in considering associated changes to the text on page 92 of the proposed plan.

#### Distribution of Housing Allocations

18. Regarding the suggestion that the plan should have discussed alternative spatial strategies, I consider that this (at least under the outgoing development plan system) is the role of the main issues report, and not the proposed plan. However, it is incumbent on the council to justify the spatial strategy that it presents in its finalised plan.

19. The MATHLR figure contained in NPF4 covers the whole of East Ayrshire, and is not disaggregated into different requirements for the three sub-housing market areas identified in the council's area. NPF4 contains no expectation that any such disaggregation will be done, but neither does it prevent LDPs from doing this. The proposed plan was initially prepared when Scottish Planning Policy was in force, and it may be that the breaking down of the housing numbers into separate figures for each sub-area is to some extent a product of this being a transitional plan. In any event, I accept that the housing market characteristics of the northern and southern parts of the plan area appear very different. At least in the context of this transitional plan, I therefore consider it was reasonable for the council to show how the overall housing requirement could be split between the sub-areas, even if only for illustrative purposes.

20. The distribution of new housing allocations shows a very clear weighting towards the Kilmarnock and Loudoun sub-area in the northern part of the plan area. 82% of allocated housing land is here. I am satisfied that this is the area with the highest market demand, as illustrated through evidence of past completions and future programming. The 2021 housing land audit shows that 86% of completions over the 2015 to 2021 period, and 69% of programmed completions over the 2021 to 2026 period, were in this area. According to the NRS household projections, as quoted in the housing need and demand assessment, 69% of households resided in the Kilmarnock and Loudoun area.

21. Appendix 2 of the council's housing technical paper explains its methodology for splitting the housing land allocation between the sub-areas. This is based on an assessment of projected household growth in each sub-area, plus an allowance for resolving existing need. In the absence of any alternative suggested methodology, I accept this as an appropriate approach.

22. I find that the distribution of the housing allocation between the three sub-housing market areas appears to have been based on a robust approach, and is broadly in line with existing population levels and evidence of need and market demand. I acknowledge the argument made that the Cumnock area will also benefit from the Ayrshire Growth Deal, and that this investment may require to be supported by additional housebuilding. However, the allocation made to the Cumnock area already includes a significant generosity margin above the anticipated level of housebuilding that will actually occur. There is therefore already considerable scope to build further homes should need or demand in the Cumnock area prove higher than expected. For these reasons I conclude that there is no need to recommend any redistribution of the housing allocations between the various sub-areas.

23. Particular matters around Site MA-X8 in Mauchline are discussed at Issue 41.

24. Within the Kilmarnock and Loudoun sub-area, it is also argued that there should be a redistribution from Kilmarnock itself to Stewarton. The capacity of housing allocations in Stewarton constitutes around 7% of that for the plan area as a whole. I consider this scale of development appears to be broadly proportional to the size and role of Stewarton, as a relatively small town, within East Ayrshire.

25. Paragraph 63 of the plan refers to the substantial growth that has occurred in Stewarton in recent years, and to the capacity issues that have arisen. Nevertheless,

the plan contains housing allocations in Stewarton with an estimated capacity of 420 units, with potential for further housing to be provided within two other opportunity sites. Overall I conclude that the plan takes an appropriately balanced approach to growth in the town.

26. Kilmarnock is, by some margin, the largest settlement, and the main focus of infrastructure and service provision in the plan area. As such, I consider it an appropriate strategy for most growth to be directed here.

27. While other spatial strategies may also have been viable, no strong case has been made for them. A radical change to the spatial strategy to refocus development away from Kilmarnock would require very clear evidence of failings in the current strategy and a detailed justification for an alternative. In the absence of such convincing evidence I am content that the plan's spatial strategy for housing is broadly appropriate.

28. I discuss particular considerations around development in Stewarton at Issue 42.

#### Affordable Element of the MATHLR

29. The council's housing technical paper sets out to explain the approach taken to the affordable/ market split of the MATHLR figure. This is stated to have been determined through a combination of the expected housing delivery through the 25% affordable housing policy in the Kilmarnock and Loudoun sub-area, plus estimated programming from the 2022-2027 strategic housing investment plan (SHIP). Above, the council explains that the HNDA was also used to temper ambitious predictions in the SHIP.

30. It is therefore clear that the 35% affordable ratio mentioned to in paragraph 185 of the plan refers to all sources of affordable housing development, of which developer contributions from private sites is just one component. This interpretation is reinforced by Policy RES2, which explicitly applies a 25% requirement in the Kilmarnock and Loudoun sub-area, and 0% elsewhere. Given the clarity of the requirement in Policy RES2, I do not consider that any further clarification is required to this aspect of paragraph 185.

31. That said, it is important to note that the MATHLR is explicitly an all-tenure figure. It would be inappropriate for the plan to give any impression that the MATHLR figure from NPF4 incorporates an affordable/ market split. I have already discussed my recommendation to incorporate references to the MATHLR into the plan. I consider that a further modification is necessary to clarify that the stated ratio of affordable to market housing is the council's own subsequent estimate and not an inherent part of the MATHLR.

#### Effectiveness of Legacy Sites

32. Barrat Homes (and the accompanying report prepared on its behalf by Lichfields) highlights the number of housing allocations that are carried forward from the existing adopted LDP, and argues that their continued inclusion requires to be justified by evidence that they will deliver homes in the plan period.



33. With regard to the particular sites highlighted in Barrat Homes' representation, the council has (above) provided evidence of ongoing developer interest in most of these. Others of the sites are new allocations in this proposed plan. Sites in Galston are discussed at Issue 33.

34. On this basis, I am satisfied that it is not necessary to remove any of the 'legacy sites' from the plan on the basis of lack of developer interest. In any event, I address the question of whether it is reasonable to expect every site allocated in the plan to be developed in the plan period below.

35. Furthermore, I do not consider it necessary for the plan to include details on the reasoning behind the allocation of each individual site. Where there are adverse representations, the council should certainly justify individual sites' inclusion, but the main forum for doing this is in evidence to this examination, and not in the plan itself.

36. As sought in the Quality Homes section of NPF4, schedule 3 of the plan groups its housing allocations into short, medium and long term phases. Clearly this exercise can be informed by evidence such as the housing land audit, but is not an exact science. More detailed programming for individual sites does not appear to be an expectation of NPF4 and would seem excessively detailed for a LDP. Such information would appear better suited to the housing land audit and the action programme/ delivery programme. That said, I note that the Scottish Government's development planning guidance clarifies that in the future constrained sites should not simply roll forward from one plan to the next and that the council should consider how constraints are to be addressed. This would be an issue for the council to address through the next local development plan and through future preparation of a delivery programme.

37. Barrat Homes highlight that some of the sites shown with a short timescale were not programmed for development in the 2021 housing land audit. It may be that the development of some of these sites in this timescale may now be challenging, but I do not agree that it would necessarily be impossible. In particular, I do not have comprehensive information on what has happened on each individual site since 2021. I also consider it is reasonable to include a site whose development is expected to commence (or to be capable of being commenced) within the short or medium term within that phase, even if its development would continue on into the longer term. For these reasons I decline to recommend any amendment to the site timescales set out in schedule 3.

38. Matters relating specifically to Site ST-X12 in Stewarton are considered at Issue 42.

#### Indicative Capacity in Housing Delivery Pipeline

39. NPF4 expects LDPs to allocate deliverable land. Deliverable land is defined in the glossary as 'land that is free from constraints or there is a commitment to overcome constraints, and development is able to be delivered in the period identified for the site within the Deliverable Housing Land Pipeline'. The deliverable housing land pipeline extends out to long term (7-10 year) sites.

40. There is no requirement for sites to have a named developer attached to them, or



to be programmed for development in an agreed housing land audit. Indeed it will be relatively common for new LDP housing allocations not to feature in a housing land audit, especially where the latest audit (as in this case) is several years old.

41. Furthermore, given the significant flexibility allowances built into both the MATHLR itself and into the uplift from the MATHLR to the 6,145 figure, the expectation cannot be that all this land will be developed in the next ten years and so show up as committed in the housing land audit. The expectation is instead that this land should be capable of being developed. For sites to be 'struck out' of contributing towards the stated requirements it would be necessary to demonstrate that they were not capable of being developed in the relevant period or were subject to constraints that could not be overcome.

42. I have studied the analysis of Schedule 3 of the proposed plan submitted by Homes for Scotland. This suggests that sites with an estimated capacity of over 1,000 homes should be recast as 'future growth sites' because no completions are programmed on them in the housing land audit before 2035. It is suggested that these sites be replaced with alternatives. However, Homes for Scotland has not put forward any particular infrastructure or other constraints pertaining to these sites. I am not, therefore, convinced that these sites are necessarily undeliverable. I also note that any new alternative sites would be similarly unprogrammed at this stage.

43. In any event, the 6,145 figure in the proposed plan was simply an exercise in adding up the estimated capacities of the various allocations proposed by the plan, and represents a 52% uplift on the MATHLR figure. The council points out above that, even if around 1,000 homes were accepted to be undeliverable in the next ten years, there would still remain a significant margin in the allocation above the MATHLR.

44. For these reasons, I conclude that the proposed plan allocates land with the capacity to build significantly more houses than the MATHLR set for East Ayrshire in NPF4, and that it is not necessary to allocate additional sites to replace land that is not currently programmed for development in the housing land audit.

#### 'Local Housing Land Requirement'

45. NPF4 introduces the concept of a Local Housing Land Requirement (LHLR), which is a figure in excess of the MATHLR to be identified in LDPs and representing the amount of land required. I have considered whether there is a need for me to recommend the inclusion of a LHLR figure in this LDP. To do so would bring the plan into closer alignment with NPF4. However, I have concluded that I do not have sufficient information before me to generate a robust LHLR figure. I consider that I cannot rely on the 'allocated capacity' figure of 6,145 being equivalent to the concept of the LHLR for a number of reasons.

46. Firstly, the 6,145 figure appears to be the product of the cumulative capacities of all the allocated sites, rather than an initial evidence-based target which sites were then allocated to meet. I have not been able to identify a robust evidence-based means of deriving an appropriate LHLR figure, nor am I convinced it would be appropriate for me to do so at this late stage in the plan-making process.

47. Secondly, NPF4 states that the LHLR should be met through the allocation of deliverable land, but I have noted above the concerns that have been raised about the deliverability of some allocations. While I have concluded that I am not convinced that these sites are undeliverable, I do not wish to unnecessarily create possible future difficulties in the implementation of the plan by setting a LHLR that may rely on some sites that may not deliver homes within ten years.

48. Thirdly, I note that the Scottish Government's Local Development Planning Guidance states that the LHLR can be contributed to by unallocated sites with planning permission and windfall development, in addition to allocations in the plan. Any contribution from such sites would therefore be over and above the 6,145 figure. However, I have not been able to identify a figure for unallocated sites with planning permission, and while the council's housing technical paper estimates a total of 717 units coming forward as 'surplus/ windfall', this may be an optimistic forecast.

49. For these reasons, I have concluded that, based on the evidence before me at this examination, I am not able to derive a robust LHLR figure for insertion into the plan at this time. In reaching this conclusion I am reassured by the fact that the allocations made in the proposed plan significantly exceed the MATHLR, by a factor of 52%, and that unallocated land with planning permission and windfall sites will offer further flexibility. As a transitional plan, it is to be expected that complete alignment with NPF4 is not possible at this time. However I am satisfied that the meeting of the MATHLR figure should ensure that the Scottish Government's principal ambitions for local housing supply will be achieved. I also note that the council has stated its intention to carry out an early review of the plan, which will be able to bring it fully into line with NPF4.

#### **Reporter's recommendations:**

I recommend that:

1. The phrase 'Housing Land Requirement' at paragraphs 50 and 184 be replaced with 'Minimum All Tenure Housing Land Requirement';
2. All references to 'HLR' in paragraphs 50, and 184 to 189, and in Table 2 be replaced with 'MATHLR';
3. The second sentence of paragraph 185 be amended to read: 'The council estimates that 2,640 dwellings of this would constitute ... [continue as in proposed plan].'

Issue 18	Rural Housing and Rural Industry	
Development plan reference:	Volume 1, Policies: RH1, RH2, RH3, RH5, IND2, IND3 and Volume 2: Rural Area Map	Reporter: Stephen Hall
Body or person(s) submitting a representation raising the issue (including reference number):		
L McGovern (44) EPC-UK (101) Homes For Scotland (128) M Evans (143) Barratt Homes (195) A & G Marriott (204)		Dunlop & Lugton Community Council (240) NHS (270) J Crawford (300) G Roberts (312)
Provision of the development plan to which the issue relates:	The content and wording of the rural housing and rural industry policies of the Plan specifically, policies: RH1, RH2, RH3, RH5 (pages 100-103) and IND3 (page 111); as well as the Volume 2: Rural Area Map	
Planning authority's summary of the representation(s):		
<b><u>VOLUME 1</u></b>		
<b>Policy RH1: Housing in the Rural Protection Area</b>		
<u>EPC-UK (101)</u>		
<p>Provide comments in relation to policy RH1, and are supportive of new growth and housing delivery in principle, however, raise concerns over new homes being located in close proximity to one of their operations where hazardous materials are stored. (101) express concerns relating to additional dwellings being located in close proximity to their site impacting on the volume of materials they can store there. A reduction in capacity could have broad impacts on construction and quarrying, but also on the viability of their business.</p> <p>Request that the policy be modified to protect certain sites and development from the provision of new homes in close proximity to their operations.</p>		
<u>Homes For Scotland (128) and M Evans (143)</u>		
<p>RPA acts as a greenbelt, but has not been scrutinised in the same manner, and argues that it is unclear why such a strict restriction on development is justified.</p>		
<u>Homes For Scotland (128)</u>		
RH1 deprives an already suppressed small or medium-sized enterprise (SME)		

homebuilder sector of potential opportunities to deliver single homes or modest clusters of new homes where there is demand in rural areas.

Requests amendment to RH1 to increase scope for small scale development of up to around 12 homes subject to compliance with other policies.

Requests amendment to RH1 to allow for the use of this land to be released as residential sites in the event that the Housing Land Pipeline is failing to deliver.

#### Homes For Scotland (128)

Suggest modifications to RH1 through the addition of two bulleted criterion (vi) and (vii).

#### M Evans (143)

The overall net migration figures for East Ayrshire are very small and no evidence in relation to Development Management records are provided.

The phrase “threat to suburbanisation” has been loosely applied and greatly exaggerates the scale of pressures.

Policy RH1 will likely contribute to further decline in population in the countryside.

#### Barratt Homes (195)

Suggests modifications to RH1 through the addition of two bulleted criterion (vi) and (vii). Alternatively, (195) suggest that the RPA and RDA could be merged to form the “rural area” and policies RH1 and RH2 be merged to cover the “rural area”.

### **Policy RH2: Housing in the Rural Diversification Area**

#### L McGovern Hendren (44)

The plan should note that gap sites between two existing houses are recognised “gap sites” when in the Rural Diversification Area.

#### Homes For Scotland (128)

Suggest modifications to RH2 to allow further land to be released within RPA if the housing land pipeline is failing to deliver.

#### M Evans (143)

Recommends that for RH2 criterion (iii) relating to brownfield/derelict sites an explanation and justification for the “0.25ha” figure is required.

Recommends that RH2 criterion (iv) should accept that the countryside can accommodate a wide range of businesses, not just “rural businesses” and that this provision should be supported by a robust policy on sustainability in relation to locations chosen by applicants.

Barratt Homes (195)

Suggest modifications to RH2 to allow for small scale residential development, in line with RH3 and to ensure that further land can be released within the RDA if the housing land pipeline is failing to deliver.

G Roberts (312)

This policy cannot be applied until the content of supplementary guidance has been prepared, consulted and modified.

Considers this policy to contradict SS2: Overarching Policy's expectations for sustainable development in light of the climate crisis.

**Policy RH3: Rural Housing Clusters**

Homes For Scotland (128)

The Supplementary Guidance should have been prepared and consulted alongside the Proposed Plan.

Question the validity of the figure "15" relating to residential units.

Suggests that RH3 align with the RES3 (Affordable Housing) and be amended to state that a cluster should not exceed a total of 30 residential units.

M Evans (143)

There is no indication whether Policy RH3: Rural Housing Clusters will apply in due course to the RPA or that actual settlement patterns outwith clusters (for example, based on advice provided by NatureScot's Landscape Character Assessment) will be taken into account.

Barratt Homes (195)

Examination should not be completed until the Supplementary Guidance has been prepared to support this policy. (195) reserve judgement until the guidance has been prepared.

G Roberts (312)

Requests that the policy be amended to set a 50% extension limit on the number of dwellings to small clusters (at the time of the LDP adoption) and set a clear maximum of 15 units for some already extended groups which the cluster should not exceed.

Provides comments relating to the original purpose of groupings of 2-4 dwellings in the Rural Diversification Area, which were tied to occupation.

Raises concerns over existing large clusters having no sense of place or community, simply a collection of housing in the countryside.

Raises concerns over the impact of large clusters on infrastructure and services resulting in increased traffic and private transportation referencing the Environmental Report assessment outcomes of this policy.

### **Policy RH5: Rural Housing Development**

#### Homes For Scotland (128) and Barratt Homes (195)

Suggest that this policy is not needed given the designation of the Rural Protection Area and Rural Diversification Area.

Suggest that the policy wording is vague and requires expansion.

Recommend that RH5 is removed from the Plan.

#### M Evans (143)

Recommends that RH5 is removed from the Plan on the basis of straying a long way from Draft NPF's aspiration to "positively encourage development that helps repopulate and sustain rural areas"

#### Barratt Homes (195)

Wish to delay judgement on this policy until the content of the Supplementary Guidance is open to consultation.

### **Policy IND2: Business and Industrial Development in Rural Areas**

#### A & G Marriot (204)

Recommends that an additional criterion added to IND2 to support the sustainable reuse of brownfield sites, such as the site in their ownership, Newhouse Smiddy.

## **VOLUME 2**

### **Rural Protection Area Extents**

#### M Evans (143)

Recommends that the current extents of the RPA, as identified within the adopted 2017 Plan be retained in LDP2 where its role seems to be intended to protect the setting of settlements.

### **Rural Diversification Area Extents**

#### M Evans (143)

Recommend that the current extents of the RDA, as identified within the adopted 2017 Plan be retained in LDP2.

## MISCELLANEOUS/GENERAL COMMENTS

### M Evans (143)

Highlights the contents of PAN 73: Rural Diversification and the wide range of business types promoted in the countryside.

### Homes For Scotland (128) and Dunlop & Lugton Community Council (240)

Request to be consulted on the Rural Housing Cluster Supplementary Guidance.

### NHS (270)

Recognise the dilemma in supporting growth in rural communities whilst balancing other outcomes, including environmental outcomes. (270) highlight that efforts to support population stabilisation and growth must be accompanied by sufficient provision of active and sustainable travel infrastructure and wider services.

**Note:** There are further supporting information within representation (270) that includes Rapid Health Impact Assessment Scoping Exercise (RD112) and information on population groups affected by the LDP2 (RD113).

### J Crawford (300)

Express concerns over the impact that rural housing policy will have on their property, as expansion would create an urban-like suburban location which would be inappropriate. There is a lack of infrastructure in rural communities (roads, water, sewerage and gas). It would be helpful to know how the baseline is established for future developments. (300) provide some suggestions to prevent inappropriate urbanisation of rural areas.

### M Evans (143)

Strongly suggests that the Plans rural housing policies are straying a long way from Draft NPF's aspiration to "positively encourage development that helps repopulate and sustain rural areas"

## **Non-material planning matters**

### G Roberts (312)

Raises concerns over associated increased road repair budgets on narrow and rural roads with increased residential development within the countryside.

## **Modifications sought by those submitting representations:**

## **VOLUME 1**

## **Policy RH1: Housing in the Rural Protection Area**



EPC-UK (101)

Although no suggested wording has been provided, (101) request that RH1 be modified to - protect certain sites and development from the provision of new homes in close proximity to their operations.

Homes For Scotland (128)

Request RH1 to be modified to read as follows (changes highlighted as bold) – “The Council will be supportive of single or small-scale residential development in the Rural Protection Area, as shown on the rural area map, only where it can be demonstrated, to the satisfaction of the Council, that the houses are required on a permanent basis:

- (i) for an agricultural worker employed full time on the farm to which the proposed house relates, subject to meeting the requirements of Policy RH4; or
- (ii) as a replacement house, where the original dwelling is either damaged by fire, flood or other accident, or is run down and where it can be demonstrated that the house cannot economically be brought up to tolerable standard of habitation, through restoration or repair; or
- (iii) for a worker employed by a forestry or other rural industrial or business enterprise where it can be demonstrated that a worker living on site is essential to the running of the business, subject to meeting the requirements of Policy RH4; or
- (iv) for the retirement succession (only) of a viable farm holding, forestry, or other rural industrial or business enterprise (information will be required to support this on both viability and succession planning); or
- (v) as a rural enabling development for the restoration and repair of a listed building in line with all requirements set out in Policy HE5; **or**
- (vi) **for the delivery of 12 or fewer homes that are otherwise consistent with the policies in this Plan; or**
- (vii) **in the event that the Housing Land Pipeline is over delivering or failing to deliver.**

Any replacement house should...”

Homes For Scotland (128)

Provide an alternative to the above modifications, outlining that the Plan be modified to merge the RPA and RDA to form the “rural area” and the contents of policies RH1 and RH2 be merged to cover the “rural area”.

Barratt Homes (195)

Request RH1 to be modified to read as follows (changes highlighted as bold) – “ ...

- (v) as a rural enabling development for the restoration and repair of a listed building in line with all requirements set out in Policy HE5; **or**
- (vi) **for the delivery of 15 or fewer homes that are otherwise consistent with the policies in this Plan; or**
- (vii) **in the event that the Housing Land Pipeline is over delivering or failing to deliver.**

Any replacement house should...”

## **Policy RH2: Housing in the Rural Diversification Area**

### L McGovern (44)

Although not expressly stated, it is presumed that (44) would like the plan to be amended to recognise that “gap sites” between two existing houses are gap sites when in the Rural Diversification Area.

### G Roberts (312)

Although no specific wording has been provided, (312) requests that RH2 be modified to - set a 50% extension limit on the number of dwellings to small clusters (at the time of the LDP adoption) and set a clear maximum of 15 units for some already extended groups which the cluster should not exceed.

### Homes for Scotland (128)

Request for RH2 to be modified to read as follows (changes highlighted as bold) – “The Council will be supportive of single or small scale residential development **(up to 12 units)** in the Rural Diversification Area, as shown on the rural area map, where it can be demonstrated, to the satisfaction of the Council, that:

- (i) the houses are required for the categories of development detailed in Policy RH1 above; or...”

### Barratt Homes (195)

Request for RH2 to be modified to read as follows (changes highlighted as bold) – “The Council will be supportive of single or small scale residential development **(up to 15 units)** in the Rural Diversification Area, as shown on the rural area map, where it can be demonstrated, to the satisfaction of the Council, that:

- (i) the houses are required for the categories of development detailed in Policy RH1 above; or
- (ii) the proposed development would be consistent with the provisions of Policy RH3 below; or
- (iii) The proposed development is for one house on a brownfield/derelict site which is 0.25ha or larger, where a return to a natural state has not taken place due to constraints such as leftover buildings, ownership, contamination or remediation requirements; or
- (iv) The proposed development would facilitate the establishment of a rural business, consistent with the provisions of Policy IND2. It will require to be demonstrated conclusively to the Council that the establishment of the rural business would not otherwise be financially viable and that financial assistance is not available from any other source. The Council will require to be satisfied that all profits arising from the enabling development will be channelled into the business development to be permitted. The rural business to which the proposed house relates, is itself, acceptable in terms of all other relevant LDP policies.

**In circumstances where it is demonstrated that the Housing Land Pipeline is not delivering new homes in line with the Housing Land Requirement or is over delivering, new housing development will be supported within the Rural Diversification Area on sites on the edges of existing settlements that have the facilities and services required to support the new population or where new facilities and services can be provided to enable a sustainable community to be maintained."**

M Evans (143)

Although not explicitly requested and no suggested wording is provided, it is presumed that (143) recommends that RH2 (iii) be modified to provide an explanation and justification for the "0.25ha" figure is required.

Although no suggested wording is provided, (143) recommends that for RH2 criterion (iv) be modified to accept that the countryside can accommodate a wide range of businesses, not just "rural businesses".

In conjunction with this (143) recommends that RH2 (iv) be supported by a robust policy on sustainability in relation to locations chosen by applicants.

### **Policy RH3: Rural Housing Clusters**

Homes For Scotland (128)

Although no specific wording has been provided, (128) requests that RH3 be modified to align with the RES3 (Affordable Housing) and state that a cluster should not exceed a total of 30 residential units.

### **Policy RH5: Rural Housing Development**

Homes For Scotland (128), M Evans (143) and Barratt Homes (195)

Request that policy RH5: Rural Housing Development be removed in its entirety from the Proposed Plan.

### **Policy IND2: Business and Industrial Development in Rural Areas**

A & G Marriot (204)

Although no specific wording is provided, (204) request that IND2 be modified to - support the sustainable reuse of brownfield sites.

## **VOLUME 2**

### **Rural Protection Area Extents**

M Evans (143)

Recommends that the current extents of the RPA, as identified within the adopted 2017

Plan (CD23) be retained in LDP2 where its role seems to be intended to protect the setting of settlements.

### **Rural Diversification Area Extents**

M Evans (143)

Recommends that the current extents of the RDA, as identified within the adopted 2017 Plan (CD23) be retained in LDP2.

### **Summary of responses (including reasons) by planning authority:**

#### **VOLUME 1**

#### **Policy RH1: Housing in the Rural Protection Area**

Proximity to hazard sites (101)

The Council disagree with the requested modification to make provisions within RH1 to protect certain sites and developments from the provision of new homes in close proximity to the operation of Bannerbank, Stewarton Road, Newton Mearns, or similar. (101) raises concerns around the delivery of new homes through RH1 in close proximity to their operations where hazardous materials are being stored in terms of safety of future occupiers and restrictions on the volume of material that will be able to be stored at the facility. This is sufficiently addressed by PLDP2 Policies including: SS2, SS4, IND1 and IND2. All development proposals will be required to be assessed against Overarching Policy SS2, which states that development should '(ii) Be **fully compatible with surrounding established uses** and have no unacceptable impacts on the environmental quality of the area.' Should an occasion arise that a development is proposed in close proximity to an operational site with hazardous processes or materials, this policy would safeguard against any new development that may result in a conflict. As such, there is no need to modify RH1 as requested.

Evidence of pressure and justification for restriction on development through RH1 (128), (143)

The designation of the Rural Protection Area (RPA) illustrates a recognition of the pressure for residential development in these areas and attempts to restrict development to an acceptable level, preventing rural areas from becoming suburbanised by new housing development.

The Council strongly disagrees that there is no evidence and justification of pressure and increased restrictions through RH1 and associated Rural Protection Area designation extents as stated by respondents. Some primary justification concerning this was outlined within paragraphs 5.35-5.50 of the East Ayrshire LDP2 Main Issues Report (CD1).

Although not provided or outlined within the Proposed Plan itself, during the plan preparation process the Council identified the north of the authority area as an area which experiences significant pressure for residential development. As suggested by respondent (143), this involved a review of planning applications for residential

development (pending consideration, approved, approved with conditions or refused) since 2010. The Council do not consider it appropriate to detail this information within a Local Development Plan, this is background assessment information to inform plan making. If included within the Plan, this would quickly become out of date. As such, the Council strongly disagree that this justification is necessary to include within the Proposed Plan.

The Council prepared a justification paper which was presented to and reviewed by our Member Officer Working Group (MOWG) (CD49). The Council were concerned that should this development pressure continue then the rural character of East Ayrshire would significantly change, with pockets of residential clusters and individual dwellings increasing in number and scale. This would lead to an increased sense of suburbanisation within the landscape, particularly concentrated around key roads such as the A719, B778, B769 and A735 around Stewarton, Dunlop, Lugton, Kilmaurs and Moscow. Therefore, the Council have accordingly extended the extents of the Rural Protection Area to the east, west and moderately to the south to reflect this pressure and to protect the landscape character of these areas from further erosion. As such, the Council strongly disagree with the suggested modification to revert the RPA extents to that identified within the EALDP (2017) (CD23) as recommended by (143).

Opportunities and scope for SMEs to deliver homes and associated suggested modifications to the Plan (128)

The Council disagrees that RH1 deprives an already suppressed small or medium-sized enterprise (SME) homebuilder sector of potential opportunities. LDP2 sets a Housing Land Requirement of 4050 dwellings for the Plan period of which 65% would be market housing and 35% affordable. LDP2 sets a generous surplus of land in order to accommodate 2,095 additional units over the HLR resulting very generous indicative capacity of 6,145 homes. The plan generously allocates a range of housing development opportunity sites (in terms of scale and location) across East Ayrshire, which could benefit SME homebuilders. As such, the council strongly disagrees that RH1 deprives this sector. RH1 supports single or small-scale residential development within the Rural Protection Area, where it meets the requirements of the policy criterion. This is on top of the 6,145 capacity.

The Council strongly object to the recommendation made by (128) to increase the scope for small-scale development of up to 12 homes, subject to compliance with other policies. The Council consider this disproportionate and contrary to the objectives of the policy and designation of the Rural Protection Area. The designation of the Rural Protection Area (RPA) illustrates a recognition of the pressure for residential development in these areas and attempts to support small-scale residential development in certain circumstances where it meets the requirements of the policy. As outlined above, a collection of 15 or more dwellings would constitute and merit designation of a settlement. By allowing developments of 12 dwellings in the rural area, the Council would be facilitating the creation of a host of new settlements across the authority area, potentially without appropriate services and amenities, contrary to the overarching sustainability objectives of the Plan: paragraph 32 (page 22) of the Spatial Strategy sets out the Councils strategy for reducing the need to travel unsustainably by "directing development to sustainable locations". As such, the Council strongly objects to this suggested modification.

Similar to (128), (195) requests modifications to RH1 through the addition of two further bullet points (vi) and (vii), however, instead of the inclusions of “12 or fewer homes” they wish the policy to make provision “for the delivery of 15 or fewer homes”. In response to this, the Council wish to reiterate their strong objection and the justification for the current PLDP2 wording provided above.

The Council strongly objects to the request by respondents (128) and (195) to amend RH1 to allow for the land to be released for residential sites in the event that the Housing Land Pipeline failing to deliver. As outlined above, the Plan has identified a very generous supply of land within our identified housing development opportunity sites within our settlements. These are the most appropriate sites, which can accommodate growth in a sustainable manner. The housing allocations exceed the Housing Land Requirement for East Ayrshire. As such, the Council do not consider it necessary to amend RH1 in line with (128) or (195) comments. The Council strongly objects to this modification.

#### Merging of policies RH1 and RH2 and associated merging of RPA and RDA (195)

The designation of the Rural Protection Area (RPA), illustrates a recognition of the pressure for both residential and non-residential development in the area identified and attempts to support small-scale residential development, only in certain circumstances where it meets the requirements of RH1. Policies RH1, RH2 and the RPA and RDA reflect local circumstances and have been utilised to address pressures and needs within East Ayrshire, specifically responding to the far greater pressure for residential development, including rural housing, in the northern part of East Ayrshire. The Council strongly opposes the merging of the Rural Protection Area and Rural Diversification Area to form the “Rural Area”, and associated merging of policies RH1 and RH2 as this undermines this recognition. This would not reflect the particular differences in the housing market across East Ayrshire.

#### RH1 will contribute to decline in population in the countryside (143)

The Council strongly disagrees with the comments provided by the respondent who argues that RH1 will likely contribute to further decline in population in the countryside. Policy RH1 is supportive of single or small-scale residential development where it is needed on a permanent basis for agricultural worker, a replacement house, a worker employed by a forestry or other rural industry or business enterprise etc. The Council wish to highlight that the associated Rural Protection Area covers less than 30% of the rural area of the authority. While the RPA seeks to restrict residential development, it does not prevent it from occurring entirely and is supportive within the parameters of the policy requirements. The designation of the RPA is a continuation from the EALDP (2017) (CD23), as outlined within the Main Issues Report (CD1) “a high demand for residential development remains in this area [RPA]. Should the development demand continue at the current rate for the next 10 years, without appropriate management, the RPA would see a significant alteration in its appearance and character”. The presence of the RPA has not deterred demand and this is reflected within the number of applications submitted in the area within the EALDP (2017) plan period and as such has not resulted in a decline in population within this area.

## **Policy RH2: Housing in the Rural Diversification Area**

### Gap sites between two dwellings in RDA (44)

It is presumed that the respondent wishes for RH2 to be modified to include provision for gap sites between two existing dwellings within the Rural Diversification Area. The Council disagree with this suggested amendment. Without the specific stipulation or criteria relating to gap sites, the Council will consider any given application on its individual merits. Policy RH3: Rural Housing Clusters makes provisions for suitable sites as identified within the Rural Housing Clusters Supplementary Guidance, which will include the most appropriately located gap sites within existing defined clusters. By modifying RH2 to make provisions for gap sites within the RDA, the Council would be facilitating a high volume of additional residential development in the rural area, which could erode and diminish the landscape value and be unsustainable in opposition to the overarching objectives of the RPA and RDA. As such, the Council disagree with this suggested modification.

### Housing delivery pipeline and release of land in RDA (128), (195)

The Council strongly object to the recommended modification by (128) to increase the scope for small-scale development of up to 12 homes and up to 15 units as requested by (195). The Council consider this disproportionate and contrary to the objectives of the policy. As outlined above, a collection of 15 or more dwellings would constitute and merit designation of a settlement. By allowing developments of 12 dwellings, or indeed 15 dwellings, in the rural area, the Council would be facilitating the creation of a host of new settlements across the authority area, potentially without appropriate services and amenities, contrary to the overarching sustainability objectives of the Plan. As such, the Council strongly objects to this suggested modification.

(195) recommend an additional paragraph be added at the end of the policy which outlines that if the Housing Land Pipeline is not delivering that new housing will be supported on sites on the edge of existing settlements. The Council strongly object to this suggested modification as it is contrary to the objective of the Policy, designation of the Rural Diversification Area and the distinction between a settlement boundary and the rural area. The Council has set a generous Housing Land Supply in excess of the Housing Land requirement, and as such, the Council consider this modification unjustified and disproportionate.

### Explanation of 0.25ha (143)

The Council disagree that the PDLP2 needs to provide a justification for the (iii) "0.25ha or larger" figure within RH2. This figure is outlined within the adopted EALDP (2017) (CD23) policy RES5 (iii) and has been carried into the PLDP2. The intention of having a relatively large site threshold is to ensure that development of a new house in the rural area will go some way to resolving an issue of blight in the rural landscape. A small pocket of brownfield land in the rural area, that may have for example once housed a small shed or valve house, does not in the Council's opinion, justify the development of a new house. It will only do so, when the extent of the brownfield land is of such a scale that it impacts on the amenity and rural character of the area. 0.25 hectares is considered to be an appropriate scale to achieve this. As such, the Council



consider the current wording of policy RH2 to be appropriate, and do not believe that justification is required in relation to the respondent's comments.

#### Wide range of business appropriate in the countryside (143)

The respondent recommends that RH2 criterion (iv) accepts that the countryside can accommodate a wide range of businesses, not just "rural businesses" and that this provision should be supported by a robust policy on sustainability in relation to locations chosen by applicants. Policy RH2 (iv) requires proposed developments to *"facilitate the establishment of a rural business, consistent with the provisions of Policy IND2"*. Policy IND2 supports development proposals for business and industry (i) on identified sites, (ii) those relating to agriculture and forestry as well as (iii) **"farm diversification developments, ancillary to the agricultural use of the farm, supported by a 5-year business plan"**. The Plan also contains a policy framework in relation to tourism related developments, including Policies TOUR1, TOUR2 and TOUR3. On this basis, the council consider that a wide range of business developments are supported by the PLDP2, with sufficient supporting information and justification provided as part of the application process. The PLDP2 contains two overarching policies SS1 (Climate Change) and SS2 (Overarching Policy) which require developments to be sustainable. As such, the Council consider that the concerns of the respondent to be appropriately addresses within the current policy framework of the PLDP2.

The Council consider that the most sustainable and appropriate locations for non-rural businesses to be identified within the allocated business and industrial allocations within Volume 2 of the PLDP2. These are located either within settlement boundaries, or in close proximity to settlements, ensuring active and public transport networks are accessible.

#### RH2 contradicts SS2 in terms of sustainability and climate crisis (312)

The Council acknowledge the comments raised by the respondent, however, disagree that the contents of RH2 contradict policy SS2. Given the overarching nature of Policy SS2, criterion (iii) which requires development proposals to **"be located in accessible locations that reduce the need to travel"**, this policy will be applicable to all subsequent applications submitted for consideration to the Council. As such, the requirements of (iii) will be considered. While rural locations may be less sustainably situated, not all sites are inaccessible, in terms of active travel provision and/or public transport and some will be much more accessible than others.

(143) recommends that RH2 (iv) be supported by a robust policy on sustainability in relation to locations chosen by applicants. The Council considers the addition of a new policy to be unnecessary given the current content of the PLDP2s policy framework, primarily policies SS1, SS2, DES1, RE3, CR1 and CR2, which set requirements in terms of sustainability, adaptability, resilience and climate change.

### **Policy RH3: Rural Housing Clusters**

#### Validity of use of "15 residential units" (128)

The Council considers 15 to be an appropriate and modest number of residential units to allow within the rural landscape. As stated within Volume 2 of the adopted EALDP (2017) (page 3) (CD23), a settlement comprises of 15 or more dwellings. This approach has been carried over into the Proposed Plan as the Council consider it to be a reasoned and balanced approach. Through the LDP2, and associated Rural Housing Clusters Supplementary Guidance (ongoing) preparation process, there are a number of clusters which are large enough, or almost large enough to be identified as settlements. The identification of further settlements is something that will be addressed within LDP3.

#### RH3 to align with RES3 (30 residential units) (128)

As explained above, a collection of 15 or more dwellings should be considered to be a settlement. As such, the Council considers the allowance of 30 units to be excessive and significantly contrary to the objectives of the Proposed Plan and rural housing policies, which is to allow appropriate residential development under certain circumstances, not allow the development and construction of additional settlements, which the suggestion by (143) would facilitate. The Council strongly objects to this suggested modification.

#### Application of RH3 to RPA (143)

The Council acknowledges the comments provided by the respondent (143) in relation to the application of RH3 in the Rural Protection Area. The Council are currently preparing the Rural Housing Clusters Supplementary Guidance. This will identify the most appropriate clusters within the Rural Area. This may include some clusters within the Rural Protection Area if they meet the necessary criteria.

#### Supplementary Guidance (143), (312), (128)

Respondent (312) argues that the policy cannot be applied until the content of supplementary guidance has been prepared, consulted and modified. (195) argue that examination should not be completed until the Supplementary Guidance has been prepared. The Council intend to have the 'Rural Housing Cluster' Supplementary Guidance draft, within the appropriate consultations undertaken during the examination period of the PLDP2 so that it is ready to be implemented as part of the plan. The Council trust that this addresses the concerns of the respondent.

In relation to the comments provided by (128), the Council acknowledge that it would have been optimal for the Supplementary Guidance to be ready and open for consultation at the same time as the Proposed Plan. However, due to the timescales the Council were faced with in order to deliver the Proposed Plan and capacity issues, this was not achievable. However, given the statutory nature of the Supplementary Guidance, a thorough and transparent consultation process will be undertaken.

The Council will ensure that respondents are notified when the consultation period begins to ensure that they have the opportunity to provide comment on the Supplementary Guidance.

Requirement to set a clear maximum of 15 units as a cluster (312)

Policy RH3, criterion (ii) states that **“the cluster should not exceed a total of 15 units”**. In response to the respondents’ comments, the Council consider that the policy current addresses their concerns and clearly sets a maximum of 15 units to a cluster.

Set a 50% extension limit (312)

The respondent requests that RH3 be modified to set a 50% extension limit on the number of dwellings to small clusters (At the time of the LDP adoption). The Council consider the current wording of the PLDP2 to be robust, appropriate and reasonable as it sets a maximum size for which clusters to reach (15 units). This also provides a degree of flexibility in the favour of developers, given that there are some clusters which could sustainably accommodate a higher number of additional units than others. The Council do not consider it to be appropriate to set a 50% extension limit in all circumstances. However, should the Reporter be minded, the Council would not have any significant objections to this suggested modification if implemented in conjunction with the existing requirement that **“the cluster should not exceed a total of 15 units”**.

Groupings and occupation association (312)

The Council acknowledge the comments provided by the respondent in relation to the original purpose of clusters and how these were tied to occupation. The Council argue that this remains one of the circumstances within which residential proposals will be considered through RH2 (i) which hooks into the requirements of RH1. RH1 criterion (i) states that single or small-scale residential development in the RPA required on a permanent basis will be supported **“for an agricultural worker employed full time on the farm to which the proposed house relates, subject to meeting the requirements of Policy RH4”**. Additionally, policy RH4 supports dwellings for agricultural workers and rural enterprises where set criteria are met. As such, the Council consider that this comment is suitably addressed through the PLDP2.

Sense of place and community and infrastructure implications (312)

The PLDP2 policy framework seeks to create a sense of place and in turn community. Policy DES1 requires development proposals to demonstrate the Six Qualities of Successful Places. Policy DES1 (1.1) requires proposals that proposals **“enhance the quality of place and contribute to the creation of a structure of buildings, spaces and streets that is coherent, attractive, and with a sense of identity”**. DES1 (1.2) states that proposals must **“reflect the characteristics of the site and its context, safeguarding and enhancing features that contribute to the heritage, character, local distinctiveness and amenity...”**. The policy also sets requirements to ensure proposals are safe and pleasant, easy to move around and beyond, welcoming, adaptable and resource efficient. This policy would be utilised to assess the design components of any subsequent proposal. The Council considers that this addresses the concerns raised by the respondent.

The respondent also raises concerns with regards to the impact that large clusters will have on infrastructure and services. The Council acknowledge that an increased rural population will likely result in the increased reliance on use of private car journeys.

However, a robust review and assessment of all clusters within East Ayrshire has been undertaken by the Council in order to identify the most appropriately and sustainably located clusters within the 'Rural Housing cluster' Supplementary Guidance, which Policy RH3 directs development towards. This has included considerations with regards to active travel networks, proximity to existing settlements and public transport connections. While the Council cannot, and do not wish to place a moratorium on development in the countryside, real attempts have been made to reduce detrimental environmental impacts.

### **Policy RH5: Rural Housing Development**

#### Removal of policy RH5 (128), (195), (143)

Through the provisions of RH5, the Council seeks to protect the countryside from inappropriate and unacceptable residential development, including extensions to settlement boundaries (i) sporadic development along public and private roads (ii) and that which would contribute to coalescence with neighbouring communities (iii). While the Council acknowledge the comments raised by (128), (195) and (143) in relation to the necessity of this policy, the strongly Council disagree that it should be removed from the Plan. The wording of this policy allows an open and balanced approach to considering the impact that a residential development proposals may have on the countryside. It is an overarching policy which applies to all rural areas within East Ayrshire, both the Rural Protection Area and Rural Diversification Area. The Council considers it to be necessary and important to retain.

#### Conflict with Draft NPF4 (143)

The Council acknowledge the concerns raised by the respondent in relation to accordance with the contents of Draft NPF4 (CD3), although these comments have been made in terms of all rural housing policies, the respondent considers that policy RH5 should be removed specifically as a result. Policy RH5 provides a general policy which sets a precedent against (i) inappropriate and unacceptable extensions into the countryside of existing settlement boundaries, developments which (ii) exacerbate sporadic development along private or public roads and would (iii) result in coalescence. The Council consider this policy to be necessary in order to address local circumstances and prevent inappropriate development which will erode the character of our landscapes and settlements. The Council disagrees that the Plan is straying from the Draft NPF4 (CD3) and adopted NFP4 aspirations to "*positively encourage development that helps repopulate and sustain rural areas*". The Plan clearly actively supports appropriate and sustainable residential development in the countryside through policies RH1-RH5. This will further be supported by the preparation of the "Rural Housing Cluster" supplementary guidance, which will actively identify the sites that the council consider to be most appropriate for expansion in relation to access to services, transport and landscape impacts. The Council address accordance with Draft NPF4 (CD3) in more detail below within 'Miscellaneous/General Comments' section.

#### Supplementary Guidance (195)

The Council acknowledge this and welcome feedback on the Supplementary Guidance. The Supplementary Guidance will be open for public consultation, which

the council will take cognisance of representations submitted.

## **Policy IND2: Business and Industrial Development in Rural Areas**

### IND2 should support sustainable reuse of brownfield sites (204)

This comment has been made in relation to the consideration of site: Newhouse Smiddy. The Council disagrees that policy IND2 should be amended to include an additional criterion to support the sustainable reuse of brownfield sites. In this context, a brownfield site is too wide a term, East Ayrshire, with its mining legacy, has significant areas of brownfield within the rural area, but in many instances these are not sustainable or suitable locations in which to support new business or industrial development. Indeed in many locations, naturalisation is preferred outcome, business uses being directed to settlement locations. . In principle, the plan prioritises the use of vacant and derelict land and brownfield sites, ahead of greenfield or formerly undeveloped land, as set out in Policy SS2(ii). Within settlement boundaries, for business and industrial development this is embedded into the spatial strategy.

## **VOLUME 2**

### **Rural Protection Area Extents**

#### LDP1 (2017) RPA Extents (143)

The Council strongly disagrees that the current extents of the Rural Protection Area as identified within the EALDP (2017) (CD23) should be retained. Although not provided or outlined within the Proposed Plan itself, during the plan preparation process the Council identified the north of the authority area as an area, which experiences significant pressure for residential development. The Council were concerned that should this development pressure continue then the rural character of East Ayrshire would significantly change, with pockets of residential clusters and individual dwellings increasing in number and scale. This would lead to an increased sense of suburbanisation within the landscape, particularly concentrated around key roads such the A719, B778, B769 and A735 around Stewarton, Dunlop, Lugton, Kilmaurs and Moscow. This involved a review of planning applications for residential development (pending consideration, approved, approved with conditions or refused) since 2010. The Council prepared a justification paper which was presented to and reviewed by our Member Officer Working Group (MOWG) (CD49). Therefore, the Council have accordingly extended the extents of the Rural Protection Area to the east, west and moderately to the south to reflect this pressure and to protect the landscape character of these areas from further erosion. As such, the Council strongly disagree with the suggested modification to revert the RPA extents to that identified within the EALDP (2017) (CD23) as recommended by (143).

### **Rural Diversification Area Extents**

#### LDP1 (2017) RDA Extents (143)

The Council strongly disagrees that the current extents of the Rural Diversification Area as identified within the EALDP (2017) (CD23) should be retained. Although not

provided or outlined within the Proposed Plan itself, during the plan preparation process the Council identified where the authority is experiencing development pressure for residential dwellings within the countryside and has adjusted the extents of the Rural Protection Area. Consequently, the Rural Diversification Area accordingly in order to address this pressure and protect the landscape character of these areas. As such, the Council strongly disagree with the suggested modification to revert the RDA extents to that identified within the EALDP (2017) (CD3) as recommended by (143).

### **MISCELLANEOUS/GENERAL COMMENTS**

#### **PAN73: Rural Diversification - (143)**

The Council area aware of the contents and provisions of Planning Advice Note 73: Rural Diversification (2005). The Council consider that the Plan appropriately reflects Scottish Government objectives in relation to rural diversification through the current policy framework, most notably Policies SS9, IND2, TOUR1, TOUR2 and TOUR3. The Council wish to highlight that policy RH1, and the associated Rural Protection Area, to which the respondent has made these comments to, is focused on residential development, not business and industry. Conversely, the designation of the Rural Diversification Area, and associated RH2 policy, encourages residential development which supports rural enterprise in order to broaden the economic activity of the rural area and provide opportunities to create more balanced and stable economy. As such the Council consider the current wording and content of the policy to be effective.

#### **Relationship between RH1, RH2, RH3, RH4 and RH5 with Draft NPF4 (Policy 31) - (143)**

The Council acknowledges that there may be some disparities between the Proposed LDP2 policies RH1, RH2, RH3, RH4 and RH5 and the NPF4, in particular Policy 17, in terms of direct phrasing. However, the Council consider that the content and direction of Policy 17 is largely integrated into the current PLDP2 policy framework and certainly the policies of Proposed LDP2 will help sustain East Ayrshire's rural areas. The Council is firmly of the view that the LDP2 policies have been prepared and framed with a detailed understanding of the demand for rural housing in East Ayrshire. In particular, in terms of the cluster approach set out in RH3, whilst it has evolved from the current adopted plan, it reflects a well- established policy approach in East Ayrshire, that through successive Plans, has enabled small scale rural housing in way that is sensitive to the landscape and rural sense of place. The Council considers it an important element of the overall approach to rural housing and one that is critical to the Plan.

The Council disagrees that the Plan is straying from the Draft NPF4s aspirations to "*positively encourage development that helps repopulate and sustain rural areas*". The Plan clearly actively supports appropriate and sustainable development in the countryside. This will further be supported by the preparation of the "Rural Housing Cluster" guidance, which will actively identify the sites that the council consider to be most appropriate for expansion in relation to access to services, transport and landscape impacts.

Consultation on Supplementary Guidance - (128), (240)

The Council acknowledge that the respondents wish to be consulted on the Supplementary Guidance document. Homes for Scotland and all local Community Council's are on our consultation database. The Supplementary Guidance will undergo the statutory process for consultation, giving these respondents 6-8 weeks to respond and provide their comments and feedback.

Supporting growth in rural communities whilst balancing other outcomes - (270)

The Council acknowledge the comments provided by the respondent and agree that population stabilisation and growth must be accompanied by sufficient provision of active and sustainable travel infrastructure and wider services. This has been embedded within the PLDP2s current policy framework, most notably policy INF1 (Infrastructure First), but also policies INF2, INF3, T1, T3 and T4. The Council consider that the Plan currently adequately addresses this.

Impact of rural housing policy on High Fullwood Farm (300)

The Council acknowledge the comments made by the respondent in relation to potential impacts on their property High Fullwood Farm. However, there appears to be some confusion, as the respondent has made comments in relation to RES5 which is an EALDP (2017) (CD23) policy not the revised PLDP2 policy. As such, they have comments on existing policy and not the proposed policy which is difficult to respond to in any meaningful way as the content is no longer the same. In general, the Council wish to highlight that the rural housing policies have been reviewed and revised since the EALDP (2017) and the Council now feel that they are more robust and effective in managing residential development in the rural landscape to an appropriate level and in appropriate locations.

Use of terms 'threat to suburbanisation' (143)

The Council note the comments made by respondent, however, highlight the use of the terms 'threat to suburbanisation', 'under threat' and 'suburbanisation' have not been utilised within the PLDP2. These were terms utilised within the Main Issues Report, an important stage in the Plan preparation process. The Council disagree that the use of these terms is exaggeratory in terms of the pressures experienced. The process, which was adopted to assess the level of demand and development pressure is explained above.

**Non-material planning matters**

Road repairs (312)

The Council acknowledge the concerns raised by (312) in relation to the associated increased road repair budgets on narrow and rural roads with increased residential development within the countryside. However, this is a maintenance issue and not a material planning consideration.



**Reporter's conclusions:****Policy RH1: Housing in the Rural Protection Area**Proximity to hazard sites

1. The plan is to be read as a whole, and any proposed development, whether in a rural or urban area, would therefore be assessed against the range of relevant policies in the plan, including Policy SS2: Overarching Policy. Policy SS2 requires proposals to be fully compatible with surrounding established uses. While this policy does not specifically refer to hazard sites, I consider that it could be applied to potentially resist proposals where there was evidence of an incompatibility with a nearby hazard site.

2. It is not necessary for Policy RH1 to address the full range of considerations that may apply to any proposals in the rural protection area, especially where these are covered by other policies in the plan. Rather, the focus of Policy RH1 is rightly on the particular additional factors that will apply within this policy designation. The matter of development in the proximity of sites where hazardous materials are stored is one of general applicability across the plan area, and not particular to the rural protection area.

3. I also note that, from my reading of the proposed plan, the rural protection area is a designation relating only to policy for housing. I would not therefore expect it to include provisions relating to non-housing uses. Such uses may be considered under other policies in the plan, including, for instance, Policy IND2: Business and industrial development in rural areas.

4. For these reasons I conclude that it is not necessary for Policy RH1 to include additional provisions relating to hazard sites.

Restrictive nature of Policy RH1

5. National Planning Framework 4 (NPF4) calls for LDP policies on rural homes to be informed by an understanding of population change over time, locally specific needs and market circumstances. LDPs are to set out tailored approaches to rural housing and where relevant include proposals for future population growth – including provision for small-scale housing. Plans should reflect locally appropriate delivery approaches.

6. NPF4 Policy 17(a) sets out the circumstances where proposals for new homes in rural areas will be supported. In the main, the various criteria of Policy 17(a) are reflected in the proposed plan, but there are some differences. These are that Policy RH1 does not mention: sites allocated in the LDP; the reuse of redundant or unused buildings; the subdivision of existing dwellings; or the reinstatement of former dwelling houses. Policy RH1 also limits the replacement of existing houses to damaged or run-down dwellings incapable of economic restoration. In addition, the reuse of brownfield land is allowed for in the rural diversification area (Policy RH2), but not in the rural protection area.

7. As a transitional plan, the proposed LDP was informed by the content of the draft

NPF4 but not by the final adopted version. Paragraph 6 of Annex A to the Scottish Government's Local Development Planning Guidance states that there is scope to reconcile inconsistencies between transitional plans and NPF4 through the examination process, but only where the matter falls within the scope of the examination and the process remains proportionate and fair.

8. In this case, arguments that Policy RH1 is too restrictive are before the examination, and therefore I consider this matter to be in scope. I therefore believe that I should recommend appropriate modifications to Policy RH1 to bring it into better alignment with NPF4 Policy 17(a), where this can be done in a proportionate and fair manner. However, I am also conscious that NPF4 also promotes a locally-tailored approach to rural homes in LDPs, which would appear to allow for some scope to depart from the national approach where this can be justified.

9. Returning to the inconsistencies I identified above, I do not believe there is any need for Policy RH1 to refer to sites allocated for housing in the LDP, as any such sites will already have been removed from the rural protection area. On the other hand, including criteria relating to the reuse of redundant or unused buildings, the subdivision of existing dwellings, and the reinstatement of former dwellings, and allowing the one-to-one replacement of any existing house, would improve alignment with NPF4. Such changes would only affect a limited number of small scale proposals, and would not lead to any proliferation of new buildings in the countryside. I do not, therefore, consider that they would undermine the plan's spatial strategy in any meaningful way. I recommend suitable modifications below.

10. In terms of the differing treatment of proposals on brownfield sites between the rural protection area (Policy RH1) and the rural diversification area (Policy RH2), the council has pointed to the particular pressures being experienced in the northern part of the plan area, and the consequently greater threat of a suburbanisation of the countryside. I am also conscious that some large rural brownfield sites exist in East Ayrshire, including some associated with former mineral workings. In my mind these factors could constitute particular local circumstances that could justify the tailored approach allowed for by NPF4. I am therefore content for the proposed distinction in the approaches to the residential reuse of brownfield sites to remain between the rural protection area and the rural diversification area.

11. With the minor changes discussed above, I am content that Policy RH1 is broadly consistent with NPF4. Representees suggest a markedly less restrictive approach that would allow for more small scale development in the countryside, including proposals for up to 12 or 15 new houses. Such an approach would appear to run counter to NPF4 Policy 17(a), which makes no allowance for consents on this scale beyond allocated sites. No particular characteristics of East Ayrshire have been advanced for such a departure from national policy. I therefore find that, at least in the context of East Ayrshire, I cannot support the introduction of a new blanket criterion supporting the development of up to 12/ 15 new homes in the rural protection area. That said, I note that Policy RH3 allows for a planned approach to rural housing clusters to be defined in forthcoming supplementary guidance. I discuss Policy RH3 further below, but I note here that this policy does go some way towards achieving the more relaxed approach to housing in the countryside sought by some representees.

12. To the extent that the proposed more relaxed approach would be linked to an 'exceptions policy' to allow for the release of additional land in the event of an underdelivery on allocated sites, I address this matter at Issue 16.

13. In terms of the justification for the council's approach, I find that this does not necessarily need to be set out in the plan itself. In its evidence above, and in the main issues report, the council has explained the development pressures being experienced in the northern part of the plan area and the consequent concern about the suburbanisation of the countryside.

14. It seems to me reasonably clear from the evidence to this examination, the data on past and projected house completions, and the existence of fast transport links to Glasgow that such pressures do exist. Worries that a less restrictive policy could result in a proliferation of small scale developments in the countryside therefore appear reasonable. I am also conscious that such developments, apart from their potential landscape impacts, could divert pressures from allocated sites, and be reliant on less sustainable transport modes to access services.

15. Concerns have been expressed about the importance of ensuring an ongoing supply of sites suitable for development by small and medium sized building companies. In this context, I note from Schedule 3 of the proposed plan that the plan allocates 23 sites with an indicative capacity of between 5 and 20 homes, with a total capacity of 248 homes. These include sites in all three sub-housing market areas, and will be supplemented by sites of under 5 units that are too small to individually allocate in the plan, and potentially by further windfall sites. The rural housing policies, and the potential for rural housing clusters to be developed through supplementary guidance prepared under Policy RH3, will provide further opportunities. Overall I consider that the plan makes adequate provision of land suitable for development by smaller building companies, and further changes to the rural housing policies are not required to create such opportunities.

16. I am satisfied that the evidence of past completion rates and future programming, and the geographical fact of the proximity of the northern part of the plan area to the Glasgow conurbation demonstrate that stronger pressures for rural housing development exist in the Kilmarnock and Loudoun area than in the southern part of the plan area. These distinctive pressures justify differing policy responses between the two areas, and I do not therefore support the merging of Policies RH1 and RH2.

17. It is the case that the plan contains limited discussion of rural population concerns. However, I note that paragraph 50 specifically refers to the 'clusters' approach (which I take to be Policy RH3) and the forthcoming Rural Housing Supplementary Guidance as a means of sustaining the rural population. Paragraph 180 acknowledges the economic benefits that housing building can bring to rural areas. Overall I am satisfied that the plan does acknowledge, and makes some response to, concerns about rural depopulation.

18. Although not listed above, I note that a representation from Gladman Developments also refers to the rural protection area policy and seeks for the entire plan area to be covered instead by the rural diversification area policy. I have addressed the justification for the rural protection area policy above.

## **Policy RH2: Housing in the Rural Diversification Area**

### Gap Sites

19. Policy RH2 is consistent with Policy 17(a) of NPF4 in that the latter does not make any provision for supporting housing development on gap sites between existing dwellings in rural areas. The representation does not advance any particular case for there to be a different locally tailored approach in this regard, and therefore I decline to recommend any change to the plan.

20. Above, the council notes that some such gap sites are likely to be included within the rural housing clusters to be identified in the forthcoming supplementary guidance mentioned in Policy RH3. In this way some policy support for the development of some rural gap sites may emerge in due course. I discuss Policy RH3 further below.

### Release of land in the RDA

21. A particular change requested by Homes for Scotland and Barratt Homes is to define 'small scale residential development' within the policy as being for up to 12 (or 15) units. However it is clear to me that the criteria listed in Policies RH1 and RH2 (such as for replacement houses, or housing for agricultural workers) largely only allow for the development of single or very small numbers of homes. In the case of the cross-reference to Policy RH3: Rural Housing Clusters, this policy limits the overall size of the cluster (including existing dwellings) to 15 homes. Therefore it seems to me that a reference to a 12 or 15 home cap in Policy RH2 would not, in reality, serve to deliver additional consents because the existing policy criteria would only very rarely (if ever) allow for this scale of development.

22. But more widely if intention is to allow for more housing development in the rural diversification area, where there is a lack of delivery on allocated sites, such an approach would appear to run directly counter to NPF4 Policy 17(a), which makes no allowance for consents on this scale beyond allocated sites. No particular characteristics of East Ayrshire have been advanced for such a departure from the national policy. I therefore find that, at least in the context of East Ayrshire, I cannot support the introduction of a new blanket criterion supporting the development of up to 12/ 15 new homes in the rural diversification area. That said, I note that Policy RH3 allows for a planned approach to rural housing clusters to be defined in forthcoming supplementary guidance. I discuss Policy RH3 further below, but I note here that this policy does go some way towards achieving the more relaxed approach to housing in the countryside sought by some representees.

23. To the extent that the proposed more relaxed approach would be linked to an 'exceptions policy' to allow for the release of additional land in the event of an underdelivery on allocated sites, I address this matter at Issue 16.

### Explanation of 0.25ha.

24. Above, the council provides its justification for identifying the 0.25 hectare minimum size threshold for supporting a new house on a rural brownfield/ derelict site. This is that rural brownfield/ derelict sites of less than 0.25 hectares do not cause such

a degree of blight in the landscape as to justify the development of a new house. This argument has a logic to it that I am broadly prepared to accept. While the precise figure of 0.25 hectares is inevitably somewhat arbitrary, I consider that it does strike an appropriate balance between allowing for the remediation of those unsightly sites causing the greatest harm to the appearance of the landscape, and avoiding an excessive suburbanisation of the countryside.

25. I do not find it necessary for the plan to contain within itself a justification for the 0.25 hectare figure. This can be done (as it has been above) in evidence to this examination.

#### Range of businesses appropriate in the countryside

26. I consider the matter of the range of businesses that should be supported in rural areas under Policy IND2, below. However, the focus of Policy RH2 is on the circumstances where housing will be supported, not business development. The principle being established is that, where there is an acceptable business proposal in a rural area, some housing to facilitate that business may also be supported. The considerations set out in Policy RH2(iv) as to how this principle should be applied are not themselves the subject of any representations to this examination. I therefore find it unnecessary to consider this matter further.

#### Suggested contradiction with Policy SS2 in terms of sustainability and the climate crisis

27. It is the case that rural housing development may be associated with less sustainable travel patterns than urban development. However, paragraph 180 of the plan acknowledges the economic benefits that house building can bring to rural areas. The policy intent of the rural homes section of NPF4 is given as being to encourage, promote and facilitate the delivery of more high quality, affordable and sustainable rural homes in the right locations. There is therefore a balance to be struck between directing most new development to established settlements, while making some provision for appropriately-located rural housing.

28. I interpret Policy RH2 as maintaining a relatively restrictive approach to housing in the countryside, even in the rural diversification area. I therefore consider it unlikely that it will cause there to be a great deal of new unsustainably located housing development. Policy RH2 is therefore consistent with the overall thrust of the plan, which is to direct most new development to the most accessible locations in and around established settlements.

29. The plan is to be read as a whole, and therefore the criterion in Policy SS2 relating to accessible locations and reducing the need to travel should be applied to applications for new rural housing, and balanced against the other provisions of the plan. Clearly, Policy RH2 does make provision for some rural housing development, but Policy SS2 can still be applied by directing such development to relatively more accessible locations.

30. To conclude, I consider that Policy RH2 retains a relatively restrictive approach to rural housing development that should not run counter to the principles of sustainable development in any significant way.

### **Policy RH3: Rural Housing Clusters**

#### Limiting clusters to 15 units

31. The council states that it defines groupings of over 15 dwellings to be settlements. These should eventually be identified in the LDP, if they are not already, and so be removed from the rural area and subject to different policies of the plan. The effect of limiting the size of rural housing clusters to 15 would therefore appear to be to prevent further new settlements coming into being. I accept that this could serve to help retain the essentially rural character of the clusters, as well as limiting excessive amounts of rural development that could undermine the wider spatial strategy of the plan.

32. While I have no detailed evidence on this topic, the figure of 15 as a dividing line between what is best considered as a grouping of rural dwellings and a small settlement does not appear unreasonable. I consider that the threshold of 30 units used in Policy RES2 for the application of the affordable housing requirement is addressing a different issue, and so has no relevance to the question of the size limit for rural clusters.

#### Supplementary guidance

33. I accept that it is difficult to assess the full potential impact of Policy RH3, for instance the amount of new housing that it may support, in the absence of the forthcoming supplementary guidance. However there is no requirement for councils to consult on supplementary guidance at the same time as LDPs. Indeed a value of supplementary guidance may be that it allows councils to concentrate their resources initially on LDP adoption before addressing matters of detail through supplementary guidance. Supplementary guidance is required to be subject to consultation, and so parties will have an opportunity to input their views at the appropriate time.

34. I consider that Policy RH3 provides an adequate context for the supplementary guidance by establishing the broad policy principle and setting out the main matters that the supplementary guidance is to cover (the identification of the clusters and their boundaries, and specific requirements for the particular rural groupings). More broadly, the policy approach seems to be compatible with the provision in the rural homes section of NPF4 that “LDPs should set out tailored approaches to rural housing and where relevant include proposals for future population growth”. Policy RH3 fits into the suite of rural housing policies in the plan and responds to the particular settlement pattern and pressures of the plan area. It does so by providing some opportunities for new development in a planned-for way in the most appropriate locations (within existing clusters) while maintaining a more restrictive policy elsewhere.

35. While rural housing is an important matter, it would have been disproportionate to delay this examination to await the publication of and consultation on the supplementary guidance. This is especially the case given my conclusions above that the approach the council has taken to the supplementary guidance is appropriate, and the broad policy approach is compatible with NPF4.



Application of Policy RH3 to the rural protection area

36. There is nothing in Policy RH3 to indicate that rural housing clusters will only be identified in the rural diversification area, and not in the rural protection area. It seems to me that the representee's call for the cluster approach to be applied throughout the plan area is one for the council to consider in its preparation of the supplementary guidance. In this context, I note the council's statement above that some clusters may indeed be identified in the rural protection area. On this basis I conclude that no modification to the plan is required.

50% limit on the scale of expansion of clusters

37. The 50% limit on the expansion of rural groupings was included in Policy RES5 of the existing adopted LDP, but has not been rolled forward into the new proposed plan. I appreciate that there is some logic to such a policy provision that could help ensure that the character of particular groupings is not subjected to significant change. However, the imposition of a blanket limit would prevent the adoption of a more sophisticated response to individual circumstances.

38. According to Policy RH3, the forthcoming supplementary guidance will set specific requirements for individual groupings. This more tailored approach, which could potentially include limits to the scale of any expansion, seems to me more appropriate than the setting of a blanket cap. I therefore decline to recommend any change to the plan regarding this matter.

Groupings and occupation association

39. It is the case that Policy RH3 does not contain any provision requiring future residents to have any particular local connection or rural occupation. This approach appears to reflect the council's recognition of the economic benefits that house building can bring to rural areas. The rural homes section of NPF4 also sets out to encourage, promote and facilitate the delivery of more high quality, affordable and sustainable rural homes in the right locations, but contains only limited references to restrictions related to personal circumstances.

40. Greta Roberts does not seek for there to be an occupation or local connection requirement in Policy RH3 (her concern is rather to limit the overall numbers of houses built under this policy), and I agree this is not necessary or appropriate. However, I note that Policy RH4 does make particular provision for housing for agricultural workers and other rural enterprises.

Sense of place and community and infrastructure implications

41. The plan is to be read as a whole, and so any development considered under Policy RH3 would also be subject to other policies including Policy DES1 that includes extensive provisions relating to the design of development. The forthcoming supplementary guidance on rural housing clusters provides a further opportunity for the council to set out its requirements, potentially bespoke to particular clusters, regarding matters such as sense of place and infrastructure provision. No further change to the plan is required.



### **Policy RH5: Rural Housing Development**

42. Policy RH5 provides guidance as to where housing found to be acceptable in principle under Policies RH1 to RH4 should be located. It therefore has a potentially useful role that goes beyond the policy material contained in the earlier policies. The inclusion of such a policy does not necessarily run counter to the positive aspirations for rural development contained in parts of NPF4 and elsewhere in the proposed plan.

43. That said, I have some sympathy with the representations that argue that the wording of the policy is vague and unhelpful. For instance, to state that ‘inappropriate or unacceptable’ extensions from existing settlement boundaries are unacceptable is both tautological and provides little useful guidance to applicants. It would be more helpful if the policy described at least the potential impacts, such as landscape and visual impact, that the council will consider in assessing applications for rural housing adjacent to settlements. Or if the real intention is that all such extensions are to be resisted it would be better if the policy stated this plainly. As the policy stands, it would appear that some extensions from existing settlements may be acceptable, but no indication is given as to the circumstances when this will be the case.

44. The policy appears to be generally resistant to the siting of rural housing either adjacent to settlements or sporadically along roads. The preference therefore would seem to be towards some clustering of rural homes, away from existing settlements or roads. Again, if this is the case, then it might have been preferable for the policy to have said so explicitly.

45. However, it is not wholly clear if the above is indeed the intention. I am therefore reluctant to recommend any major reworking of the policy that could inadvertently diverge from the council’s intended meaning. I am also conscious that this policy has been carried forward, with only very minor changes, from the existing adopted LDP.

46. I therefore conclude, on balance, that the policy should remain unchanged for the time being. However, I consider that the council could profitably revisit the wording of Policy RH5 when the plan is next reviewed.

### **Policy IND2: Business and industrial development in rural areas**

47. The representation from Audrey and George Marriott argues that Policy IND2 should allow for business and industrial development on brownfield land. In addition, the representation from Michael Evans on Policy RH2 also argues that business development in the countryside should not be limited to ‘rural businesses’.

48. The rural development section of NPF4 sets out to support rural economic activity. Policy 29(a) specifically supports development proposals that contribute to the viability, sustainability and diversity of rural communities and local rural economy, and refers to a range of examples including the reuse of brownfield land where a return to a natural state has not or will not happen without intervention. Planning Advice Note 73: Rural Diversification calls for positive development plan policies to support diversification. However, Policy 26(d) limits support for business and industrial uses outwith areas identified for those uses in the LDP to occasions where there is no suitable alternative, and the nature and scale of the activity will be compatible with the surrounding area.

49. The national policy position is therefore that, while most business and industry is directed to allocated sites, there is some provision for the development in rural areas of, presumably smaller scale, development that contributes to the viability, sustainability and diversity of rural communities and local rural economy.

50. I acknowledge the council's argument above that East Ayrshire is characterised by particularly significant areas of rural brownfield land which would not be sustainable locations for new business development. This factor may justify some local divergence from the national policy position. However, at the same time I must observe that Policy IND2 is significantly more restrictive in its terms than Policy 29 of NPF4. For instance, Policy IND2 limits its support for rural business development to three narrowly defined categories, and makes no provision for various types of development such as the reuse of redundant buildings

51. As discussed elsewhere in this report, it is desirable for there to be alignment between the LDP and NPF4 unless there is a clear justification for a different local approach. In this case, I consider that a recasting of Policy IND2 along the lines of NPF4 Policy 29 is desirable, and is within the scope of this examination given the representations that raise the restrictive nature of the policy. I therefore recommend such a change below.

52. I consider that the council's concerns regarding an excessive use of large brownfield sites for business development are allayed by NPF4 Policy 29's narrow focus on only development that contributes to the viability, sustainability and diversity of rural communities and local rural economy. This would seem to me to exclude larger scale development, or proposals that would confer wider benefits. To emphasise this point, and to reflect the particular circumstances of East Ayrshire, I consider that the plan's support for business development in rural areas should be limited to small scale proposals. I do not consider parts (c) and (d) of NPF4 Policy 29 to be of relevance to East Ayrshire, and these are therefore omitted. Also omitted are those parts of Policy 29 that are unrelated to business or industrial development.

### **Extent of rural protection area and rural diversification area**

53. In its discussion of rural housing, NPF4 states that LDPs should be informed by an understanding of population change over time, locally specific needs and market circumstances, and should then set out a tailored approach to rural housing.

54. The council's justification for extending the rural protection area is set out in core document 49. This records the pressures experienced for new housing in the countryside in the areas north of the Irvine Valley, east of Stewarton, Dunlop and Lugton, and west of Stewarton and Dunlop. I am satisfied that this paper does demonstrate that a large number of applications for residential development have been received in these areas in recent years, and many have been approved under the terms of the relatively less restrictive rural diversification area policy. I accept that this volume of development could threaten to change the rural character of these areas of countryside into one of a more suburban character.

55. On this basis I conclude that the extension of the more restrictive rural protection area into these parts of East Ayrshire is justified. It also appears to reflect NPF4's call

for there to be a tailored approach to these matters informed by an understanding of matters including market circumstances. I conclude that no change is required.

56. An inevitable consequence of the extension of the rural protection area has been the equivalent reduction in the extent of the rural diversification area.

**Miscellaneous comments** (where not addressed above)

57. The council's consultation exercise for the forthcoming Rural housing cluster supplementary guidance is beyond the scope of this examination.

58. The provision of transport and other services to rural areas is largely beyond the scope of the planning system. That said, in considering the location of new development the plan is to be read as a whole. In this context Policy T1 seeks to promote sustainable transport and divert development away from locations reliant on the private car.

59. Regarding the concerns expressed about the potential for excessive development at Fullwood, I largely consider this to be a matter for the council to address through its forthcoming Rural housing cluster supplementary guidance. Whether Fullwood should be considered such a cluster, and, if it is, what the particular approach to development there should be, can be addressed through that exercise. In the meantime, Fullwood is contained within the rural protection area as defined in the proposed plan, where a relatively restrictive approach to new housing development is to be applied. No further change is required.

60. Road repair budgets are beyond the scope of the LDP and of this examination.

**Reporter's recommendations:**

I recommend that:

1. Criterion (ii) of Policy RH1: Housing in the Rural Protection Area be deleted, and replaced with the following:

'(ii) to reinstate a former dwelling house or as a one-for-one replacement of an existing permanent house; or'

2. The following additional criteria be added to Policy RH1:

'(vi) to reuse a redundant or unused building; or  
(vii) for the subdivision of an existing residential dwelling; the scale of which is in keeping with the character and infrastructure provision in the area.'

3. Policy IND2 be deleted, and replaced as follows:

'Outwith settlement boundaries, small scale new business and industrial developments (Class 4,5 and 6), and extensions to existing developments for those classes, that contribute to the viability, sustainability and diversity of rural communities and local rural economy will be supported, including:

- i. diversification of existing businesses;
- ii. production and processing facilities for local produce and materials, for example sawmills, or local food production;
- iii. reuse of a redundant or unused building;
- iv. appropriate use of a historic environment asset or appropriate enabling development to secure the future of historic environment assets;
- v. reuse of brownfield land where a return to a natural state has not or will not happen without intervention; or
- vi. small scale developments that support new ways of working such as remote working, homeworking and community hubs.

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

Issue 19	Tourism	
Development plan reference:	Tourism policies: TOUR1-TOUR5; Spatial Strategy policies: SS5, SS6 and SS7	Reporter: Andrew Fleming
Body or person(s) submitting a representation raising the issue (including reference number):		
RES & ESB (145) NatureScot (157) Visit Scotland (165) AN Other (192) R Ghosh (197)		RES UK & Ireland (198) NHS (270) Harcourts Development UK Ltd (282) Suffolk Ltd (283) A Gray (311)
Provision of the development plan to which the issue relates:	The content and wording of the LDP2 Tourism Policies (pages 116-119) as well as Spatial Strategy: Place and Environment, C. Supporting sustainable tourism and rural placemaking (page 30-35)	
Planning authority's summary of the representation(s):		
<p><b>General Comments</b></p> <p><u>Visit Scotland (165) on TOUR1, TOUR2, TOUR3, TOUR4 and TOUR5</u></p> <p>Provides detailed but general comments relating to TOUR1 to TOUR5 under the following headings: Responsible tourism, Environmental sustainability in tourism development, visitor management, wider implications of tourism, links to relevant strategies, Visit Scotland Support and Visit Scotland Quality Assurance. Visit Scotland states that the comments provided under these headings is relevant for TOUR1-TOUR5.</p> <p>Encourage partnership and promotion of Scotland's UNESCO Trail and the Southern Ayrshire UNESCO Biosphere.</p> <p>Provide comments concerning environmental sustainability in tourism developments from energy efficiency, recycling, active travel networks and protection of natural habitats.</p> <p>Provide significant detail around the benefits of tourism as a mechanism for positive change and that responsible practices need to be adopted to improve quality of experience, resilience and growth.</p> <p>Suggests that any proposed development should include a <a href="#">VisitScotland Quality Assurance Scheme</a>.</p> <p>Recommend that VisitScotland at consulted at the concept stage of a proposal.</p>		

A Gray (311)

Seeks promotion tourism in Stewarton as a heritage site.

**Spatial Strategy – Policies SS5: Coalfield Communities Landscape Partnership; SS6: Galloway and Southern Ayrshire Biosphere; and SS7: Galloway National Park**

NHS (270)

Welcome the emphasis on sustainability and rural placemaking to promote tourism in rural communities, but recommend that more details on how aspirations of sustainable rural tourism will be realised to be added to Policies SS5, SS6 and SS7, such as active and public transport networks. Without this, the NHS have concerns that this will have contradictory consequences to the objective of the Plan.

Recommend that Policies SS5, SS6 and SS7 specifically set criteria which developments should accord with in order to be supported. These are set out across four bullet points and include: provision of public and active travel, affordable housing provision, assessment and provision of infrastructure and engagement with local communities.

Strongly encourage creating sustainable tourism opportunities, in particular avoiding private car usage and negative impacts on local communities such as impacts on housing markets.

Raise infrastructure capacity issues, as was highlighted during the pandemic, in terms of litter and bins and toilet provision.

Suggests creating adequate transport and connection between places which would encourage tourism. An example is provided that providing free electric bus shuttle service.

**Note:** There are further supporting information within representation (270) that includes Rapid Health Impact Assessment Scoping Exercise (RD112) and information on population groups affected by the LDP2 (RD112).

**TOUR1: Tourism Development**

NatureScot (157)

Recommend removing reference to 'Natura 2000 sites' and replacing this with 'European sites' in light of the UK's exit from the EU. NatureScot considers these areas to contribute to Europe and UK-wide network habitats.

Visit Scotland (165)

Any tourism development should consider wider regional and national plans and wider network connectivity, including active travel, public transport and electric vehicle infrastructure to meet net zero targets.

R Ghosh (197)

Seeks modification of TOUR 1 (page 116) to include reference to land at Barr Wood, Galston (see supporting documents RD75 and RD76). The extents of the sites in question can be viewed in maps 'Issue 19 – Barr Wood, Galston – GA-X9'.

Harcourts Development UK Ltd (282) and Suffolk Ltd (283)

Consider the term 'sympathetic' to be inappropriate and request it to be removed.

**TOUR2: Tourism Accommodation**

Visit Scotland (165)

Advocate that any accommodation development is created within a responsible ethos and in accordance with local planning aspirations.

**TOUR3: Rural Sporting, Leisure and Recreational Activities**

Visit Scotland (165)

Highlights that East Ayrshire's content lends itself towards growing demand for nature based activities which will encourage visitors to linger and add to the local economy. Visit Scotland argue that this demand has been further strengthened by the recent pandemic and related restrictions.

AN Other (192)

Road impacts should be properly assessed and mitigated by proposals before consent is awarded in the rural landscape. Suggests that TOUR3 criterion (iv) (page 118) should require a formal traffic assessment, justified through explanation of the condition and context of the road network as well as safety, given that accommodation likely to increase traffic and have an adverse impact on neighbours.

Expresses concerns that roadside verges may be impacted, alongside the associated infrastructure.

Expresses concerns over the safety of rural roads.

Suggests that noise impact assessment from rural businesses be required from nearest neighbours before planning consent is awarded.

**TOUR4: The Dark Sky Park**

RES & ESB (145) and RES UK & Ireland (198)

Highlights that Figure 17 (page 115) does not make reference to a 'transition zone' in contradiction with the content of the Supplementary Guidance document (CD83).

Highlight a discrepancy between Policy TOUR4 and the Supplementary Guidance



document (CD83) in relation to the ‘transition zone’, within policy it is specified that measures be taken to limit light pollution, whereas the SG outlines that the use of infrared lights be utilised. RES & ESB (145) outline their preference is the SG content.

#### **TOUR5: Loss of tourist facilities**

##### Visit Scotland (165)

Note that their comments provided all relate to TOUR5.

#### **Modifications sought by those submitting representations:**

##### **General Comments**

##### Visit Scotland (165)

Although not explicitly stated, it is presumed that Visit Scotland wish to see promotion of Scotland’s UNESCO Trail within the Plan.

##### **Spatial Strategy – Policies SS5, SS6, SS7**

##### Specific policy requirements required for developments to be supported (270)

Modify Policies SS5, SS6 and SS7 to specify that – *developments will only be supported where:*

- *There is adequate and affordable provision for public transport and active travel, and where the development will not generate additional private vehicle traffic – which would otherwise have negative impacts on health, wellbeing, and climate change*
- *There is adequate and affordable local housing provision for staff and other local community members – to avoid negative impacts on local housing market and to ensure staff can live near where they work, to support health and wellbeing through appropriate housing, reduced travel distances, and community cohesion*
- *Assessment and provision is made for any other infrastructure required to support rural tourism, such as health and care services; litter bins; and toilet facilities, to avoid negative impacts on rural communities.*
- *There is close and ongoing engagement with the local community.*

#### **TOUR1: Tourism Development**

##### Suffolk Ltd (283)

Amend TOUR1 to read – “Particular support will be given to ~~sympathetic~~ development which enhances the tourism offer of Dean Castle Country Park...”

##### Nature Scot (157)

Modify the final paragraph of TOUR1 to read – “...where green tourism initiatives have demonstrated that they will not have an adverse effect on the integrity of a **Natura 2000 European** site, SSSIs, other important nature conservation features and

landscape character.”

R Ghosh (197)

Seeks modification of TOUR 1 (page 116) to include reference to land at Barr Wood, Galston (see supporting documents RD75 and RD76). The extents of the sites in question can be viewed in maps ‘Issue 19 – Barr Wood, Galston – GA-X9’.

Harcourts Development UK Ltd (282) and Suffolk Ltd (283)

Modify TOUR1 to read – “Particular support will be given to ~~sympathetic~~ development which enhances the tourism offer of Dean Castle Country Park, Kilmarnock, Craufurdland Estate, by Fenwick, Loudoun Castle Estate, Galston;...”

**TOUR3: Rural Sporting, Leisure and Recreational Activities**

AN Other (192)

Although not explicitly stated, it is presumed that 192 would like policy TOUR3 criterion (iv) to be amended to – set a requirement of a formal traffic assessment.

Although not explicitly stated, it is presumed that 192 would like policy TOUR3 amended to – set a requirement for noise impact assessments for rural businesses from the nearest neighbour.

**TOUR4: The Dark Sky Park**

RES & ESB (145) and RES UK & Ireland (198)

Amend Figure 17 (page 115) to make reference to - the ‘transition zone’ to match the associated Supplementary Guidance document.

Although not explicitly stated, it is presumed that RES & ESB and RES UK & Ireland would like policy TOUR 4 to be amended to state that within the transition zone, it would be preferable if wind farm developments seek to maximise the use of infrared lights.

**Summary of responses (including reasons) by planning authority:**

**General Comments concerning TOUR1, TOUR2, TOUR3, TOUR4 and TOUR5**

Promotion of UNESCO Trail and Southern Ayrshire UNESCO Biosphere (165)

Desire to see the celebration and promotion of Scotland’s UNESCO Trail alongside the Galloway and Southern Ayrshire UNESCO Biosphere has been expressed. The UNESCO Biosphere is already prominently promoted within the Proposed Plan as an asset and opportunity. This is embedded within the Spatial Strategy as a place-based priority project as a means to capitalise on our natural environment and to support sustainable green tourism. The Biosphere is tied into some of the objectives of the Coalfield Communities Landscape Partnership (Policy SS5). The Spatial Strategy, sets

out a policy SS6: Galloway and Southern Ayrshire Biosphere which encourages development which supports the aims of the Biosphere and sets a requirement to adhere to the three different biosphere zones. The UNESCO Biosphere is also mentioned within the Promoting Tourism section of the Proposed Plan (page 112) and Policy TOUR1: Tourism Development. As such, the Council consider the UNESCO Biosphere to be adequately prominent and promoted within the Plan. Although the UNESCO Trail is not explicitly mentioned, due to the prominence of the Biosphere throughout the plan and its embedded nature within the Spatial Strategy, the Council do not consider it necessary to mention and promote the UNESCO Trail and other UNESCO features which are not found within East Ayrshire.

#### Environmental sustainability of tourism (165)

Visit Scotland provide a series of non-specific general comments concerning the need for environmental sustainability in tourism developments from energy efficiency, recycling, active travel networks and protection of natural habitats for biodiversity. The Council considers the policy framework as set out within LDP2 to be robust and effective in ensuring that sustainability in development generally is achieved, and this includes tourism development. The Spatial Strategy spatially illustrates the Plan's visions and aims for the plan period and beyond. It sets out two overarching policies which seek to embed sustainability in decision making (SS1: Climate Change and SS2: Overarching Policy) as well as setting out five further subsections with further policy tools for achieving sustainable places and green recovery. Within the thematic chapters of volume 2, a host of design, environment and resilience policies promote sustainability, resource efficiency and resilience. As such, the council consider the comments of Visit Scotland to be covered in entirety by the existing content of the plan.

#### Importance of community and individual welfare following pandemic (165)

Visit Scotland reference rebuilding Scotland's tourism and visitor economy following COVID-19 and highlights the importance of community and individual welfare in light of the recent pandemic. The Council acknowledge this and in response reiterate that the plan, as much as it can within its remit as a statutory land use document, hosts a robust and effective policy framework to achieve sustainable places, green recovery and promote and ensure that the health and wellbeing of its communities is promoted and enhanced.

#### Consultation at concept stage (165)

The council acknowledge the comment made by (165). However, this is not a planning requirement and will be up to the subsequent applicant to decide if they wish to engage and consult with this body.

#### Visit Scotland Quality Assurance Scheme (165)

The council acknowledge the comment made by (165). However, this is not a planning requirement and will be up to the subsequent applicant to decide if they wish to include and complete a Visit Scotland Quality Assurance Scheme.

Promotion of Stewarton as a heritage site (311)

Stewarton has a host of infrastructure capacity issues for which LDP2 as well as the associated Stewarton Development Framework (CD59), set an approach to address within the plan period. Desire to see Stewarton promoted in terms of tourism as a heritage site has been expressed. The Council acknowledge this and recognise the historic character and value that Stewarton has within East Ayrshire, alongside many other of East Ayrshire's settlements. A Conservation Area Appraisal is currently under review, which will fully examine the heritage and conservation value of the core of the town. While Stewarton is not explicitly mentioned within LDP2 as a tourism destination, it is considered that it would be inappropriate to highlight it, over and above other settlements which also have important heritage assets.

**Spatial Strategy – Policies SS5: Coalfield Communities Landscape Partnership; SS6: Galloway and Southern Ayrshire Biosphere; and SS7: Galloway National Park**

Additional specific policy requirements (270)

The Council do not agree with the suggested modifications in relation to policies SS5, SS6 and SS7, in terms of the suggestions by (270) that the policies should include specific requirements that proposals should be assessed against.

One such requirement is that there is adequate and affordable provision for public transport and active travel so as not to generate additional private vehicle traffic. The Spatial Strategy, subsection 3.1 Sustainability and Green Recovery (page 22) sets an overarching objective to reduce the need to travel unsustainably and that this will be achieved by creating good quality active travel networks and public transport provision across East Ayrshire. The Spatial Strategy, subsection 3.4 Sustainability Travel and Transport (page 22) sets our key priorities for promoting sustainable travel and transport, including supporting the creation of good quality active travel networks, in order to prioritise walking, cycling and wheeling, as well as access to sustainable forms of transport. As set out in Page 47 of the Spatial Strategy, the creation of active travel networks in order to connect our towns and villages, in particular out smaller rural communities is supported. Policy T3: Development and Protection of Core Paths and Other Routes prioritises development which promotes new circular routes and path links between settlements. As such, the Council considers this requirement to be covered within the Spatial Strategy, but also Policy T3 which would be applicable for tourism developments.

Another requirement is that there is adequate and affordable local housing provision for staff and communities members. As outlined within "Population and Housing" (page 10) of the Introduction, in East Ayrshire more houses are being built and are more affordable than the national average. LDP2 sets a Housing Land Requirement of 4050 dwellings for the Plan period of which 65% would be market housing and 35% affordable. LDP2 sets a generous surplus of land in order to accommodate 2,095 additional units over the HLR. Policies RES1 and RES 2 (see Issue 16) sets a requirement for the provision of affordable housing. As such, although not explicitly mentioned within policies SS5, SS6 and SS7, the requirement for adequate affordable housing in East Ayrshire to support tourism development is covered by other aspects of

the Plan's policy framework.

A further suggested requirement is that provision is made for any other infrastructure required to support rural tourism. Some of the matters mentioned, whilst important are not considered appropriate for inclusion within the development plan, such as the provision of litter bins. Wider infrastructure matters are captured elsewhere within the Plan, primarily through the Infrastructure First policy (INF1) and Developer Contributions policy (INF4). The Council does not agree that it is necessary or appropriate to add this matter into SS5, SS6 and SS7.

The final suggested requirement is close and ongoing engagement with the local community. The Council considers that this would be a disproportionate requirement for most tourism related proposals which are submitted. The planning process enables local communities, community members and/or neighbours to provide comments on the merits of any planning application which will be taken into consideration during the determination of the application.

## **TOUR1: Tourism Development**

### Consideration of wider plans, networks and infrastructure to meet net zero (165)

The council acknowledge the comments made by (165). The Proposed Plan has been written in the context of a wide range of other plans and policy objectives, and it considered to be consistent with key national and local policy documents. It is not considered necessary or appropriate for these to be cross-referenced within the Plan itself.

### Use of term sympathetic (282), (283)

The Council is of the view that sympathetic is a reasonable term to use within the context of this policy. Many of the sites listed within TOUR1 are heritage assets with listed buildings and/or inventory or non-inventory gardens and designed landscapes. The term 'sympathetic' is used within Historic Environment Scotland's publications, for example Managing Change in the Historic Environment: [Gardens and Designed Landscapes](#) (CD84). The suitability of the development proposal will be contingent on how sensitively it has been designed in order to reduce detrimental impacts on the sites historic and natural assets. The term sympathetic is not prescriptive and is flexible. Instead, sympathetic will be assessed on an individual basis at planning application stage. The Council does not consider it necessary to amend the policy on this basis.

### Removal of reference to Natura 2000 sites (replaced with European site) (157)

The Council have no objections to replacing the term 'Natura 2000 sites' with 'European sites' in light of the UK's exit from the EU. This updated term is appropriate.

### Inclusion of land at Barr Wood, Galston (197)

TOUR1 states its support for sympathetic development which enhances the tourism offer of particular sites in Kilmarnock, near Fenwick, Galston, Cumnock, Dalmellington

and Auchinleck. (197) requests that land at Barr Wood, Galston be included within this list (see map 'Issue 19 – Barr Wood, Galston – GA-X9'). This site is located to the south of the A71 and to the west of the settlement of Galston. The Council do not consider there to be any basis for inclusion of this site within a list of established existing destinations as well as Loudoun Estate which has been identified for tourism and leisure purposes. This site was not submitted as part of the Call for Sites for the Main Issues Report, nor was it submitted following the MIR which would have been an appropriate time for considering the site for leisure and residential uses as outlined by (197). A summary of the Council's response to this site can be viewed in Issue 33. The Council strongly disagrees with amending policy TOUR1 to include Land at Barr Wood, Galston.

## **TOUR2: Tourism Accommodation**

### Use of responsible ethos (165)

(165) Advocate that any accommodation development is created within a responsible ethos and in accordance with local planning aspirations. The Council not this comment. The LDP2 provides a policy framework from which proposals will be assessed in terms of their suitability and sustainability. However, the adoption of a responsible ethos is ultimately the responsibility of the applicant.

## **TOUR3: Rural Sporting, Leisure and Recreational Activities**

### Growing demand for nature based activities following pandemic (165)

(165) highlights that East Ayrshire's content lends itself towards to growing demand for nature based activities which will encourage visitors to linger and add to the local economy. (165) argue that this demand has been further strengthened by the recent pandemic and related restrictions. The Council acknowledge these comments and respond that LDP2 tourism policies support nature based activities. The Spatial Strategy focuses on how the plan can support inclusive green recovery in order to build a cleaner and fairer economy. The Spatial Strategy, subsection Place and Environment C. Supporting sustainable tourism and rural placemaking (page 30) highlights that the tourism can play a regenerating role in the economy, in promoting green recovery and creating new investment. As such, the Council consider that the comments raised by (165) are addressed throughout LDP2.

### Concerns over road safety and road damage (192)

(192) expresses concerns that roadside verges may be impacted, alongside the associated infrastructure and over the safety of rural roads. These concerns are noted, however, are not a matter that is addressed within an LDP. Ayrshire Roads Alliance will be consulted on subsequent proposals and planning applications. They are primarily concerned with matters of road safety. As such, the concerns raised by (192) over road safety will be addressed through the planning application and determination process. Road damage is not a matter to be addressed within the LDP.



Requirement for a formal traffic assessment (192)

Policy T1: Transport requirements in new developments sets the Councils expectations of developers, including ensuring that proposals meet the standards of the Ayrshire Roads Alliance. T1 sets a requirement for a Transport Assessment where a proposed new development is likely to generate significant increase in trip numbers. This will be applicable to tourism proposals. T1 (iv) states that the Council will not support new significant traffic generating uses at locations which would increase reliance on the car where a series of subcriteria cannot be achieved. Subcriteria (iv)c. requires the Transport Assessment to identify satisfactory ways of meeting sustainable transport requirements. As such, the Council considers the existing policy framework of LDP2 to address the concerns raised by (192) without the requirement for modification.

Requirement for a noise impact assessment to nearest dwelling (192)

(192) suggests that noise impact assessment from rural businesses be required from nearest neighbours before planning consent is awarded. The LDP2 presumes against development that is likely to incur air, light or noise pollution which can have serious effects on well-being and health. Policy NE12 states that *“a noise impact assessment may be required in this regard and noise mitigation measures may be required through planning conditions and/or Section 75 Obligations”*. The Council can therefore request noise impact assessment if it is considered to be necessary. The Council therefore disagrees that TOUR3 be modified to state that a noise impact assessment is required, as this is already adequately covered by another applicable policy within the LDP2.

**TOUR4: The Dark Sky Park**

Discrepancy between TOUR4, Figure 17 and associated Supplementary Guidance (145), (198)

(145) and (198) highlight a discrepancy between the zones illustrated within Figure 17 (Volume 1, page 115) and The Dark Sky Park Lighting Supplementary Guidance (2022), Figure 1 (page 5). Figure 17 illustrates the two areas: core area and buffer zone. Whereas Figure 1 illustrates three areas: core area, buffer zone and Transition Zone. As such, Figure 17 not does make reference to the ‘transition zone’.

The council does not agree that there is a discrepancy. Paragraph 221 of the Plan makes clear that the definition of the Dark Sky Park boundary consists of the core and buffer zones. These are therefore the elements shows in Figure 17, with the title ‘The Dark Sky Park’. Whilst policy TOUR4 and the associated SG make reference to the 10 mile transition zone, the desire to limit light pollution is not restricted to this 10 mile zone, rather it is an ambition for the entirety of East Ayrshire, in terms of good planning practice. The Council therefore considers it sensible to continue to limit Figure 17 to the Dark Sky Park itself.

(145) and (198) also highlight a discrepancy within the policy content of TOUR4 and The Dark Sky Park Lighting Supplementary Guidance (2022) (CD83). In relation to the ‘transition zone’, within policy TOUR4 it is specified that measures be taken to limit light pollution, whereas the SG outlines that the use of infrared lights be utilised. It is considered that the aim of limiting light pollution set out in TOUR4 is justified and



appropriate; this does not prevent infrared lighting, it requires that measures be taken to limit light pollution and it could be argued that using infrared lighting could be one way of doing this. In this respect, the Council does not see any need to amend the wording of TOUR4.

#### **TOUR5: Loss of tourist facilities**

##### Assortment of comments (165)

(165) note that their comments provided all relate to TOUR5. See the Council's response to these within the "General Comments" section above.

#### **Reporter's conclusions:**

#### **General Comments concerning TOUR1, TOUR2, TOUR3, TOUR4 and TOUR5**

##### Promotion of UNESCO Trail and Southern Ayrshire UNESCO Biosphere (165)

1. The respondent seeks wider promotion within the plan of Scotland's UNESCO Trail in conjunction with the Galloway and Southern Ayrshire UNESCO Biosphere. I am conscious that the Galloway and Southern Ayrshire UNESCO Biosphere, covering the southern part of the council area, is referenced in the plan's Spatial Strategy with the aim being to support sustainable tourism and rural placemaking. Policy SS6 deals specifically with the Biosphere, encouraging developments and proposals that support the aims of the Biosphere, particularly where they provide an innovative approach to sustainable communities and the economy.
2. Scotland's UNESCO Trail involves the country's 13 place-based UNESCO designations and brings them together to form a dedicated digital trail. Amongst other things, the trail encourages visitors to stay longer and explore more widely.
3. I consider that whilst it is appropriate for the plan to reference the Galloway and Southern Ayrshire UNESCO Biosphere, I am not convinced of the need for the plan to include specific references to or to promote the national UNSECO Trail. As referred to above, this is concerned with place-based designations which are outwith the council area. The council has no responsibility for these designations and the plan has no remit either for their protection or promotion. For these reasons it is not appropriate to consider the UNSECO trail further.

##### Environmental sustainability of tourism (165)

4. The respondent provides a series of non-specific general comments regarding the need for environmental sustainability in tourism developments. Overarching policies SS1: 'Climate change' and SS2: 'Overarching policy' seek to ensure that sustainability is at the heart of decision making, particularly in respect of development proposals. Further policies within the plan seek to achieve sustainable places including Policy TOUR1: 'Tourism development'. I am satisfied that the topic is well covered within the plan and given the respondent has not sought any particular change, I am not recommending any changes in respect of this matter.

Importance of community and individual welfare following pandemic (165)

5. Whilst the plan is a land use document, it contains a commitment to the welfare of East Ayrshire's population and this is demonstrated in the local development plan vision which states: "East Ayrshire will be a low carbon place with a thriving and diverse environment. We will have strong, healthy and resilient communities that benefit from high quality places, multi-functional green spaces and access to high quality services that are well located to maximise sustainable travel choices...". One of the aims of the plan is to "Create good quality and accessible places, which support the health and wellbeing of our citizens." The vision, aims and policies of the plan are intended to facilitate sustainable development which seeks to balance environmental quality with the health and wellbeing of the citizens of East Ayrshire. I am satisfied that the issue of wellbeing is acknowledged accordingly in the plan.

Consultation at concept stage (165)

6. The offer of support and advice from VisitScotland to those undertaking tourism development including when a project is complete and operational is laudable. That said, this is entirely outwith the remit or purpose of the plan and the onus would be on the site owner/ applicant to engage with VisitScotland in this regard.

VisitScotland Quality Assurance Scheme (165)

7. The VisitScotland Quality Assurance Scheme, which is intended to ensure that tourism businesses meet certain standards and provide consumers with confidence in the tourism offer, is a laudable exercise, particularly given the impact of COVID-19 on the tourism industry. This notwithstanding, it is not a requirement of the plan, which is a land use document, to concern itself with this scheme. It would be for individual businesses to decide whether or not they wished to participate in such a scheme.

Promotion of Stewarton as a heritage site (311)

8. The respondent suggests that the council could promote tourism and support Stewarton as a heritage site. The plan includes Policy TOUR1: 'Tourism development' which, whilst supporting tourism facilities throughout the council area, identifies specific attractions and which offers support to development which would enhance the tourism offer at these locations. I am mindful that no specific settlements are identified as part of this offer of support. Whilst Stewarton has historic character as referenced by its Conservation Area, there are numerous other settlements also with their own historic character. To purposefully single out Stewarton for identification as a heritage site would effectively downgrade the importance and contribution of other settlements within the council area which similarly have historical merit. I therefore do not consider it appropriate to identify Stewarton, specifically as a heritage asset within the plan.

9. I am not recommending any changes to the plan in respect of the above.

**Spatial Strategy – Policies SS5: Coalfield Communities Landscape Partnership; SS6: Galloway and Southern Ayrshire Biosphere; and SS7: Galloway National Park**

Additional specific policy requirements (270)

10. Policies SS5, SS6 and SS7 are intended to support sustainable tourism and rural placemaking. They cover a series of projects which seek to capitalise on the potential for green tourism and a greater appreciation of the natural and cultural heritage of the area, with a particular focus in the southern part of the council area. The respondent seeks the inclusion of additional policy requirements within these policies against which a proposal should be assessed. These cover four key issues: public transport and active travel; adequate and affordable housing for staff and community members; provision of other infrastructure in order to support rural tourism and the need for ongoing engagement with rural communities. I deal with each of these in turn below.

11. The request for reference to adequate and affordable provision of public transport and active travel is intended to avoid the generation of additional private vehicle traffic. Whilst this is a laudable request in respect of sustainable rural tourism, I am keenly aware that the vision, aims and spatial strategy of the plan are supportive of reducing the need to travel unsustainably. The plan is to be read as a whole and its clarity is not served by excessive cross-referencing or unnecessary repetition of policy requirements that are already stated elsewhere. The plan seeks to encourage a shift in travel choice and behaviours by prioritising walking, wheeling, cycling, public transport and shared transport options in preference to single occupancy private car use for the movement of people. One of the key elements of the council's strategy to reduce the need to travel is by creating good active travel networks and public transport provision throughout the council area. Policy T3: 'Development and protection of core paths and other routes' prioritises development which promotes new circular routes and path links between settlements. These elements of the plan are not sector specific and the principles apply to all forms of development including that which is tourism focused. In light of the above, there is no strong justification for including the suggested requirement regarding public transport and active travel within any of the above policies.

12. It is not possible or indeed appropriate for the council to identify within the plan, the provision of affordable housing to accommodate workers within the tourism industry so that they can be close to their place of work. That said, I note that 35% of the overall Housing Land Requirement for the Plan period (4,050 dwellings) is identified as affordable housing and that in addition to that, the council has identified a surplus of land to accommodate 2,095 dwellings, (52% additional residential capacity), a proportion of which would also be affordable. In light of the above healthy land situation, I do not consider that it is necessary to make specific reference in Policies SS5, SS6 or SS7 to affordable housing provision which is more appropriately addressed in other sections of the plan.

13. The respondent has identified a wide range of other infrastructure which they consider would be required in order to support rural tourism including health facilities, litter bins and toilet facilities. It is not appropriate for the plan to identify specific items of street furniture or other items for the public realm. The provision of such items is most appropriately addressed as part of the planning application process or through the

council's other non-planning functions. Similarly, for larger elements of infrastructure such as health centres, given their likely cost and delivery implications, these are also most appropriately considered as part of planning applications for developments that necessitate their provision due to the likely impact of development on the existing infrastructure. There are specific policies within the plan which deal with the provision of such infrastructure, irrespective of its proposed location. These include Policy INF1: 'Infrastructure first' and Policy INF4: 'Developer contributions'. Given the council wide application of these policies, there is no justification for the inclusion of reference to infrastructure provision within Policies SS5, SS6 or SS7.

14. Community engagement is an integral part of the planning application process enabling community groups and individuals the opportunity to comment on any issues associated with a proposal which may give rise to concern. Community engagement can also help to provide clarification of matters which in turn can address initial concerns or misunderstandings. However, it is not a requirement for development proposals to be subject to ongoing engagement with local communities, particularly once a planning application for a development proposal has been determined by the council. Tourism related proposals will vary in size and in terms of impacts and to attach such an open-ended requirement to these policies would be disproportionate and most likely, unworkable. It would therefore not be appropriate to identify such a requirement for the various projects identified in Policies SS5, SS6 or SS7.

15. In light of the above, no changes are recommended to Policies SS5, SS6 or SS7.

## **TOUR1: Tourism Development**

### Consideration of wider plans, networks and infrastructure to meet net zero (165)

16. According to the council, the plan has been prepared taking cognisance of a wide range of publications at national and regional level as well as various council strategies. The policies and site allocations included within the plan are intended to comply with/ support these wider plans and strategies. I note that the resposdee has not pointed to any particular failure of the council to reflect a national strategy. Neither am I aware of any of the tourism policies not complying with wider plans and strategies.

17. It would be the responsibility of those undertaking tourism development to consider how their respective proposal aligned with wider plans, networks and infrastructure.

### Use of term sympathetic (282), (283)

18. The majority of the sites listed within Policy TOUR1 are of historical significance and include listed buildings and/ or inventory or non-inventory gardens and designed landscapes. This introduces a sensitivity in terms of taking account of the historical importance of the asset when development is proposed in proximity. Despite concerns about the use of the term 'sympathetic', it is important to note that it does not spell out how development should look or be designed in the context of the related heritage asset. The fact that each application is determined on its own merits means that there is a degree of flexibility with the application of the term. At the same time there is a deliberate recognition that the heritage asset is worthy of a more sensitive treatment

than might be typically expected for an existing development or feature with no obvious historical character or interest.

19. I note that the term is used by Historic Environment Scotland (HES) in its own guidance on gardens and designed landscapes (CD84) highlighting where new development might be appropriate. The term is used in Policy TOUR 1 in relation to country parks and various Estate landscapes and is consistent with the HES application of the term. Given the above, I find no reason to recommend that the word 'sympathetic' should be removed from Policy TOUR1.

#### Removal of reference to Natura 2000 sites (replaced with European site) (157)

20. Given the UK's exit from the EU, Natura 2000 sites no longer form part of the official 'Natura 2000' network although they continue to contribute to the Europe and UK-wide network of designated sites. I consider it appropriate to amend the policy to remove reference to 'Natura 2000 sites' and replace this reference with 'European sites'. I make a recommendation below in order to address this matter.

#### Inclusion of land at Barr Wood, Galston (197)

21. The land proposed for leisure and tourism forms part of a wider proposal site which includes housing and a community woodland. I understand that the site has not been subject to assessment by the council as other sites have been. It was not submitted during the Call for Sites exercise for the Main Issues Report, nor was it submitted following the Main Issues Report stage.

22. My reporter colleague has considered the site as a potential allocation under Issue 33 and for a range of factors does not recommend the site for inclusion within the plan. Policy TOUR1 refers to existing established destinations as well as Loudon Estate which has been identified for tourism and leisure purposes and which is subject of a specific policy (Policy TOUR6). Given these circumstances and given my reporter colleague's conclusions on the site under Issue 33, I consider that it is not appropriate to make reference to the site under Policy TOUR1.

### **TOUR2: Tourism Accommodation**

#### Use of responsible ethos (165)

23. Given this is a land use plan, focussed on the allocation of sites for various uses in various locations, it cannot concern itself with what the ethos of a particular development should be i.e one where 'responsible tourism' is the guiding principle for the site/ business.

24. The intention in Policy TOUR 2 is to support the development of tourist accommodation which is compliant with all relevant plan policies. Policies are aimed at securing suitable and sustainable development but this cannot extend to defining guiding principles of how a site is used or operated. This ultimately is for the end user/ owner.

25. No change is recommended to this policy.

### **TOUR3: Rural Sporting, Leisure and Recreational Activities**

#### Growing demand for nature-based activities following pandemic (165)

26. The respondent maintains that East Ayrshire's content lends itself towards growing demand for nature-based activities which will encourage visitors to linger and add to the local economy in a more sustainable way. The plan, through Policy TOUR3, supports the use of land in the countryside for nature-based activities, subject to certain criteria being met. Policy SS6 supports developments which improve the understanding and enjoyment of the Galloway and Southern Ayrshire UNESCO Biosphere. In light of the above, I am satisfied the growth of nature-based activities is considered within the Plan.

27. As referred to above, the offer of support and advice from VisitScotland to those undertaking tourism development is laudable including when a project is complete and operational. That said, this is entirely outwith the remit or purpose of the plan and the onus would be on the site owner/ applicant to engage with VisitScotland in this regard.

#### Concerns over road safety and road damage (192)

28. The assessment of a planning application would include consultation with the Ayrshire Roads Alliance on roads issues which would highlight any capacity/ design or safety issues that would need consideration. This may lead to the refusal of an application or alternatively, the need for mitigation measures to be implemented as part of any planning permission. The potential impact of a particular development on roadside verges including underground services is not something that the plan is able to address, specifically. Such matters would most appropriately be considered during the planning application process.

#### Requirement for a formal traffic assessment (192)

29. Any development proposal, whether proposed in a rural location or built up area, would be assessed by the council for its potential impact on the road network and assessed as to whether there were any significant risks to other road users and pedestrians as a result of the development taking place. The existing amenity of neighbouring properties would be taken into account as part of any planning assessment and this would feed into the consideration of the proposal in respect of the grant of planning permission or not. Policy T1: 'Transport requirements in new development' is clear that any proposed new development or change of use which is likely to generate a significant increase in trip numbers will require to be accompanied by a Transport Assessment. I do not consider that it is necessary to amend the wording of Policy TOUR 3 including that of criterion (iv) to require a formal transport assessment under that policy wording given the requirement in Policy T1 referred to above.

#### Requirement for a noise impact assessment to nearest dwelling (192)

30. As referred to above, the existing amenity of properties neighbouring proposed development, whether in a rural or urban setting, would be taken into account as part of



the assessment and consideration of a planning application for development or a change of use. Amenity considerations would include the potential for light, air and noise pollution as a result of proposed development. I have been referred to Policy NE12 of the plan which covers water, air, light and noise pollution. This policy advises that a noise impact assessment may be required and that this might result in the requirement for noise mitigation measures to be put in place in order to minimise noise impacts. As this policy provides the mechanism for requesting noise impact assessments are submitted with development proposals, I am satisfied that there is no need to also include for such a requirement under Policy TOUR3 which would ultimately result in duplication in policy.

31. No change is recommended to this policy.

#### **TOUR4: The Dark Sky Park**

##### Discrepancy between TOUR4, Figure 17 and associated Supplementary Guidance (145), (198)

32. The plan (paragraph 221) confirms that the Dark Sky Park comprises a core zone, where there is zero light, and buffer zone where any lighting is carefully managed to reduce light pollution and that the additional transition zone around the park is intended to encourage new lighting to be Dark Sky friendly. This description sits alongside Figure 17 which depicts the Dark Sky Park as it applies to the section within East Ayrshire Council's area.

33. I consider that there is a lack of clarity as Figure 17 only depicts the core area and the buffer area and it is unclear, despite the description in the plan text, what area is actually covered by the transition zone. This is pertinent given that Policy TOUR4 advises that the council will encourage developers, outwith the Dark Sky Park and in particular within the 10 mile radius referred to as the transition zone, to take account of the Dark Sky Park designation and to take measures in line with the Dark Sky Light Supplementary Guidance. This Supplementary Guidance identifies the transition zone in plan form (Figure 1, Page 5). Importantly, the Supplementary Guidance includes a number of lighting guidelines for the various zones within the park and for the transition zone as well.

34. The council advises that it is not necessary to modify Figure 17 as the desire to limit light pollution is an ambition for the entire authority area and not simply for as far as the extent of the transition zone. However, given that Policy TOUR4 and the accompanying Supplementary Guidance reference the transition zone and include graphical representation of its coverage and also include lighting guidelines for it, I consider it logical to also reference this area as part of Figure 17 in the plan. This would provide clarity for the reader and avoid any discrepancy between the plan and its supporting supplementary guidance. Whilst the council's aim for the entire authority area is laudable, the transition zone serves a particular purpose in helping to reduce the impact on the quality of the dark sky within the Park, itself. By contrast, there is a large swathe of the council area to the north and east of Cumnock which is outwith the transition zone for this reason. I consider that the depiction of the transition zone on Figure 17 is therefore justified. It would make sense to use a smaller scale base map in order to show a larger area.



35. Accordingly, I make a recommendation below regarding this matter.

36. The policy states that for development within the transition zone, developers will be encouraged to take account of the Dark Sky Park designation and to limit light pollution in line with the Supplementary Guidance. The Supplementary Guidance provides more detail as one would expect. Whilst Policy TOUR4 does not mention infrared lighting specifically, I do not consider it necessary to amend the wording of the policy as such given that the Supplementary Guidance refers to infrared lighting in its lighting guidelines in dealing with particular types of development such as wind farms.

37. Accordingly, I do not recommend making any modification to the policy in respect of this matter.

#### **TOUR5: Loss of tourist facilities**

##### Assortment of comments (165)

38. According to the respondent, the assortment of comments made by them in relation to Policy TOUR 1, are relevant to policies TOUR 2, TOUR 3, TOUR 4 and TOUR 5. However, there are no specific comments on the wording of Policy TOUR 5 and accordingly, it is not necessary for me to recommend any changes to this policy.

#### **Reporter's recommendations:**

I recommend that the plan be modified as follows:

##### **Policy TOUR1: Tourism Development**

Amend Policy TOUR1 by deleting the words 'Natura 2000 site' in paragraph 4 and replacing them with the words 'European site'.

##### **Policy TOUR4: The Dark Sky Park**

Amend Figure 17: Dark Sky Park (page 115) to include the Transition Zone around the area depicted as the Buffer Zone.

Issue 20	Infrastructure (developer contributions and waste)	
Development plan reference:	Volume 1: Policies INF1, INF2, INF4, WM4, paragraph 231	Reporter: Steve Field
Body or person(s) submitting a representation raising the issue (including reference number):		
SEPA (106) Homes for Scotland (128) Dawn Homes (138) Stewart Milne Homes (144) Gladman Developments (146) Barratt Homes (195) ScottishPower Renewables (196) Hallam Land Management Ltd (206) Stewarton and District Historical Society (221) Kilmaurs Community Council (236) F. Evans (279) Harcourts Development (UK) Ltd. (282) Suffolk Ltd (283) Scottish Government (310)		
Provision of the development plan to which the issue relates:	The content and wording of the LDP approach to infrastructure and waste, specifically policies INF1, INF2, INF4 and WM4 and paragraph 231	
Planning authority's summary of the representation(s):		
<p><b>Policy INF1 – Infrastructure First</b></p> <p><u>Dawn Homes(128), Barratt Homes (195)</u></p> <p>There are underlying issues with the practicalities of policy INF1. The respondent is supportive of the principle of infrastructure first and wish to highlight that homes are an essential part of local and national infrastructure. However, where the infrastructure required at a Local Authority level is part of a wider national infrastructure network (e.g., electric grid) then clarification is required as to who, when and how these national investments will take place to facilitate the subsequent local development. Without this, local development will be delayed and local communities will suffer. Much more clarity is required as to how clearly, quickly and comprehensively this information will be available at local geographies to allow these financial implications to be factored into business investment decisions, providing more certainty over costs.</p> <p><u>ScottishPower Renewables (196)</u></p> <p>There is overlap and duplication between policy INF1 and draft NPF4 policy 8: Infrastructure First. It is essential that Policy INF1 is recast and simplified to avoid</p>		

policy conflicts and ensure LDP2 remains up to date and valid following the finalisation of NPF4. The LDP2 should seek to dovetail with national policy coverage and only set out different or additional policies where necessary to appropriately reflect local circumstances. Policy INF1 should therefore be revised to remove duplication of policy tests that will be set through NPF4, given that the policies within draft NPF4 may be subject to change.

(196) strongly supports the principle of this policy in embedding an infrastructure first approach in planning within East Ayrshire. The planning system is a critical enabler of the infrastructure required to meet Scotland's population needs and address environmental challenges. Due to the importance of delivering essential infrastructure, we recommend that this policy be moved to Section 3 of the LDP2 and reframed as an overarching policy.

Policy INF1 (i) states that proposals which provide or contribute to infrastructure that is identified as necessary in the Local Development Plan and the Action Programme will be supported. However, neither the LDP2 Proposed Plan nor the Action Programme clarify what has been identified by the Council as necessary infrastructure. A clear list of necessary infrastructure should be included within the LDP2. The policy should allow for proposals for necessary infrastructure to be afforded appropriate weight in decision making when considered against potential impacts. In addition, the policy should clarify how the need for necessary infrastructure should be balanced against other policy priorities within the LDP2.

## **Policy INF2 - Installation of Fibre Broadband for New Developments**

### Barratt Homes (195)

Policy INF2 requires developers to future proof digital infrastructure. It is not clear what this means or how it could be ensured. The policy should be amended to remove this requirement.

## **Policy INF4 – Developer Contributions**

### Homes for Scotland (138), Hallam Land Management Ltd (206)

#### *General*

(138) has concerns at the use of “demands” in the policy. In line with Circular 3/2012, the policy test must be clear that contributions can only be required where there are identified negative impacts and not to improve infrastructure, facilities or services as stated. The Circular is also clear that where a planning obligation is considered essential, it must have a relevant planning purpose and must always be related and proportionate in scale and kind to the development in question. The Policy simply refers to likely requirements and this itself would not meet the test of reasonableness having regard to scale and kind.

#### *Public Realm*

The policy requires to be amended to make it clear that contributions should only be

required to address negative impacts and not just an opportunity to secure contributions where no negative impacts are identified.

### *Education Services*

Where negative impacts are justified in relation to school capacity, they should be clearly identified. Where impacts arise on a cumulative basis from new housing allocations, the application of the policy should not be on a first come first served basis. The cumulative impact from multiple new allocations in the same catchment area should be assessed and contributions calculated accordingly rather than the last one to submit an application being required to address the result of cumulative impacts.

### *Transport Infrastructure*

Only where actual negative impacts arise are identified from new development should there be any requirement for contributions to address cumulative impacts. See Supreme Court decision in Aberdeen City and Shire Strategic Development Planning Authority v Elsick Development Company Limited for the competency of seeking financial contributions to cumulative infrastructure. Such contributions must be linked directly to the development and not part of a pooled fund which includes provisions for investment not directly related to the development. Using an obligation as a mechanism to obtain contributions to a pooled fund without establishing more than a trivial or de minimis link to the development will be unlawful.

### *Healthcare Services and Facilities*

In respect of the second last para (pg133), what is meant by “service infrastructure”? The Plan Glossary suggests that “infrastructure” may also include schools and community facilities. This catch all reference in the text should be removed unless definition is clarified and indeed justified. Nor is it made clear whether such provision is to be secured via a planning obligation, in which case it would be subject to the same tests of the Circular.

### *Policy Note 1*

Where there is a mechanism for reviewing contributions having regard to financial impact upon a project, the Plan or supplementary guidance requires to be clear about the basis upon which contribution rates are to be appraised. The Council SG, Appendix 1 is helpful in establishing the process.

### *Policy Note 2*

Indexation should be set at the time any contribution is actually costed. Indexation information is provided on a quarterly basis rather than annual basis. Any indexation, which applies should relate to the date of the established cost and the date of the completion or the planning obligation. The suggestion in Note 2 is that contributions be used to improve infrastructure or address deficiencies. This would be contrary to Circular 3/2012.

Hallam Land Management Ltd (206)

(206) note that PLDP2 policy INF4 states that the Council will require developer contributions to 'meet or contribute to the cost of providing or improving...infrastructure, facilities or services.' Note 2 of the policy states that supplementary guidance on developer contributions will support the policy and that this will provide detailed guidance on how contributions will be calculated. However, it does not provide any flexibility on whether provision to meet any additional demands on infrastructure, facilities and amenities could be provided by the developer either on or off site. The wording of the policy is too broad and undefined which creates uncertainty, potentially undermining the viability of sites.

F Evans (279)

(279) note that many greenfield sites (some on now vital agricultural land) are being proposed for development in LDP2. Given the climate emergency and food security issues, it is requested that some of these are reconsidered. Building on Greenfield sites (i.e. as soon as topsoil is excavated) releases carbon into the atmosphere. It is, therefore suggested that developer contributions be increased to support flood mitigation and environmental impacts of new developments. Elsewhere developer contributions far exceed EAC's modest rate of £75 per residential unit.

Dawn Homes (138), Stewart Milne Homes (144), Barratt Homes (195)

*Healthcare*

(138) The Policy fails to identify how any negative impacts upon health care facilities will be measured or justified. As stated above, planning obligations should not be used to resolve existing deficiencies in infrastructure provision or to secure contributions to the achievement of wider planning objectives which are not strictly necessary to allow permission to be granted for the particular development. New development should not be required to contribute towards improved facilities since this would not meet the tests of the Circular. Healthcare is provided through central government taxation and is not the remit of local authorities. This section of the policy should be deleted.

(144) accepts the principle of developer contributions where these relate directly in 'scale and kind' to the effects of the proposed development and where they comply fully with Scottish Government Circular 3/2012. However, this cannot include Healthcare Services and Facilities as set out in policy INF4, which the respondent objects to. The respondent supports Homes for Scotland in its objection to the proposed requirement for contributions towards Healthcare Services and Facilities. NHS Scotland healthcare projects are funded by Scottish Government through general taxation and the planning authority has no locus in this process. The burden for any funding shortfall, which might hinder the provision of primary healthcare facilities should not be placed upon the development industry. The allocation and programming of healthcare spending lies completely beyond the control of the planning authority. It is, therefore inappropriate for the council to include a requirement for contributions towards healthcare within Policy INF4 without departing from the provisions of Circular 3/2012. The respondent has fundamental concerns regarding the principle of the planning authority demanding monies from one private business (e.g. the Developer) to

fund development by another private business (e.g. a GP Surgery, Dentist or Pharmacy). Medical practices are all private businesses and developers cannot be expected to supplement the funds of other such businesses in the way proposed by the council. Besides, it appears that a key issue with healthcare provision is the lack of practitioners rather than physical facilities. This is a national issue and not something that can or should be solved by the planning authority and/or developers.

(195) challenges the requirement to contribute towards healthcare services. These are not services like schools funded by the Council and in many cases are private businesses. On this basis, the requirement should be deleted from the policy. Also in the case of Stewarton the size of the health centre is known to be too small already and so this is an existing problem that new development should not be required to rectify. The respondent requests that this policy is properly tested against Planning Circular 3/2012 and amended as appropriate.

### Barratt Homes (195)

#### *Education*

The requirement of this policy under Education Services and Facilities that requires developer contributions to provide for new capacity when such facilities are operating over 85% is challenged. Reference is made to the "Scottish Governments publication "Determining Primary School Capacity: Guidance for Local Authorities". Planning Capacity is a physical, theoretical measure of the total number of pupils which could be accommodated in a school, based on the total number of teaching spaces, the size of those spaces and the class size maxima. The Working Capacity based on the number of places available in a particular school session and should be used when considering placing requests and other issues relating to a specific school session.

The Guidance is clear that Planning Capacity should be used for strategic issues relating to school provision, e.g. for forward planning for the school estate. Only if the calculations of pupil generation would exceed 100% of the school capacity would it be reasonable to make developer contributions for extensions or new provision. This is because there is no certainty that the pupil product ratio used by the Council will give an accurate reflection of the number of pupils actually generated. The Council provided no local evidence to justify the ratios used. It is the view of (195) that local authorities in Scotland have all plumped for a figure of 0.3 for primary pupil generation without any evidence to support this. Given the potential for over calculation of pupil numbers it is unreasonable to then adjust the school capacity against Scottish Government guidance. As part of the examination of this policy, the respondent would like to see consideration of the evidence that supports the pupil product ratios applied.

The respondent questions why Nether Robertland Primary School, Stewarton has been included in the policy when the Council's own evidence shows that it has significant spare capacity now (129 pupil places) and that this is set to increase over the plan period.

Barratt Homes (195), Scottish Government (310)

*Transport Infrastructure*

(195) questions how the Transport Infrastructure part of this policy will be administered to ensure that contributions are made only to mitigate the effects of specific developments in line with the findings of Aberdeen and Aberdeenshire v Elsick Development Company Ltd.

(310) While Transport Scotland welcomes the inclusion policy INF4; the plan requires to include further information in order for Transport Scotland to support the plan on:

- stating there is an impact to Bellfield Interchange as a result of the plan allocations which requires to be addressed for development to come forward,
- the specific infrastructure improvements required at Bellfield Interchange and the A76 at Mauchline,
- the link between which sites will require to contribute towards funding and/or delivering the improvements.

The plan should include details of the deliverability of the infrastructure to confirm it can be provided. The transport appraisal (TA) undertaken in accordance with DPMTAG accompanying the plan, outlines the impact of the plan strategy, the specific mitigation measures required and when they are required. However, the TA is not part of the LDP, therefore the recommendations contained within require to be included within the plan.

Transport Scotland refer to Scottish Planning Policy, draft National Planning Framework 4 and Circular 3/2012: Planning Obligations and Good Neighbour Agreements in their representation.

Stewarton and District Historical Society (221)

*Avenue Square, Stewarton*

Various plans have been submitted over the years for a small development of flats/townhouses in the Institute Hall at Avenue Square in Stewarton, without any coming to fruition. The issues seems to be lack of parking facilities and the Council asking for developer contributions resulting in no one being able to carry out their plans. The Council is urged to look at ways to overcome these. Parking is a major problem in the town and always will be, but that cannot be allowed to prevent any development taking place in the town centre. As this will be a small-scale development with significantly large costs involved for any developer to bring the building up to scratch and carry out plans asking for developer contributions on top seems unreasonable. Could this not be waived by the Council in this instance to have this historic building in good repair and no longer dilapidated?

Kilmaurs Community Council (236)

*Developer contribution monies in Kilmaurs*

Developer contributions must be spent on the village of Kilmaurs. There are several



initiatives this money should be spent on:

1. Upgrading Morton Park
2. Upgrading and widening the road from Kilmaurs to Fenwick (B751) to include cycle lanes.
3. Upgrading and widening the road from the B751 to Glasgow Road in Kilmarnock.
4. Active travel infrastructure 5.

Resurface pavements around the village

Harcourts Development (UK) Ltd, Suffolk Ltd (282)

### *Enabling Development*

Policy INF4 needs to comment that enabling development is not automatically subject to all developer contributions, subject to appropriate assessment of the development's requirements. Enabling development must be the minimum required, and by requiring developer contributions the volume of enabling development must subsequently increase.

### **Paragraph 231, PLDP2 Volume 1**

Homes for Scotland, Gladman Developments, Barratt Homes (128), (146), (195)

Para 231 states "In addition to any contributions made under Policy INF4, developers will require to meet the costs of providing the service infrastructure necessary for their development." It is the view of Barratt Homes that such a broad and undefined requirement risks creating uncertainty and undermining the viability of sites necessary to deliver the aims and ambitions of the Plan.

### **Policy WM4 – Recovery and Disposal of Waste**

SEPA (106)

The respondent recommends that the title of policy WM4 is altered to 'Recovery of Energy from Waste'. Recovery and disposal of waste includes issues that fall outwith the scope of the proposed policy wording. Criteria are set out for development proposals that involve the recovery of energy from waste within the Zero Waste section of Draft NPF4. The wording of WM4 aligns with these criteria. Since the publication of Draft NPF4, the Scottish Government has published its response to the 'Independent Review of the Role of Incineration in the Waste Hierarchy'. It has accepted Recommendation 4, which relates to the incineration infrastructure. In light of the policy ramifications, we recommend that Policy WM4 and some of the wording within the Zero Waste section of the Proposed Plan are updated accordingly.

### **Modifications sought by those submitting representations:**

#### **Policy INF1 – Infrastructure First**

(128), (195)

(128) and (195) do not suggest any modifications, however clarification is sought on

who, when and how these national investments will take place to facilitate the subsequent local development.

(196)

- Revise policy INF1 to remove duplication of policy tests that will be set through NPF4.
- Move policy INF1 to Section 3 of LDP2 and reframe as an overarching policy.
- Provide a list of necessary infrastructure within LDP2, including renewable and low carbon energy infrastructure, with the Ayrshire Energy Masterplan included as an implementation mechanism.
- Attach a note to this list stating that it may be subject to ongoing review as new infrastructure needs are identified.
- Clarify how the need for necessary infrastructure should be balanced against other policy priorities within the LDP2.

### **Policy INF2 - Installation of Fibre Broadband for New Developments**

(195)

Remove the wording 'universal and futureproofed' from the first and second sentences of policy INF2. Amend policy INF2 to read as follows:

"Developers of new residential, commercial and leisure developments will be required to incorporate appropriate digital infrastructure. Developers are encouraged to consult early with service providers so that appropriate is installed and utilised."

### **Policy INF4 - Developer Contributions**

(138)

The policy requires to be amended to make it clear that contributions should only be required to address negative impacts

(144)

Remove the section of policy INF4, which relates to Healthcare Services and Facilities.

(195)

(195) seek the following modifications:

- Provide evidence, which supports the pupil product ratio applied in relation to education services.
- In terms of transport infrastructure, set out how this part of the policy will be administered.
- Remove the section of policy INF4, which relates to Healthcare Services and Facilities.

(206)

Add an additional note to policy INF4 to provide a greater level of additional clarification concerning flexibility.

(221) do not explicitly suggest any modifications; however, it is assumed that it is requested that the requirement for developer contributions be waived in association with development proposals at the Institute Hall, Avenue Square in Stewarton.

(236) do not specify any modifications to policy INF4.

(279) does not specify any modifications to policy INF4 except that developer contributions should be increased to support flood mitigation and environmental impacts of new developments.

(282), (283)

Additional text should be added to the policy and/or note setting out:

“Contributions sought under this policy will be waived or reduced only in exceptional circumstances – for example, where enabling development is proposed, or where a developer demonstrates that a development would have exceptional development costs, overriding economic, social or other benefits, and where there is no adverse impact on essential services or infrastructure.”

(310)

It is recommended that Policy INF4 is amended to include the following information:

- that there is an identified impact to Bellfield Interchange and the A76 as a result of the spatial strategy. This will accord with the transport appraisal, paragraph 107 of the LDP and the Supplementary Guidance on Developer Contributions, which has a separate heading for Bellfield.
- the specific improvements to Bellfield Interchange and the A76 as outlined within the LDP transport appraisal, to ensure developers and stakeholders are fully aware of the infrastructure requirements and the need for contributions to facilitate delivery of the mitigation and to be in accordance with national policy.
- a link between the funding and delivery of the mitigation to the allocations which are required to contribute, therefore specific sites which will be required to contribute should be outlined in accordance with NPF4 policy.

At present the LDP does not detail any sites as specifically requiring to contribute towards the improvements at Bellfield or the A76 or who will be responsible for delivering the improvements.

## Paragraph 231, PLDP2 Volume 1

(128), (195)

Amend text of paragraph 231 to read as follows:

“In addition to any contributions made under Policy INF4, developers **may** be required to meet the costs of providing the service infrastructure necessary for their development, **subject to viability**.”

(146)

Amend text of paragraph 231 to read as follows:

“In addition to any contributions made under Policy INF4, developers **may** be required to meet the costs of providing the service infrastructure necessary for their development.”

## Policy WM4 - Recovery and Disposal of Waste

(106)

Although the respondent does not explicitly set out suggested modifications, it is assumed that the following changes should be made:

- Amend the policy title to: ‘Recovery of Energy from Waste’
- Amend policy WM4 to reflect Recommendation 4 of the Scottish Government’s Independent Review of the Role of Incineration in the Waste Hierarchy.

## Summary of responses (including reasons) by planning authority:

### Policy INF1 - Infrastructure First

Deliverability of Infrastructure First (128), (195)

Policy INF1 was written to reflect draft NPF4 policy 8 (CD3), in particular points b), c) and d) (comparable to policy principles on infrastructure first (p67) of the now adopted NPF4). LDP2 aligns with National Transport Strategy 2 (CD5), Scotland’s Strategic Transport Project Review 2 (CD38) and the Draft East Ayrshire Active Travel Strategy (CD39), which is at draft consultation stage. Consistent with the NPF4 policy principles relation to Infrastructure first (CD4 Page 67), the infrastructure investment hierarchy is set out within the body of policy INF1 and reference is made to the LDP2 transport appraisal (CD19) in the PLDP2 spatial strategy. Further reference is made to the transport appraisal in the developer contributions draft supplementary guidance (CD21). The Council is of the view that no changes are required to policy INF1.

Relationship with NPF4 (196)

(196) states that there is overlap and duplication with draft NPF4 policy 8. PLDP2 policy INF1 fully reflects draft NPF4 policy 8 to ensure that it aligns with the national policy requirements. The Council acknowledge that NPF4 was in draft form at the point

at which the Proposed Plan was published, however given the national priority of implementing the Investment Hierarchy it was agreed that policy INF1 should fully reflect the wording as contained in draft NPF4 policy 8. Policy 8 of Draft NPF4 (CD3) has been replaced by NPF4 (CD4) infrastructure first policy principles. In terms of Local Development Plans, the requirements remain largely the same. It should be noted that the East Ayrshire LDP2 has been prepared under the Scottish Government's transitional arrangements (CD25) and prepared in such a way to conform to national planning policy that aligns with the Town and Country Planning (Scotland) Act 1997 and Planning etc. (Scotland) Act 2006. Therefore, in preparing the PLDP2 it was imperative to do so within the realms of the previous planning legislation but also taking into consideration new emerging national planning policy in the LDP2 policy making process.

It is assumed that (196), in their representation, is referring to there being conflicts between LDP policies. The Council disagrees that there are policy conflicts within PLDP2. Paragraph 14 of the PLDP2 seeks to ensure that developers take into consideration all relevant parts of the Plan and do not view parts of the Plan in silo. For example, there is a need for developers to review the vision, aims and spatial strategy as well as those policies relevant to the type of development being proposed. Previous experience has shown that this is not always the case.

#### Position of Policy INF1 within the Plan (196)

The Council welcomes the respondent's support for policy INF1, however is of the view that it is not necessary to reframe the policy as an overarching policy within the Spatial Strategy. The Infrastructure chapter is an appropriate place for the policy to be set out as it leads into other infrastructure policies, such as digital infrastructure and developer contributions and Policy SS2 adequately provides the overarching requirements that support policy INF1. However, if the Reporter is minded to agree with (196) and move the policy to Section 3 of the PLDP2, then the Council would suggest it be moved to section 3, spatial strategy: sustainability and green recovery.

#### Clarity over necessary infrastructure (196)

In terms of the need for a clear list of necessary infrastructure, the Council is of the opinion that this is not required. All proposals set out in the Spatial Strategy are viewed as being necessary as well as any necessary infrastructure required to support the development of those sites identified in Volume 2 of the PLDP2. The Council cannot entirely preclude what infrastructure may be required as a result of development during the plan period, however, the requirements set out in the Plan and Action Programme align with NPF4 as far as is possible under the transitional arrangements. Preparing this local development plan under the transitional arrangements means that the Plan has not been informed by the evidence report arrangements which would be intended to clarify all infrastructure matters at national level and how these affect local authorities.

## **Policy INF2 - Installation of Fibre Broadband for New Developments**

### Wording change to INF2 (195)

Policy INF2 is in line with policy 23 of the draft NPF4 (CD3). This policy seeks development proposals to incorporate ‘appropriate, universal and futureproofed digital infrastructure’ and PLDP2 policy INF2 reflects this wording. It is noted that policy 24 of NPF4 (CD4) uses the same terminology; therefore, the Plan remains consistent with national policy on this matter. The wording used in policy INF2 strives to ensure that people regardless of where they live, work and visit have sufficient access to digital infrastructure. In addition, to ensure that new development delivers sufficient digital infrastructure to support its end users. The Council is of the view that no changes are required in this case.

## **Policy INF4 – Developer Contributions**

### General approach to developer contributions (138), (206) and (279)

It is considered that public realm, transport, education and healthcare are all an appropriate form of a community’s infrastructure, which development can place additional pressure on provided that the policy tests of Circular 3/2012 (CD36) are adhered to. Indeed this principle has been tested by various examinations across Scotland and found to be appropriate. Within certain areas in East Ayrshire, future development will place additional pressure on infrastructure, services and facilities, such as those referred to in the respondent’s representation. The policy is clear in that developer contributions will only be collected where development will place additional demands on infrastructure, services, facilities and amenities that would necessitate new facilities or exacerbate deficiencies in existing provision. These demands and any infrastructure and/or service improvements will be directly related to development. Policy INF4 sets out specific requirements in relation to where developer contributions will be sought. These requirements are supported by detailed policy guidance. The Developer Contributions Draft Supplementary Guidance (CD21) establishes a robust methodology for establishing instances when developer contributions will be required. The thresholds set out in the methodology are directly linked to an evidence base established by the Council’s Education Services, NHS Ayrshire and Arran and likely impacts of new development from sites allocated in the PLDP2 where identified in the LDP2 Transport Appraisal (CD19). Instances where developer contributions are sought will not relate to existing deficiencies in East Ayrshire’s infrastructure, services and facilities. The methodology is designed to identify development that is likely to place additional pressure on infrastructure, services and facilities as a result of that development taking place.

### Question over service infrastructure (138), (206)

The reference to ‘service infrastructure’ in the second last paragraph on page 133 relates to infrastructure that is essential to the development, for example, access roads and active travel networks on site. The infrastructure that a developer would provide as standard and separate to instances where developer contributions would be sought.

The PLDP2 Glossary sets out a definition for the term ‘infrastructure’ and states that

might include schools and community facilities. Schools are defined as early year centres, primary schools and secondary schools (including additional support needs). Community facilities include local libraries, museums, art galleries, indoor and outdoor sports and leisure hubs, community/town halls, theatres and concert venues. The draft supplementary guidance on developer contributions makes reference to East Ayrshire's Leisure Facilities Strategy, which contains all information concerning community facilities as referred to in the guidance and glossary of the Plan. This definition within the Glossary is a generic definition hence why it does not specifically refer to developer obligations. It is the Council's opinion that the definition as set out in the Glossary is sufficient.

#### Clarity of Note 1 and 2 (138), (2016)

In terms of Note 1 of Policy INF4, it is the view of the Council that the note clearly sets out what is required of developers in demonstrating reasons to why developer contributions should be reduced or waived. This would be required at the planning application stage and can be part of any pre planning discussions. Further detailed guidance is contained in the draft Supplementary Guidance on developer contributions.

Note 2 of policy INF4, indexation will be set at the time of project costs being set. Indexation will be reviewed on an annual basis. It is the Council's opinion that the wording used in policy note 2 does not indicate that contributions be used to improve infrastructure or address deficiencies. It is merely stating when indexation will be set and reviewed.

#### Level of detail set out in INF4 (138), (206)

The Council does not agree that policy INF4 is too broad and undefined thus creating uncertainty, potentially undermining the viability of sites. The policy clearly sets out the types of infrastructure, services and facilities where development contributions will be sought and the level of detail provided in the policy is relative to the level of detail that a Local Development Plan provides. Further detailed policy guidance is set out in supplementary guidance. In this case, in the form of draft supplementary guidance on developer contributions (CD21). The policy and supplementary guidance provide a degree of flexibility, in terms of on-site or off-site contributions, which can be managed on a case-by-case basis, as, stated in paragraph 228 of PLDP2 Volume 1.

#### Developer contributions for flood mitigation (279)

It is anticipated that East Ayrshire's population will decline over the coming decades and there is therefore a need to address this to ensure the vitality of the area, to stabilise its population and promote population growth. The selection of each allocated housing site has been carefully made to ensure that it is as sustainably located and compliant with the principles of 20 minute neighbourhoods as possible, whilst taking into account housing growth required in the Local Authority area during the Plan period. A number of these allocated sites are greenfield land, however sites have been allocated as a result of a rigorous and robust housing site assessment process and the subject of a strategic environmental assessment.

In terms of developer contributions being increased to support flood mitigation and



environmental impacts of new developments, this is not something that policy INF4 would address as it primarily focuses on collecting developer contributions for instances where development would place additional demands and pressure on infrastructure, services and facilities. Flood mitigation and other environmental impacts should be addressed by developers as part of the development management process and there are other policies in LDP2 to address flooding and environmental impacts, including SS1, SS2, CR1 and NE12.

#### Healthcare (138), (144), (195)

The Council considers that healthcare services are an appropriate form of a communities infrastructure and it is therefore reasonable to include healthcare within the developer contributions policy. Within certain areas in East Ayrshire, future housing development will place additional pressure on general medical services, dentists and community pharmacies. It is therefore appropriate for developers to make financial contributions on a proportionate basis. There are no reasons to suggest that healthcare services and facilities cannot be subject of developer contributions, again provided, that the policy tests of Circular 3/2012 (CD36) are adhered to. Policy INF4 is supported by NHS Ayrshire and Arran, which has collaborated with the Council in preparing the policy and draft supplementary guidance on developer contributions. NHS Ayrshire and Arran is committed to working with the Council in future reviews of the draft supplementary guidance.

Any negative impacts upon health care services and facilities will be determined by using the methodology set out in the draft developer contributions supplementary guidance. This sets out how capacity at healthcare facilities will be determined and calculated.

The respondents highlight that medical practices are all private businesses and developers cannot be expected to supplement the funds of other such businesses in the way proposed by the council. However, not all medical premises are privately owned and some are leased from the NHS. The Council acknowledge that some will be privately owned, however there is a commitment from the NHS for general medical practices to lease their premises from the NHS. This commitment is set out in the Scottish Government's National Code of Practice for GP Premises (CD40). Where capacity issues arise, developers contributions can be used to provide new, expanded or re-configured premises which will be owned by the NHS, and facilitate this change in ownership. The issue of private ownership itself, does not nullify the principle of seeking developer contributions.

The size of Stewarton's health centre is irrelevant in the Council's opinion. Past development has had an impact on capacity, however it is the impact of any new development that will be considered and the same principle applies to new development across East Ayrshire not just Stewarton. Contributions would not be sought from new developers for existing development and approved development impacts, only the proportion of impacts as a result of new development.

#### Education (195)

Where it is determined that there will be insufficient capacity at primary and/or

secondary schools within a school catchment area to accommodate children from proposed new residential developments, developer contributions will be sought to offset any impacts on school capacity. This will apply to schools that are operating at or above 85% of total capacity at the point of the planning application being assessed and/or where the cumulative impact of extant planning permissions and Local Development Plan allocations is likely to result in an increase to the school roll(s) so as to cause capacity issues. This percentage threshold was set by the Council's Education Service, using the School Rolls Forecast. Forecasts are continuously monitored and found to be extremely consistent with actual demand. The Council is of the view that this is a reasonable capacity to set as anything above 85% places significant pressure on the capacity of schools. Setting the percentage at 100% is unreasonable as a school would be at capacity and schools would be unable to effectively manage the number of pupils at this percentage. In addition, this would give an artificial picture of how a school was coping, for example, it would not account for pressures in certain year groups. The Scottish Government publication which the respondent refers to with regards to capacity is guidance and is dated from 2014. 85% capacity has been tested elsewhere geographically through the planning system and found to be an appropriate level at which to address issues.

Nether Robertland Primary School, Stewarton has been included in policy INF4 as although there is current capacity, that does not take into consideration development that is currently under construction at Draffen East, Stewarton or development that is likely to come forward within the LDP2 plan period. The number of pupils at Nether Robertland Primary School is set to increase over the plan period. Notwithstanding, the Plan gives an indication of where contributions will be required, but actual need will be considered at the point of decision making and if no requirement is necessary, no contribution would be sought.

#### Transport Infrastructure (195, 310)

Policy INF4 sets out where there are likely to be impacts on the transport infrastructure. Further, the Developer Contributions Supplementary Guidance (CD21) sets out how contributions relating to transport infrastructure will be calculated to ensure that contributions are made only to mitigate the effects of specific developments. It is not a requirement that the Plan set out the specifics of the methodology, rather the principle of the policy.

Policy INF4 has been prepared to clearly set out the types of infrastructure, services and facilities where development contributions will be sought and the level of detail provided in the policy is relative to the level of detail that a Local Development Plan provides. Further detailed policy guidance is set out in supplementary guidance. In this case, in the form of draft supplementary guidance on developer contributions (CD21). Policy INF4 also highlights specific locations where developer contributions are likely to be sought as a result of development as identified in PLDP2. However, the Council acknowledges Transport Scotland's comments and the Council will be happy to revise the draft supplementary guidance on developer contributions, which is outwith the scope of examination, in line with the changes recommended. Once approved, this supplementary guidance will form as part of the LDP. However, the Council do not think changes to the Plan within the scope of the examination are required.

Stewarton (221)

The Council notes the comments made by (221) concerning the lack of parking facilities in Stewarton town centre. In terms of developer contributions, policy INF4 seeks to require developers to meet or contribute to the cost of providing or improving such infrastructure, facilities or services where a development will place additional demands on infrastructure, services, facilities and amenities that would necessitate new facilities or exacerbate deficiencies in existing provision. However, the policy also allows for a degree of flexibility. Contributions sought under policy INF4 might be waived or reduced in exceptional circumstances, for example where the Council is satisfied that a development would have exceptional development costs or where there are overriding economic, social or other benefits. This is usually determined at the detailed planning application stage. Given the historical significance of the Institute Hall, policy HE5 – Enabling Development could apply to any proposals associated with the Institute Hall. However, this will be dependent on what future proposals arise. If policy HE5 is to apply to any future development proposal then it is possible that the requirement for developer contributions would be waived. In addition, policy SS4 gives the opportunity to waive developer contributions where a development will bring back into use a derelict building. On balance, it is considered that as drafted the Plan allows for sufficient flexibility on this matter.

Kilmaurs (236)

The Council acknowledges the comments made by (236). As per PLDP2 policy INF4, developers will be required to provide, or contribute towards the cost of providing new or improved infrastructure, services, facilities and amenities, or to supplement existing provision, where these are required as a consequence of the development being proposed, on its own, or as a result of the cumulative impact of development in the area. Each case will be assessed on its own merits. Policy INF4 and associated draft supplementary guidance (CD21) sets out how developer contributions will be collected and calculated. Other PLDP2 policies that might apply will be policies OS1 - Green and Blue Infrastructure and RES 2 - Affordable Housing.

For the reasons set out, the Council is of the view that no modifications are required in relation to this representation.

Enabling Development (282), (283)

As per PLDP2 policy INF4, developers will be required to provide, or contribute towards the cost of providing new or improved infrastructure, services, facilities and amenities, or to supplement existing provision, where these are required as a consequence of the development being proposed, on its own, or as a result of the cumulative impact of development in the area. Each case will be assessed on its own merits. Policy INF4 Note 1 also provides the circumstances where developer contribution might be waived or reduced. Again, this can be assessed on its own merits.

For the reasons set out, the Council is of the view that no modifications are required in relation to this representation.

**Paragraph 231, PLDP2 Volume 1**

Homes for Scotland (128), Gladman Developments (146) and Barratt Homes (195)

The modifications sought appear to provide a developer with the flexibility to avoid meeting the costs of providing the necessary infrastructure to support their development. In policy INF4, the Council sets out a note to provide clarity in that the provision of necessary infrastructure relating to a new development, for example access roads and active travel networks on site, is separate to the potential requirement for developer contributions. For the reasons set out, the Council is of the view that no modifications are required in relation to this representation.

**Policy WM4**

SEPA (106)

Policy WM4 was prepared in line with policy 20 – Zero Waste of Draft NPF4. However, the Council acknowledge SEPA's update on the position regarding the role of waste incineration in the waste hierarchy. It is likely that the NPF4 when published will contain a revised policy on zero waste in light of recommendation 4 of the 'Independent Review of the Role of Incineration in the Waste Hierarchy' (CD92), which the Scottish Government has accepted. Therefore, if the Reporter is minded to agree, the title and wording of policy WM4 should be revised accordingly.

**Reporter's conclusions:**

**Policy INF1 – Infrastructure First**

Deliverability of Infrastructure First (128) and (195)

1. In terms of delivery of national infrastructure investment to support local development in East Ayrshire, NPF4 states that, in developing the spatial strategy, local development plans should align with relevant national, regional and local infrastructure plans and policies and take account of the Scottish Government's infrastructure investment hierarchy and sustainable travel and investment hierarchies
2. The Scottish Government's Local development planning guidance, 2023 provides the following examples of relevant national infrastructure plans and policies:
  - Infrastructure Investment Plan (investment hierarchy).
  - National Transport Strategy 2 (sustainable travel and investment hierarchies).
  - Strategic Transport Projects Review 2.
  - National Marine Plan.
3. The referenced documents provide a useful guide to the nature of the alignment expected by Scottish Government.
4. Chapter 7 of the proposed plan, which deals with infrastructure, does not refer directly to the Scottish Government's Infrastructure Investment Plan (IIP) but proposed

Policy INF1 (ii) does require developers to show that account has been taken of the investment hierarchy taken from the IIP and illustrated beneath proposed Policy INF1. Furthermore, I have not been made aware that the proposed plan is inconsistent in any way with the projects and programmes set out in the IIP.

5. In relation to transport infrastructure, the council advises that the proposed plan is consistent with National Transport Strategy 2, Scotland's Strategic Transport Project Review 2 and the Draft East Ayrshire Active Travel Strategy. I have not been made aware of any evidence which suggests this is not the case.

6. The National Marine Plan is not relevant to East Ayrshire.

7. I consider that, in the case of these examples, there is no evidence to indicate that the proposed plan departs from national plans and policies; nor have any other national plans and policies being highlighted where potential non-conformity is an issue. Furthermore, there are no representations from national or regional infrastructure providers which indicate that proposed Policy INF1 is undeliverable from their point of view.

8. I conclude that the proposed Policy INF1 aligns with NPF4 and, therefore, no modification to the policy is necessary.

#### Relationship with NPF4 (196)

9. I note the council's comments about the difficulty of aligning the proposed plan with NPF4, given the overlapping timescales. I accept that the proposed plan has been produced under transitional arrangements and recognise that a final dovetailing of policies between the two tiers of the development plan will not take place until the council carries out the next review of the plan.

10. Whilst I consider that an ideal position would be removal of duplication between the two parts of the development plan, the role of this examination is limited to presenting conclusions and recommendations on issues raised in representations. Given the nature of the representations on infrastructure in this examination, my focus has been to ensure consistency with NPF4 even when this involves some duplication. Reporters hope that, by taking this approach, where appropriate, they have been able to recommend modifications to the plan which provide the best alignment possible at this time. This is also intended to be consistent with the council's approach of seeking to incorporate policies on the range of topics covered by NPF4 into the proposed plan.

11. The first paragraph of proposed Policy INF1 broadly reflects the terms of the two paragraphs of NPF4 which precede Policy 18 and refer to the requirements for local development plans and delivery programmes in relation to the infrastructure first approach. My view is that this paragraph could be part of the preamble rather than the policy but I accept that is an editorial matter at the discretion of the council.

12. The second paragraph sets out the three criteria against which development proposals will be assessed. Criteria (i) and (iii) are generally consistent with NPF4 Policy 18 a) and the first part of Policy 18 b). Criterion (ii) requires that account is taken of the Scottish Government's Investment Hierarchy. Although not part of Policy 18, as I

have noted above, this reflects the expectation in NPF4 that local development plans align with national plans and policies.

13. The second part of Policy 18 b) requires that, where planning conditions or legal agreements are to be used, they comply with the relevant tests. These are then listed in NPF4. However, the tests for planning conditions are those set out in Scottish Government Circular 4/1998: The Use of Conditions in Planning Permissions and the tests for planning obligations are those set out in Circular 3/2012: Planning Obligations and Good Neighbour Agreements. I do not consider it necessary to reiterate these tests in the proposed plan.

14. I conclude that it is not necessary to modify the proposed policy.

#### Position of Policy INF1 within the plan (196)

15. Proposed Policy INF1 follows on from Chapter 5: Communities and Housing and Chapter 6: Economy and Employment, which contain the main development policies in the proposed plan. It then sets out the approach to ensuring that infrastructure considerations are integral to decision making. It also sets the scene for the specific infrastructure policies that relate to installation of fibre broadband, installation of digital communications infrastructure and developer contributions.

16. The structure is similar to that of NPF4 which places overarching policies on tackling the climate and nature crises at the beginning of the document and the infrastructure first policy following the housing policies.

17. Whilst I recognise that Policy INF1 could be presented as an overarching policy and that the council has no fundamental objection to such a change, I consider that, on balance, the proposed policy is positioned at an appropriate place in the plan and no modification to the structure is required. However, ultimately, this is an editorial decision for the council.

#### Clarity over necessary infrastructure (196)

18. Proposals PROP 2, PROP 3 and PROP4 commit the council to exploring the feasibility of developing park and ride facilities at West Fenwick and Glasgow Road, Kilmarnock and improving the Bellfield Interchange at Kirklandside/Kaimshill to support the spatial strategy. Policy INF4: Developer Contributions lists infrastructure, services and facilities where, at the time of preparing the proposed plan, the council anticipates that developer contributions will be required. These relate to:

- public realm/community facilities;
- education services and facilities;
- transport infrastructure; and
- healthcare services and facilities.

19. Volume 2 of the proposed plan lists site specific developer requirements against allocated development sites.

20. Paragraph 232, which follows on from proposed Policy INF4, advises that the



council will monitor and review its Developer Contributions supplementary guidance on a regular basis.

21. Altogether, I consider this reflects NPF4 expectations for local development plans in relation to the Scottish Government's infrastructure first policy. The council also points out that, as the proposed plan has been prepared under the transitional arrangements, the plan has not been informed by the evidence report arrangements intended to clarify all infrastructure arrangements at national level and how these will affect East Ayrshire. I anticipate that this process will strengthen the next version of the plan in relation to its ability to detail necessary infrastructure.

22. I do not consider it is necessary to modify the proposed plan.

### **Policy INF2 – Installation of Fibre Broadband for New Developments**

#### Wording change to INF2 (195)

23. The wording of proposed Policy INF2 mirrors that of NPF4 Policy 24 a) which also refers to the requirement for development proposals to 'incorporate appropriate, universal, and future-proofed digital infrastructure'. The terms 'universal' and 'future-proofed' are not defined by the council but the second sentence of the proposed policy encourages developers to consult with service providers to ensure that appropriate, universal and future-proofed infrastructure is installed. I would expect this engagement to provide the necessary clarification.

24. I do not consider it necessary to modify the proposed policy.

### **Policy INF4 – Developer Contributions**

#### General approach to developer contributions (138), (206) and (279)

25. The preamble to proposed Policy INF4 (paragraph 228) refers to the 'impact' new development can have on infrastructure, services, facilities and amenities. This is also the terminology used in NPF4 Policy 18 b). For consistency, I have recommended a modification below that changes the word 'demands' in the first sentence of Policy INF4 to 'impacts'.

26. The proposed policy refers in a number of places to development proposals 'likely' to have an impact on infrastructure, services or facilities. There is concern that this would potentially mean the council seeking developer contributions which do not fairly and reasonably relate in scale and kind to the proposed development. However, the first paragraph of the proposed policy states that 'contributions will relate to the development concerned, including in nature, scale and kind'. I am satisfied that this shows the council is mindful of its responsibilities in relation to Scottish Government Circular 3/2012 as it relates to planning obligations. I also note from paragraph 228 that the council is clear that each case will be assessed on its own merits.

27. I do not consider that proposed Policy INF4, as worded, will lead to the council seeking inappropriate developer contributions. Therefore, I do not consider it necessary to change the references to the 'likely' requirement for contributions.



28. Specifically in relation to the wording of proposed Policy INF4 regarding public realm/community facilities, I consider that the relevant paragraph, read with the first paragraph of the policy, is consistent with NPF4 Policy 18 b) and does not suggest that the council will seek to secure contributions where no negative impacts are identified.

29. In relation to education services and facilities, the proposed policy clearly identifies six primary school catchments and one secondary school catchment where developer contributions are likely to be required and three housing sites, the development of which may require new primary and early learning childhood centre provision on site.

30. I consider that the calculation of contributions arising from cumulative impact, whether on schools or transport infrastructure is a detailed process best set out in supplementary guidance. The first paragraph of the proposed policy makes clear that contributions will relate to the development concerned. I do not consider there to be any suggestion in the policy wording that contributions will be sought for infrastructure not directly related to the development.

31. I do not consider it necessary to modify the policy as it relates to public realm/community facilities, education services and facilities or transport infrastructure to address the concerns raised.

#### Question over 'service infrastructure' (138) and (206)

32. Paragraph 231 of the proposed plan states that, in addition to any contributions made under Policy INF4, developers will be required to meet the costs of providing the service infrastructure necessary for their development. The council explains that this is a reference to infrastructure which a developer would provide 'as standard', such as access roads, as distinct from instances where developer contributions would be sought.

33. That being the case, I do not consider that the proposals to revise the wording are appropriate. Indeed, I am not sure that inclusion of the paragraph in question is necessary at all. However, rather than recommend its deletion, I have recommended a modification below to clarify its meaning.

#### Clarity of Notes 1 and 2 (138) and (206)

34. Note 1, as proposed, states that the council 'might' waive or reduce contributions in certain exceptional circumstances, to be demonstrated by the developer. It is suggested that the note be amended to state that the council 'will' waive or reduce developer contributions in the circumstances stated or, additionally, where enabling development is proposed.

35. I consider that the suggested change would close off the option of refusing planning permission if the developer contributions sought could not be provided, even in exceptional circumstances. This would go beyond what the council can reasonably offer by way of flexibility. Consequently, I do not consider it would be reasonable to take on board the suggested alternative wording of Note 1.

36. My reading of Note 2 does not suggest that it is the council's intention to use developer contributions for purposes other than those allowed by Circular 3/2012, rather that contributions should reflect inflationary changes to project costs. I do not consider it is necessary to modify Note 2.

Level of detail set out in Policy INF1 (138) and (206)

37. The first paragraph of proposed Policy INF4 states that developer contributions could be required towards off-site environmental or other enhancements where issues cannot be addressed within the development site. Note 2 explains the circumstances when contributions might be waived or reduced. I consider that this is as much as it is necessary for the local development plan to say in terms of flexibility. Detailed implementation will be worked out on a case-by-case basis through the development management process.

38. I do not consider it necessary to modify the plan on this point.

Developer contributions for flood mitigation (279)

39. Proposed Policies SS1: Climate Change and SS2: Overarching Policy seek to ensure that, in considering development proposals, the council gives significant weight to climate change and the need for sustainable development. Specifically, proposed Policy CR1: Flood Risk Management is designed to ensure that the appropriate level of development takes place in relation to category of flood risk for the site and proposed Policy NE12: Water, Air, Light and Noise Pollution is designed to protect and enhance the environment. Compliance with these and other environmental policies of the proposed plan will ensure that issues such as flooding and other environmental impacts are addressed on a site-by-site basis through planning applications. I am not aware of any potential development that, either on its own or cumulatively with other development, could not be managed in this way.

40. I do not consider it necessary to modify Policy INF4 to allow for developer contributions towards flood mitigation and other environmental impacts.

Healthcare (138), (144) and (195)

41. I am not aware that Scottish Government Circular 3/2012: Planning Obligations and Good Neighbour Agreements prohibits councils from seeking developer contributions for healthcare facilities. My understanding is that this is reasonable provided that any contributions sought meet all five of the tests set out in the circular.

42. The requirement to meet these tests would preclude the council seeking contributions to address any existing shortfall in provision. The proposed policy refers to circumstances where development is expected to exacerbate deficiencies in existing provision. This does not mean that developer contributions could be used to help address existing deficiencies, including at Stewarton health centre, only that they could be used to address the extent to which those deficiencies are increased as a direct result of the proposed development.

43. There is concern that any financial contributions would be paid to a private

business in the form of a GP or dental practice or pharmacy. However, the proposed policy refers to contributions towards the cost of providing new or improved facilities to supplement existing provision. I take this to mean that contributions may be sought for land or buildings to enable the NHS Board to address additional demand attributable to the proposed development, not to contribute to the revenue of businesses operating in health board premises.

44. In terms of measuring and justifying any impacts, the proposed policy will use Scottish Health Planning Notes to provide guidance on standards and specification of facilities to determine potential requirements. Paragraph 230 of the proposed plan explain that supplementary guidance will provide detailed guidance on how capacity of healthcare facilities will be determined and calculated. I consider this to be an appropriate division of policy guidance between the proposed plan and supplementary guidance. The council advises that it works in partnership with NHS Ayrshire and Arran on methodology for assessing negative impacts.

45. I do not consider it necessary to modify proposed Policy INF4 as it relates to developer contributions for healthcare.

#### Education (195)

46. I can appreciate why the council's education service does not consider it realistic to operate a school at 100% capacity. This could limit flexibility to respond to unforeseen peaks in pupil numbers, make management of classroom space challenging and compromise the quality of the teaching environment. Although circumstances may vary depending on the design and layout of the school, the council's use of an 85% threshold seems reasonable.

47. It appears that this approach is not consistent with Scottish Government guidance on determining primary school capacity but I note that the council's position is based on monitoring of the local school rolls forecast. It also seems to me that there would be no advantage to the council in seeking to extend the school estate beyond what is practically required. Surplus capacity would bring attendant overheads and operational issues that would be disadvantageous to the education authority. Furthermore, the acid test in each case where developer contributions are sought, is that these must comply with the tests in Circular 3/2012.

48. My summary assessment of the requirement for developer contributions for education services and facilities set out in proposed Policy INF4 in relation to the five tests in the circular is as follows:

- Necessity - The first paragraph of the policy states that a planning obligation would only be sought where contributions cannot be secured by planning conditions or other appropriate means.
- Planning purpose – The first paragraph under the sub-heading 'Education Services and Facilities' advises that contributions would be sought to address potential shortfalls in education capacity arising from proposed new residential development. It is appropriate that this is set out in the development plan.
- Relationship to proposed development – Paragraphs three and four of the education section of the proposed policy identify school catchments where

development is likely to trigger the requirement for contributions, insofar as it possible to identify this at the time of plan preparation.

- Scale and kind – Paragraph 229 explains that supplementary guidance will detail how contributions will be calculated. This will ensure that contributions relate to pupil numbers generated by the proposed development and guard against using such monies to address existing deficiencies.
- Reasonableness – I have concluded above that the 85% occupancy threshold seems reasonable in terms of operational management. It follows that it is also reasonable to seek contributions if that flexibility would be compromised. Note 1 sets out a process for challenging the contribution sought if it is considered unreasonable.

Although, each case would have to be assessed on its merits in relation to these tests, I consider that, in principle, contributions sought for education structure in line with proposed Policy INF4 would meet the tests in the circular.

49. In the absence of evidence to the contrary, I accept the council's advice that, whilst there is existing capacity at Nether Robertland Primary School in Stewarton, this does not take account of housing that is under construction or is likely to come forward during the period of the proposed plan. I also note the undertaking that, if no requirement is necessary at the point a planning application in the school catchment is to be determined, no developer contribution will be sought. To do so, would, in any case, be contrary to Circular 3/2012.

50. I do not consider it necessary to modify proposed Policy INF4 as it relates to developer contributions for school provision.

#### Transport infrastructure (195) and (310)

51. I accept that the proposed plan has been prepared under transitional arrangements and recognise that a final dovetailing of policy approach between the local development plan and NPF4 will not be possible until the council carries out the next review of the plan. I also accept the council's position that, in the meantime, the best alignment between the two parts of the development plan in relation to improvements to Bellfield Interchange is to revise the draft supplementary guidance on developer contributions to take account, as far as is practically possible, of Transport Scotland's advice.

52. I consider that the existing text of proposed Policy INF4 under the sub-heading 'Transport Infrastructure' provides a suitable policy hook to support this approach. I do not consider it necessary to modify the proposed plan.

#### Stewarton (221)

53. I do not consider that examination of the local development plan provides the most appropriate process for determining whether the requirement for developer contributions could be waived in relation to any particular development proposal. The reporter does not know enough about either the development or the proposed developer contribution; nor are they able to take account of the views of the community and consultees. The appropriate place to take a decision of this nature is through the

consideration of a planning application by the council.

54. I consider that the flexibility provided by Note 1 under proposed Policy INF4 provides the council with a framework within which the request for such a relaxation could be assessed fully. The first bullet point of proposed Policy SS4: Development of Vacant and Derelict Land may be particularly relevant to consideration of any relaxation on the Stewarton site. If the Institute Hall is a listed building, proposed Policy HE5: Enabling Development may also be relevant.

55. I note that the council is prepared to consider any future proposal in this context. I conclude that it is not necessary to modify the plan to address the historical society's concern.

#### Kilmaurs (236)

56. If it can be demonstrated that a proposed development in Kilmaurs would require the upgrading of the open space and transportation infrastructure listed, either on its own or cumulatively with other sites, proposed Policy INF4, would enable the council to request developer contributions for the requisite improvements, provided that this complies with the tests in Circular 3/2012.

57. I do not consider it necessary to modify the plan.

#### Enabling development (282) and (283)

58. Note 1 to proposed Policy INF4 sets out the exceptional circumstances when the requirement for developer contributions might be waived or reduced. My reading of Note 1 is that it provides a context within which a developer could make a case that enabling development should not be subject to developer contributions.

59. I do not consider it necessary to modify the proposed policy.

#### Paragraph 231 (128), (146) and (195)

60. I have dealt with this matter above under the sub-heading 'Question over "service infrastructure"'.

### **Policy WM4: Recovery and Disposal of Waste**

#### Policy title and suggestion to integrate policy WM4 with Policy WM3 (106)

61. I agree that the suggested change of the title of the policy to 'Recovery of Energy from Waste' would better reflect the issues addressed by NPF4 Policy 12 g) and note that the council supports this change.

62. I agree with the council that it cannot assume consented energy-from-waste plants will be developed. If they are not, it may be possible for other proposed facilities to demonstrate a national or local need in relation to NPF4 Policy 12. Even if they are developed, the council cannot pre-empt the opportunity of any prospective developer to make a case for their proposal. Consequently, I also agree with the council that it is

appropriate to retain proposed Policy WM4 in the plan.

63. However, the proposed policy is not closely aligned with NPF4 Policy 12 g). The modified policy I have recommended below is intended to provide consistency with national policy on this matter. In particular, the proposed policy does not require proposals to:

- demonstrate need;
- be supported by a heat and power plan;
- comply with relevant SEPA guidelines; and
- be accompanied by a decarbonisation strategy.

64. The proposed policy includes a requirement that proposals comply with proposed Policy WM3: Waste Management Facilities. There is not an equivalent provision in NPF4 Policy 12. However, this would ensure there are no unacceptable impacts on residential amenity or the wider environment so I consider this to be a reasonable addition.

65. The proposed policy also requires that proposed developments are in a location identified or supported by the local development plan. Again, there is no equivalent requirement in NPF4 Policy 12. However, NPF4 does require local development plans to identify appropriate locations for new waste management infrastructure. The proposed plan safeguards the existing waste sites listed in Schedule 7 but does not appear to identify sites for new facilities. Consequently, I do not find this requirement to be helpful in so far as it refers to identified sites. It is not necessary to state that proposals should be supported by the local development plan.

66. I recommend below a modified policy that is intended to reflect NPF4 Policy 12 g). I recommend that this remains as a standalone policy as combining it with Policy WM3 would, as the council suggests, make this policy over-long and complicated. The modified policy involves significant duplication with NPF4 zero waste policy. However, I note that the council is supportive of a change to the title and wording of proposed Policy WM4. This is an interim position pending the council's next review of the plan when the waste policies can be rationalised to fit more comfortably alongside national policy.

#### **Reporter's recommendations:**

I recommend that the plan be modified as follows:

1. Deletion of the word 'demands' in the first sentence of Policy INF4: Developer Contributions and substitution of the word 'impacts'.

2. Deletion of paragraph 231 and substitution with the following paragraph:

'In addition to any contributions made under Policy INF4, developers will be required to meet the costs of providing the service infrastructure necessary for their development such as on-site access roads and drainage.'

3. Deletion of the existing policy 'Policy WM4: Recovery and Disposal of Waste' and



substitution with the following policy:

'Policy WM4: Recovery of Energy from Waste.

Development proposals which involve the recovery of energy from waste will only be supported in limited circumstances where a national or local need has been sufficiently demonstrated (e.g., in terms of capacity need or carbon benefits) as part of a strategic approach to residual waste management and where the proposal:

- (i) is consistent with climate change mitigation targets and in line with circular economy principles;
- (ii) can demonstrate that a functional heat network can be created and provided within the site for appropriate infrastructure to allow a heat network to be developed and that, wherever possible, potential local customers have been identified;
- (iii) is supported by a heat and power plan which demonstrates how energy recovered from the development would be used to provide electricity and heat and where consideration is given to methods to reduce carbon emissions of the facility (for example through carbon capture and storage);
- (iv) complies with the relevant guidelines published by the Scottish Environment Protection Agency (SEPA);
- (v) has supplied an acceptable decarbonisation strategy aligned with Scottish Government decarbonisation goals; and
- (vi) fully accords with the provisions of Policy WM3 as they relate to energy-from-waste facilities.'



Issue 21	Transport	
Development plan reference:	Chapter 3, Section 3.4, PROP4 and Policies T1, T3 and T4	Reporter: Steve Field
Body or person(s) submitting a representation raising the issue (including reference number):		
Homes for Scotland (128) Persimmon Homes (141) Gladman Developments Ltd. (146) NatureScot (157) AN Other (192) Barratt Homes (195) Scottish Power Renewables (196) NHS Ayrshire and Arran (270) Scottish Government (310)		
Provision of the development plan to which the issue relates:	The content and wording of LDP spatial strategy outlined in chapter 3, section 3.5 and policies T1, T3 and T4.	
Planning authority's summary of the representation(s):		
<p><b>Spatial Strategy – Sustainable Travel and Transport</b></p> <p><u>NHS Ayrshire and Arran (270)</u></p> <p>The proposed active travel networks (detailed in Figure 10) must be expanded and enhanced further if the stated aspirations are to be realised. This should be aligned to other proposals within LDP2 for development of major trip generators, such as Ayrshire Growth Deal industrial sites and major housing developments. Figure 10 includes very few cycle routes and although it includes core paths, It is not clear that core paths meet national standards and guidance for active travel routes. For instance, the proposed active travel network for Kilmarnock (PLDP2 Figure 11) illustrates that several areas are poorly served by proposed routes, especially south eastern Kilmarnock.</p> <p>LDP2 must provide further detail of how the Council will provide active travel networks that are:</p> <ul style="list-style-type: none"><li>• Sufficiently extensive and inter-connected to achieve a modal shift away from private car use towards active travel and public transport</li><li>• Inclusive for all ages and abilities, and for different forms of mobility aids Current proposals for Kilmarnock include a high proportion of shared path infrastructure, which is not suitable for disabled people, and can be especially dangerous to those with visual impairment; instead, pedestrians and people on cycles must be separated from each other and from motor traffic, which may require road space reallocation in keeping with the transport hierarchy.</li><li>• Consistent with national guidance in prioritising safe active travel infrastructure</li></ul>		

over road space, reallocating the latter where necessary; separating people walking and wheeling from those cycling; and creating fully connected networks.

- On direct arterial routes to maximise convenience and social safety. For instance, many of the routes in the proposed Kilmarnock active travel network are indirect and lack connectivity (e.g. from east-west) which is likely to make them less appealing, especially where car routes remain direct. Integrated with other forms of transport provision, such as train and bus routes and hubs, to enable multi-modal journeys.

LDP2 must set out requirements for new developments to provide ‘end of trip’ facilities to support active travel, to include provision of secure and inclusive cycle storage (in residential and other developments) and changing areas and showers on key sites of development (e.g., schools, health facilities, major workplaces).

LDP2 must set out additional detailed measures on how it will reduce motor traffic through land use planning and development, given evidence of the many negative health and wellbeing impacts of motor traffic (many of which will persist even with a shift to electric vehicles) and the evidence that reducing motor traffic is an essential part of achieving a modal shift to active travel and public transport. This will ensure that LDP2 is consistent with its own stated aspirations around climate change and place-making, and with national policy on reducing car kilometres by 20% by 2030.

Such measures should include:

- the expansion of traffic-free areas and parking restrictions in the vicinity of existing schools and the designing-in of traffic-free access where new school provision is being considered, noting the positive impacts of existing School Streets pilots in East Ayrshire
- detailed proposals for the reallocation of road space in order to improve public space, enable active travel, and support traffic management
- requirements for new housing developments to restrict the movement and use of private vehicles and promote alternative uses of space, e.g. through filtered permeability and car-free streets (with preserved disabled access and parking).

NHS Ayrshire and Arran object to the proposals to increase road capacity by widening the Bellfield Interchange and adding additional lanes at the Moorfield roundabout. These are fundamentally incompatible with the stated vision and aims of the LDP2 of East Ayrshire and with national policy on reducing car kilometres by 20% by 2030 (which includes all car types, electric or otherwise). In support of their objection, (270) note extensive evidence about the harms of vehicle traffic to health and wellbeing, and the well-documented phenomenon of ‘induced demand’, whereby increasing road capacity tends to worsen, rather than solve, problems of traffic flow and congestion. (270) note that transport is the single biggest source of Scottish greenhouse gas emissions and, in contrast to other sources, has remained static or increased over recent years: additional road capacity is likely to lock in high-carbon behaviours for many years to come. It is noted that these proposals are partly based on an associated Transport Appraisal whose modelling approach solely considers motorised traffic; assumes that the outcomes of interest are limited to ease of vehicle movement; and does not incorporate induced demand. This is a very narrow perspective on the overall question of efficient, equitable, and healthy mobility and ignores a number of other important considerations relevant to achieving LDP2 aims. We further note that this

section of the LDP2 is not transparent in communicating these proposals, referring obliquely to “upgrading” and “improving infrastructure” and requiring readers to refer to detailed technical papers in order to gain clarity on what is being proposed. Instead, we recommend that LDP2 provides a stronger set of measures to address capacity issues on the road network through measures to reduce and restrict the use of private cars and other vehicles and to provide realistic alternatives to car use.

An integrated active travel network is recommended as well as expanding and enhancing existing routes and networks to provide greater opportunity for physical activity, reduce pollution and therefore contribute to attainment of climate change goals.

(270) have submitted Appendices as supporting documents (RD112 and 113).

#### Scottish Government – Transport Scotland (310)

The section of the Spatial Strategy on sustainable travel and transport should provide a stronger focus to achieving points A, B and C on page 46. Changes to this chapter are considered important in order for the Council to contribute to the Climate Change Plan policy ambition of a reduction in car kilometres travelled by 20% and how the Council intend to assist in achieving this ambition. The plan’s spatial strategy requires significant investment in roads infrastructure for it be deliverable; thus it must be stronger in terms of sustainable transport and 20 minute neighbourhood provision to accord with the National Transport Strategy 2 sustainable travel and investment hierarchies. The section of the spatial strategy should also be in line with SPP, in terms of being sustainable and deliverable. The Plan should also support draft NPF4 Policy 7 and the principle of 20-minute neighbourhoods through the spatial strategy, development proposals, associated site briefs and masterplans.

The plan uses loose terminology such as “enable” and “support” without any corresponding policies or proposals to provide greater detail on how the plan will implement measures to achieve the goals of points A, B and C in line with NTS2 and draft NPF4. Specifically, further detail or policy is required on how the plan will support the creation of 20-minute neighbourhoods and implement high quality active travel and new/greater public transport routes and connections. This section should link to Policy T1: Transport Requirements in New Developments.

#### **PROP4 – Improvements to Bellfield Interchange and Kirklandside/Kaimshill**

##### Homes for Scotland (128), Persimmon Homes (141), Barratt Homes (195)

(128), (141) and (195) have significant concerns regarding the unknown scale and costs of the required upgrades, and therefore the extent of the required developer contributions. This could render some development undeliverable.

#### Scottish Government – Transport Scotland (310)

##### *LDP2 Transport Appraisal*

While preparing the LDP, the Council in consultation with Transport Scotland undertook

a transport appraisal in accordance with DPMTAG. The appraisal outlines the infrastructure required to assist in delivering the plan spatial strategy. The LDP details in paragraph 106 that “The Transport Appraisal for the Plan concludes that without intervention, the Plan will place additional, unacceptable pressure on Bellfield Interchange as it exists at present. It is vital therefore that Bellfield Interchange is upgraded if the Plan’s ambitions are to be realised.”

The TA details a total of £7.7m of infrastructure improvements at Bellfield Interchange to accommodate the impact from the land use strategy, which includes widening the circulatory carriageway, signalisation, slip road lengthening and a separate footbridge. Transport Scotland recognise the main infrastructure improvements proposed in the TA are in line with the bottom of the sustainable investment hierarchy outlined within NTS2 and mainly facilitates road traffic, which is disappointing.

### *Phasing and Delivery of Improvements*

PROP4 does not provide sufficient information on the phasing and delivery of the improvements. These are significant deficiencies, which require to be addressed at the plan level for Transport Scotland to support the plan. The information is required to ensure the plan allocations can be delivered and without compromising the safety and efficiency of the trunk road network.

SPP states that development plans should; “set out a spatial strategy which is both sustainable and deliverable, providing confidence to stakeholders that the outcomes can be achieved.” and that “Development plans should identify any required new transport infrastructure or public transport services...”

The deliverability of this infrastructure, and by whom it will be delivered, should be key considerations in identifying the preferred and alternative land use strategies.

In line with Circular 3/2012, Plans and associated documents should indicate how new infrastructure or services are to be delivered and phased, and how and by whom any developer contributions will be made. From this, the level of provision to be delivered under planning obligations can be identified. Broad principles, including the items for which contributions will be sought and the occasions when they will be sought should be set out in the LDP, where they will have been subject to scrutiny at examination.”

References are made to Draft NPF4 Policies 8 and 10 and the Infrastructure First principle and that LDP2 should ensure that these policy requirements and principles are met.

### **Policy T1 – Transport requirements in new development**

Homes for Scotland (128), Persimmon Homes (141) and Gladman Developments Ltd (146)

The proposed wording for Part (i) is restrictive and to allow for a balanced planning decision. Part (i) of policy T1 requires to be altered otherwise the existing approach risks forming a Policy that is insufficiently flexible to be adaptable and future proofed.

Barratt Homes (195)

Part (i) requires to be re-written otherwise the Policy will be insufficiently flexible. Part (iv) b is too inflexible and could preclude otherwise good developments that would for example secure the sustainability of the facilities and services of a village by increasing its population to a more sustainable level.

Scottish Power Renewables (196)

There is overlap and duplication between LDP2 policy T1 and draft NPF4 Policy 10. It is essential that Policy T1 is recast and simplified to avoid policy conflicts and ensure LDP2 remains up to date and valid following the finalisation of NPF4. LDP2 should seek to dovetail with national policy coverage and only set out different or additional policies where necessary to appropriately reflect local circumstances. We therefore request that Policy T1 be revised to remove duplication of policy tests that will be set through NPF4, given that the policies within draft NPF4 may be subject to change.

Criterion 1 is restrictive and could be disproportionate for certain types of developments (e.g. renewable energy developments in the rural area).

Scottish Government (310)

Transport Scotland welcomes the inclusion of Policy T1, however it is recommended that changes to the wording are made to strengthen the policy and provide clarity to developers and stakeholders on the development requirements which will:

- assist decision making at the development management stage;
- ensure developments are built with and designed from the outset with the necessary sustainable transport provision; and
- for the Council to contribute to the Climate Change Plan ambition of a reduction in car kilometres travelled and how the Council intend to assist in achieving this.

The plan currently includes a spatial strategy which requires significant investment in roads infrastructure for it be deliverable, therefore, it must also be stronger and convey a greater shift towards sustainable transport and 20 minute neighbourhood provision to accord with current national policy and a culture shift towards providing and designing for sustainable transport solutions.

Reference is made to the National Transport Strategy 2 and how transport will assist planning and development in ensuring communities are sustainable. Reference is also made to draft NPF4 policy 10 and that the planning system should ensure that the NTS2 sustainable travel and investment hierarchies are integrated into the appraisal and assessment of development proposals and decisions in order to make best use of existing infrastructure, and reduce unsustainable travel and transport of goods. Points i – m of Policy 10 are applicable to development proposals and should be taken into consideration. Transport policy should fully embrace this shift towards net zero and in terms of health and wellbeing.

The section of policy T1 on travel plans should be strengthened to reflect SPP. It should set out the circumstances where a travel plan is required.

## **Policy T3 – Development and protection of core paths and other routes**

### NatureScot (157)

The provision in this policy to ensure that the development of core paths and other routes does not affect the integrity of protected areas is welcomed. However, it is recommended that the reference to a 'Natura 2000 site' be changed to 'European site'. Following the exit of the UK from the EU, these sites no longer form part of the official 'Natura 2000' network but continue to contribute to the Europe- and UK-wide network of designated sites and will continue to fulfil the objectives of the EU Habitats and Birds Directives through the Habitats Regulations.

### AN Other (192)

There is a failure to acknowledge that the Council has statutory obligations under the Land Reform (Scotland) Act 2003 (and subsequent enactments) to maintain public access to designated core paths, not East Ayrshire Leisure Trust or any other organisation. Where the diversion or stopping up of a core path is anticipated, then this is subject to public consultation and other statutory provision under the Land Reform Act, not section 208 of the Town and Country Planning (Scotland) Act 1997.

This omission needs to be corrected in LDP2 as there are statutory obligations upon the Council in terms of maintaining access to core paths and not consenting developments which endanger core path users or which intend to disrupt access to core paths, which is not currently enforced. There needs to be a much more proactive role taken by the Council to protect and enhance all categories of core paths, rights of way and other paths used for both connecting people and communities and for leisure use. Encouraging more activity and wellness in our population is a key aim of LDP2.

Policy T3 states, "The Council will not be supportive of development which disrupts or adversely impacts on any existing or proposed core path". Yet that is exactly what this Council has done by granting consent for a windfarm developer to use a core path and public road and public bridge for its own construction purposes. It has also granted consent for this developer to close another core path for potentially two years.

Other core paths are neglected, dangerous for various reasons, overgrown, and impassable.

The 2021 Recreational plan should not be adopted as part of the LDP2. It does not include current core paths as previously mapped by this Council to comply with the Land Reform Act 2003. Despite public objection during the consultation period and without compliance with statutory due process, the previous core path IV10 has not been included in the 2021 Recreational plan and therefore has potential to be excluded from LDP2 if the Recreational plan is adopted in its current format.

### Scottish Power Renewables (196)

In combination, policy T3 paragraphs 4 and 5 indicate that the Council may support developments that impact core paths and other routes where which impacts can be appropriately mitigated. However, as drafted, they are conflicting and could be difficult

to implement in practice.

#### **Policy T4 – Charging infrastructure for electric vehicles**

Homes for Scotland (128) and Barratt Homes (195)

Requirements to provide EV charging infrastructure are likely to be a requirement in the Building Regulations update so it seems unnecessary to duplicate the provision.

It is not clear that this policy has been fully thought through, in terms of residential development. For example, where residential developments have reduced car parking provision or even no parking how will one space per unit be provided for EV charging?

#### **Modifications sought by those submitting representations:**

#### **Spatial Strategy – Sustainable Travel and Transport**

NHS Ayrshire and Arran (270)

NHS Ayrshire and Arran do not explicitly suggest any modifications however it is assumed that the following are suggested modifications:

1. Expand and enhance the proposed active travel network as illustrated in Figure 10.
2. Provide further detail of how the Council will provide active travel networks.
3. Set out requirements for new development to provide ‘end of trip’ facilities to support active travel.
4. Set out additional measures on how LDP2 will reduce motor traffic through land use planning and development.
5. Remove proposals to improve the Bellfield Interchange and Moorfield Roundabout, Kilmarnock.

Scottish Government (310)

Strengthen this chapter to ensure points A, B and C can be met.

Further detail or policy is required on how the plan will support the creation of 20-minute neighbourhoods and implement high quality active travel and new/greater public transport routes and connections. This section should link to Policy T1: Transport Requirements in New Developments.

#### **PROP4 - Improvements to Bellfield Interchange and Kirklandside/Kaimshill**

Homes for Scotland (128) do not suggest any modifications.

Persimmon Homes (141) suggest that the cost of works to the Bellfield Interchange are known before the LDP is adopted to ensure sites to the east of the Interchange are



deliverable.

### Scottish Government (310)

Transport Scotland recommends that PROP4 includes further detail on the specific transport improvements detailed within the LDP Transport Appraisal in order to accord with SPP, Circular 3/2012 and draft NPF4 including:

- The specific infrastructure improvements required to mitigate the impact of the spatial strategy and;
- The 1-3 year timescale identified in the Transport Appraisal for when the infrastructure is required to be delivered.

### **Policy T1 – Transport requirements in new development**

#### Homes for Scotland (128) and Gladman Developments (146)

Amend last sentence of criterion (i) to state, “Developments which do not meet these standards *may not be considered acceptable*”.

Persimmon Homes (141) do not explicitly suggest modifications to policy T1, however it is assumed that Persimmon Homes suggest the same amendment as above to the last sentence of criterion (i).

#### Barratt Homes (195)

1. Amend last sentence of criterion (i) to read as follows, “Developments which do not meet these standards *may not be considered acceptable*, and *may not receive Council support*”.

2. Add the following new criteria to policy T1:

*(iv) ensure that development proposals put people and place before unsustainable travel where appropriate and respond to characteristics of the location of the proposal.*

*(v) ensure development proposals demonstrate:*

- *how the development will provide for and prioritise transport in line with the sustainable travel and investment hierarchies;*
- *consideration of the need to integrate transport modes; and*
- *the need to as far as possible facilitate access by reliable public transport, ideally supporting the use of existing services or new services that do not require on-going public sector funding.*

3. Amend the current criterion (iv) to read as follows, “2. The Council will not support new significant travel generating uses, *except in exceptional circumstances*, at locations which would increase reliance on the car and where:

- (i) direct links to local facilities via walking and cycling networks are not available or cannot be made available;
- (ii) access to local facilities via public transport networks would involve walking

*significantly* more than 800m;  
 (iii) the Transport Assessment does not identify satisfactory ways of meeting sustainable transport requirements;  
 (iv) the performance or safety of the trunk and local road network and the measures required to mitigate any impact arising from development have not been identified.”

4. Amend the current criterion (v) to read as follows, “3. *The Council will only consider a new junction on a trunk road where significant prosperity or regeneration benefits can be demonstrated....*

5. Move current criterion (vi) and (vii) are moved to under part 1 of policy T1.

#### Scottish Power Renewables (196)

Reword policy T1 criterion (i) to require developers to adhere to the requisite standards and/or provide justifications for deviations. Decisions should then be made based on the justifications provided.

#### Scottish Government (310)

Suggests modifications to bring Policy T1 into line with NTS2, NPF4 and the need to give greater importance to sustainable travel choices.

- In part (ii) replace ‘*fully embrace*’ with ‘*must provide*’ or something similar to provide certainty that this is a requirement.
- In part (ii) replace ‘*Developments which prioritise sustainable transport by maximising the extent to which travel demands are met first through walking and wheeling, then cycling, then public transport, then taxis and shared transport and finally through the use of private cars will be particularly supported*’ with wording similar to part (i) such as “*Developments which do not meet these standards will not be considered acceptable and will not receive Council support*’. The policy should be clear on what is required of developers to obtain planning consent.

### **Policy T3 – Development and protection of core paths and other routes**

#### NatureScot (157)

Amend the third paragraph of policy T3 by replacing the wording ‘Natura 2000’ with ‘European’, to read as follows: “Development of new routes for core paths... on the integrity of a *European* site ....”

#### Scottish Power Renewables (196)

Combine paragraphs 4 and 5 and replace with the following wording: “The Council will not be supportive of development which disrupts or adversely impacts on any existing or proposed core path or other routes defined below in the absence of appropriate mitigation. This applies to core paths, other paths which form part of the local and strategic path network, including local paths, rights of way, bridle paths, cycle paths used by the general public for recreational or other purposes, and routes forming, or

with the potential to form, part of the network of circular routes or path links between settlements, actively promoted by the Council. Where such disruption or adverse impact is demonstrated to be unavoidable, the Council will require developers, as an integral part of the proposed development, to provide for the appropriate diversion (temporary or permanent) of the route in question elsewhere within the development.”

#### **Policy T4 – Charging infrastructure for electric vehicles**

##### Homes for Scotland (128)

Although Homes for Scotland do not explicitly suggest any modifications to policy T4, it is assumed that reference to EV charging should be removed.

##### Barratt Homes (195)

The policy should be re-written to require EV charging in line with building regulations rather than specifying criteria in the LDP.

#### **Summary of responses (including reasons) by planning authority:**

#### **Spatial Strategy – Sustainable Travel and Transport**

##### NHS Ayrshire and Arran (270)

##### **Proposed Active Travel Network**

A key aspiration of LDP2 is to reduce the effects of climate change, create good quality accessible places and deliver new and improved infrastructure, which extends to include active travel infrastructure. Most notably the Plan’s spatial strategy seeks to reduce the need to travel unsustainably and promote compact growth, which includes creating good active travel networks and building places that encourage active travel. These aspirations are, therefore embedded throughout the Plan via its vision and aims, Spatial Strategy and policy framework.

These aspirations support and align with other key East Ayrshire strategies and plans, including the Draft East Ayrshire Active Travel Strategy (CD39) and the Draft East Ayrshire Recreation Plan (CD41) and projects such as the Kilmarnock Green Infinity Loop. Work will continue during the lifetime of the Plan to realise further opportunities to expand and enhance East Ayrshire’s active travel network through new development on LDP2 identified development opportunity sites and other projects relating to active travel.

New development proposals, such as those referred to by NHS Ayrshire and Arran, brought forward during the lifetime of LDP2 will be required to meet the requirements of policy SS2 criterion 3 and policy T1, in terms of ensuring the sustainable travel hierarchy is adhered to. There is no detail regarding specific sites until the detailed design layout concept or masterplan stage of a development commences. Policies DES1, OS1, TOUR3, and T1 set out requirements for the integration of active travel networks or measures in new development and these will be scrutinised at pre-planning or planning application stage.

In terms of quality of active travel infrastructure, there does not appear to be a national definition of what an active travel framework should consist of, in terms of accessibility standards. It is recognised that there will be sections of paths that are not fully accessible, for example due to the paths location, gradients etc. In terms of core paths, the East Ayrshire recreation plan acknowledges this and provides information on how accessible a core path or right of way is at the time of its preparation. The Council's overall long-term vision is to create an East Ayrshire wide active travel network that is accessible to all. However, this will take time due to a number of constraints. These constraints include the location of core paths and the creation of alternative routes if improvements are not possible e.g. where a path is located close to livestock and there is therefore a need for protective measures, such as cattle grates. To create an accessible active travel network requires a significant amount of funding and planning, which will take time to deliver. LDP2 Policies, such as DES1, OS1 and T1 seek to address this through new development; however, this is just one aspect of a wider aspiration that requires to be delivered collaboratively by multiple Council services, shared services, key agencies and other organisations.

It is important to note that PLDP2 Figure 10 sets out existing cycle routes, core paths and rights of way as well as key sustainable travel proposals including the infinity loop and park and ride facilities as set out in the LDP2 spatial strategy. It does not specifically denote all of East Ayrshire's path network, which extends beyond core paths and rights of way. It is acknowledged that this is perhaps not clearly articulated. Therefore, if the Reporter is minded to agree, the Council could add a footnote to Figure 10 to state that the Plan does not show the path network in its entirety. However, it is contended that it is not the job of the development plan to illustrate every path that exists.

It is also important to note that some areas where there appear to be gaps in Figure 11, are existing neighbourhoods with a supporting path network and/or vacant and derelict land or identified as development opportunity sites.

#### Providing active travel networks

The East Ayrshire LDP2 sets out in its vision, aims, spatial strategy and policy framework an approach to enhancing East Ayrshire's active travel network and ensuring that new development adheres to the sustainable travel hierarchy, which includes striving to achieve a modal shift from private car use to more sustainable modes of transport. Policies SS2, DES1 and T1 specifically seek to ensure that new development fully integrates an active travel network into the design layout including access for those walking and wheeling. However, LDP2 cannot deliver aspirations for new and existing transport and active travel infrastructure on its own. This involves collaborative working with key agencies, such as Transport Scotland, other Council Services and shared services such as the Ayrshire Roads Alliance to expand active travel networks and enhance existing networks including cycle routes, shared road spaces etc. Some projects not included in LDP2's spatial strategy could come forward during the lifetime of the Plan and some of these projects are dependent on funding availability. The deliverability of proposals to enhance existing networks can be heavily reliant on the availability of funding resources and therefore LDP2 identifies proposals with committed funding, such as the Kilmarnock Green Infinity Loop and the park and

ride facility at Glasgow Road, Kilmarnock.

### 'End of trip' Facilities

End trip facilities in new development will be considered at a detailed design stage usually at pre planning and/or planning application stage. Policies, such as DES1 and associated supplementary guidance will set out detailed policy guidance on these matters and will relate to what can be considered through the planning system. Any facilities that would normally be included internally within buildings will be required to meet building standards regulations e.g. changing facilities/showers, and are not a matter for development planning.

### Additional Measures to reduce motor traffic

LDP2 provides a more strategic settled view on planning matters for East Ayrshire. Policy T1 requires new development to incorporate active travel infrastructure, prioritise sustainable forms of transport, and adhere to the sustainable travel hierarchy. Developers will therefore be required to demonstrate how their proposal will meet the sustainable travel hierarchy. In addition, it requires certain developments to be accompanied by transport assessment, which should identify any impacts on the existing transport infrastructure, and if mitigation measures are required, what these will be and how they will offset any adverse impacts.

In terms of safe routes to school, this is something that requires to be addressed by the Ayrshire Roads Alliance and the Council's Education Service in relation to existing education establishments. Following the success of pilot projects at two local schools, ARA are expanding the school streets programme, which seeks to increase the safety of vulnerable road users, particularly younger children, and to encourage active ways of travelling to school, such as walking, cycling or scooting. This is not a matter that requires to be set out in the development plan.

### Improvements to Bellfield Interchange and Moorfield Roundabout, Kilmarnock

Proposed improvements to the Bellfield Interchange will ensure that the safety of pedestrians is significantly improved. Part of the proposals include the upgrading of the active travel infrastructure of the Interchange and immediate surrounding areas. The LDP2 Transport Appraisal modelling was prepared and outcomes included the 20% reduction target. The Council acknowledges the adverse effects of private vehicles but also notes the conflicting messaging from two different key agencies on the need for improvements. LDP2 addresses the impact of vehicles by putting in place a policy framework to reduce the use of road traffic including private cars and lorries as highlighted above. However, existing transport infrastructure is required to be fit for purpose and to not adversely impact upon pedestrian and vehicular safety. The improvements will make the interchange fit for purpose and safer and assist in achieving economic growth for not only East Ayrshire but also Ayrshire wide. Therefore, the Council recognise the strategic importance of the Bellfield Interchange and that it is currently not fit for purpose and is an unsafe place for pedestrians and road users and requires to be improved. Measures to reduce the impacts of climate change should not adversely impact upon safety. Roads with safety or capacity issues result in an increase in accidents, which will affect the NHS in other ways. The Plan

balances climate change with other considerations such as safety; like many planning matters a balance requires to be struck between priorities, and in this case, safety is the primary consideration. Whist Moorfield Roundabout does not have the same level of projected constraints as Bellfield Interchange, it nevertheless requires improvement and the same rationale applies.

To achieve population growth, economic growth and meet the housing land requirement set out in LDP2 (agreed with the Scottish Government), the LDP2 transport appraisal identified the need for mitigation measures, such as the need to enhance access to and from the Moorfield roundabout. The Council are of the opinion, that this is a necessary measure to ensure there is a fit for purpose transport infrastructure to support new housing development in Kilmarnock and industrial and business development at Moorfield, Kilmarnock, most notably the Ayrshire Growth Deal food engineering park project.

### Scottish Government (310)

The climate change policy ambition of reducing car kilometres by 20% is a key theme of the LDP2 Spatial Strategy and is explicitly referred to in paragraph 100 of the Strategy. This ambition was also a key consideration of the LDP2 transport appraisal (CD19). The ambition forms as part of the principles of policies SS1 and SS2 as well as a number of sections within the Spatial Strategy, such as sustainable travel and transport, and sustainability and green recovery. All of these sections within the Strategy seek to achieve compact growth, 20-minute neighbourhoods where possible, reducing the need to travel unsustainably, and encouraging active travel.

However, another key ambition of the Spatial Strategy is to drive economic growth and recovery throughout East Ayrshire. As part of this, the Strategy seeks to enable the delivery of the Ayrshire Growth Deal and its projects. Given the nature of the advanced manufacturing investment corridor project, it is proposed to develop this project to the east of the Bellfield Interchange at Kaimshill. To enable this development it is necessary to improve the road and active travel infrastructure within this area. Infrastructure improvements are required to enable future economic growth at Bellfield Interchange and this cannot be achieved by strictly applying the sustainable travel hierarchy.

In addition, the Bellfield Interchange, which is a key strategic part of Ayrshire's road network, is no longer fit for purpose and is having a detrimental impact on the safety of pedestrians, cyclists and vehicle users. These issues need to be addressed separately from the ambition to reduce car kilometres by 20%.

The spatial strategy not only focuses on improving the road infrastructure but also the active travel network and safety of the Interchange's users. In July 2022, an application to the UK Government's levelling up fund was submitted. The application (CD42) sought funds to improve the Bellfield Interchange, in terms of the road infrastructure and a new separate active travel network via a footbridge over the A77 linking Kilmarnock to Hurlford. In January 2023, the Council was informed that the application had not been successful. Following that recent decision, the Council is currently exploring alternative ways to fund the works, which is recognised as critical to both sustainable economic growth and sustainable transport.

Sustainable development and improving East Ayrshire's active travel network is at the core of the Plan, therefore it is unfair to state that the Plan does not seek to encourage concepts such as the 20-minute neighbourhood and ensure that the sustainable travel hierarchy is put in place. There are specific policies in Volume 1 of the PLDP2 dealing with these matters, as per the paragraph below, however future economic growth and population growth in urban and rural areas cannot be fully achieved without future investment in road infrastructure.

For these reasons, the Council is of the opinion that no changes are required to the LDP2 spatial strategy. However, if the Reporter is minded to make any changes to strengthen points A, B and C of the Strategy then it is recommended that reference to the ambition to reduce car kilometres by 20% could be made at the start of the Strategy.

#### *Terminology and lack of corresponding policies and proposals*

It is argued that the plan uses loose terminology such as "enable" and "support" without any corresponding policies or proposals to provide greater detail on how the plan will implement measures to achieve the goals of points A, B and C in line with NTS2 and draft NPF4.

Policies, including SS2, DES1, RES1, RES4, TC2, and T1 all set out requirements to reduce car kilometres in new development, support the 20-minute neighbourhood concept, seek to achieve compact growth and ensure that the sustainable travel hierarchy is adhered to in proposals for new development. It is therefore the view of the Council that there are policies in LDP2 that sufficiently provide further detail to implement measures to achieve the goals of points A, B and C of the Spatial Strategy.

#### **PROP4 - Improvements to Bellfield Interchange and Kirklandside/Kaimshill**

Homes for Scotland (128), Persimmon Homes (141)

#### Scale and costs associated with developer contributions

128 and 141 raise concerns relating to the unknown scale and costs of required upgrades, and the extent of the required contributions. It is not possible to indicate all circumstances in which planning obligations are appropriate. Planning authorities should take decisions based on the relevant development plan, the proposed development, and the tests set out in Circular 3/2012 (CD36). The draft developer contributions supplementary guidance, which was published and consulted upon alongside the Proposed LDP2, contains detailed information concerning the methodology to how contributions will be calculated. It also sets out a number of examples illustrating how to calculate contributions using the methodologies relating to different services, facilities and infrastructure. A different approach to calculating developer contributions has been set out in the Proposed LDP2 and draft supplementary guidance compared to the policy approach of LDP1.

The costs of the required upgrades set out in the Transport Appraisal are known. What is unknown at this stage is where the monies to fund the required upgrades will



be secured, given the recent confirmation that the bid to the Levelling Up Fund was unsuccessful. Notwithstanding, the Council remains fully committed to securing funding for the critical infrastructure works. The developer contributions supplementary guidance proposes a methodology for working out how and costs will be apportioned to sites. It is not common practice for the exact details of costs to be set out in a Plan itself. Indeed circular 3/2012 states: 'Broad principles, including the items for which contributions will be sought and the occasions when they will be sought should be set out in the SDP or LDP, where they will have been subject to scrutiny at examination. Methods and exact levels of contributions should be included in statutory supplementary guidance'. The Council is satisfied that additional details can be set out in the supplementary guidance to alleviate concerns.

Developer contributions continue to be proportionate recognising that the developer will contribute a specific percentage to a project, which will relate to the impact of development(s) on services, facilities and/or infrastructure. However, the Council propose to undertake a review of the draft supplementary guidance to provide more detailed policy guidance, particularly in relation to transport infrastructure. The revised guidance will be published post Examination.

#### Viability concerns

Concerns regarding the unknown scale and costs associated with upgrades has also raised concerns that this could render development unviable. As already stated the Levelling Up bid was submitted by the Council (CD42), but confirmation received in January 2023 that it was not successful. The Council remains committed to funding the upgrade work and is now exploring alternative options, including funding the works from its own capital programme. If funding can be secured, this will reduce or eliminate the need for contributions. Notwithstanding, note 1 of policy INF4 states that contributions sought might be waived or reduced in exceptional circumstances, for example where the Council is satisfied that a development would have exceptional development costs, where there are overriding economic, social or other benefits and where there is no adverse impact on essential services or infrastructure which cannot otherwise be overcome. Applicants will be required to submit a justification statement to demonstrate why contributions should be waived or reduced. In addition, the draft supplementary guidance highlights that a cap will be in place, in terms of the level of contributions required. The Council is therefore of the opinion that policy INF4 and the draft supplementary guidance (CD21) sufficiently address the concerns of 128 and 141.

#### Scottish Government (310)

#### LDP2 Transport Appraisal

For a number of years, the safety of pedestrians, cyclists and vehicle users as well as capacity constraints have been key concerns for the Council and Transport Scotland – as demonstrated through examination of LDP1. The Bellfield Interchange, in terms of the road infrastructure as well as its footpaths therefore require upgrading to address these concerns. In addition, improvements are needed to allow for economic growth and recovery. The area to the east of Bellfield Interchange is the preferred location for the Advanced Manufacturing Investment Corridor project. Due to the nature of this

project, there is a need for sufficient road and active travel infrastructure to support its delivery, success and long term economic benefit for East Ayrshire. Bellfield Interchange is a strategic junction and requires future investment to not only benefit economic growth in East Ayrshire but beyond.

The proposals for Bellfield Interchange centre around modifications to the existing infrastructure rather than a rebuild which is not affordable; it is necessary to ensure that the provisions of the Plan are proportionate and deliverable and in this respect the lack of support and prioritisation through national transport strategies for this project has not assisted in the ability to deliver a project higher on the sustainable investment hierarchy. Indeed, the Reporter of the LDP1 Examination Report (CD62) stated, *'there is no commitment for improvement works to the Bellfield Interchange in the STPR, nor is TS able to confirm when a review of STPR might take place which might include the required upgrade of the Bellfield Interchange. I conclude that a commitment to funding for the required third circulatory lane is not capable of being made by any party at this point in time, nor is it possible to ascertain if the Bellfield Interchange would even form part of a revised STPR following the next review'*. We now know that STPR2 (CD38 a and b) does not contain Bellfield as a priority and there is no Transport Scotland commitment to funding. The proposals put forwards through the Transport Appraisal include those for a footbridge to segregate cyclists and pedestrians from the road, increasing safety and indirectly promoting active travel as the route will be safe. This can be built upon through links to the Active Travel Strategy and the Kilmarnock Infinity Loop project. It is therefore refuted that the improvements mainly facilitate road traffic.

#### Phasing and Delivery of Improvements

At the time of the publication of the Proposed LDP2, a levelling up bid application was being prepared (CD42) in relation to road and active travel improvements to the Bellfield Interchange and areas immediately surrounding it. This is the reason for PROP4 not detailing any information regarding phasing. The Council was advised in January 2023 that the bid was unsuccessful. However, the Council remains committed to funding the required improvements from other funding sources but notes that Transport Scotland will not contribute to these improvements, despite this being their asset. If funding is secured it will to an extent dictate phasing and delivery, and it will also likely reduce or eliminate the need for developer contributions to contribute towards any upgrades. Should funding be secured during examination, it may be possible to add information regarding phasing should the Reporter feel this is helpful.

#### **Policy T1 - Transport requirements in new development**

Homes for Scotland (128), Gladman Developments (141), Barratt Homes (195), Scottish Power Renewables (196), the Scottish Government (310)

#### Criterion (i) (128), (195), (141)

Criterion (i) is worded in such a way to reflect the global climate crisis and the need to address climate change in the planning system as well as existing and emerging national planning policy. It also reflects the principles of National Transport Strategy 2 (CD5). The Council is therefore of the opinion that the wording of policy T1 criterion (i) is appropriate.

The Council does not agree that criterion (i) is restrictive and potentially disproportionate. The sustainable travel hierarchy is a national priority which policy T1 seeks to implement at the local level. In addition, all development is required to meet the requirements of the Ayrshire Roads Alliance, which is the local transport authority for East Ayrshire.

#### Criteria (ii) (310)

The Council is of the opinion that policy T1 provides sufficient information to assist decision making at the development management stage and in ensuring that sustainable transport provision is integrated into new development at the earliest design concept stage. Policy T1 sets out a large amount of detail concerning what will and will not be acceptable in new development and complements other LDP policies, such as DES1. A key driver for LDP2 and its policy framework is to address climate change and contribute to the 20% reduction in car kilometres and this is a key aim of policy T1 as well as many of LDP2's other policies, for example, SS1, SS2 and DES1. However, the Council notes the concerns of (310) and the suggested amendments to strengthen the policy as at criterion (ii). Whilst the Council is of the view that the current wording is sufficient in terms of the inclusion of 'fully embrace', the Council would have no objection to the Reporter amending this to read 'must provide'.

In terms of the further suggested change, the removal of the second sentence and its replacement with something that is clearer on what must be provided, the Council is content that the policy as a whole is clear about what is required of developers. The sustainable travel hierarchy is fully embedded within the policy and indeed the spatial strategy of the Plan. However, in order to make this clearer, if the Reporter is minded, the Council would be content to make the following minor change to the second sentence of criteria (ii)

Developments ~~which~~ must prioritise sustainable transport by maximising the extent to which travel demands are met first through walking and wheeling, then cycling, then public transport, then taxis and shared transport and finally through the use of private cars ~~will be particularly supported~~.

#### Criterion (iv) (195)

Criterion (iv) b relates to the need for significant travel generating uses (not all housing uses) such as large-scale housing developments to be located in sustainable locations close to public transport, which will enable access to local services and amenities. This relates to the 20-minute neighbourhood concept and ensuring that proposals adhere to the sustainable travel hierarchy. This scale of housing requires to be appropriate for the size of a settlement. Many large sites allocated in the plan also require a range of facilities to be provided – this is set out in the site requirements in Volume 2. It is therefore the view of the Council that criterion (iv) b is appropriate and no changes are required.

#### Criterion (v) (195)

In relation to the suggested minor amendment to the wording of criterion (v), the

Council does not consider the amendment to make any substantive change to the application of the policy. The change is therefore not considered necessary or worthwhile.

#### Additional criteria for policy T1 (195)

It is noted that 195 suggests additional criteria that should be added into Policy T1. Whilst the Council does not have any difficulty with the principle of what is being suggested, it is considered that the additional criteria would not add anything substantive to the policy, which is not already covered by existing wording. As it stands, policy T1 is a detailed and comprehensive policy which, when taken together with the spatial strategy and other related policies particularly DES1, provides a robust approach to sustainable transport.

#### Relationship between T1 and NPF(4), including Policy 13 (196, 310)

LDP2 is being prepared in line with the Town and Country Planning (Scotland) Act 1997 and the Planning etc. (Scotland) Act 2006, however given the timing of the publication of draft NPF4 it was necessary to ensure LDP2 complemented draft NPF4. It is agreed that for these reasons there might be some overlapping and duplication, however the Proposed LDP2 was published prior to NPF4 being finalised as it was subject to the Transitional Arrangements (CD25). The wording of policy T1 is therefore appropriate for LDP2 purposes and does not require any changes to be made. The relationship between LDP2 and NPF4 is explored more fully in Issue 45.

In terms of the specifics of Draft NPF4 policy 10, (now NPF4 Policy 13) (CD4), the Council is of the opinion that LDP2 reflects the policy. A key element of the Plan's vision, aims and spatial strategy is to reduce the need to travel unsustainably and through its land allocations has prioritised sustainable locations for future development. The 20-minute neighbourhood concept was a key part of the methodology for determining what sites are identified as LDP2 development opportunity sites. LDP2 has been informed by an appropriate and effective transport appraisal (CD19) prepared in line with development planning transport appraisal guidance and in consultation with Transport Scotland. Policy T1 also fully reflects point's c and d of policy 10, as well as g and h. In terms of points l to m of policy 10, policy T1 as well as other LDP2 policies, including SS2, DES1 and T4, and the LDP2 spatial strategy fully reflect the requirements set out. Development proposals at the detailed design/masterplan stage will be required to ensure that policy T1 requirements are met and that supporting information via Transport Assessments, Statements and/or Travel Plans are submitted to support a planning application.

#### Sufficiency of the spatial strategy address sustainable travel (310)

It is assumed that Transport Scotland, when referring to the significant investment in roads infrastructure are referring to the Spatial Strategy proposal to improve the road infrastructure and active travel network at Bellfield Interchange. As stated previously, the safety of pedestrians, cyclists and vehicle user's as well as capacity constraints have been key concerns for the Council at Bellfield Interchange. The Interchange, in terms of the road infrastructure as well as its footpaths therefore require upgrading to address these concerns. In addition, improvements are needed to allow for economic

growth and recovery, therefore Bellfield Interchange is a strategic junction and requires future investment to not only benefit economic growth in East Ayrshire but beyond. It is the opinion of the Council that the LDP2 vision, aims, spatial strategy and policy framework provide a strong shift towards sustainable transport and 20-minute neighbourhood provision. Draft NPF4 policy 10 points e and f (CD3) have been taken into consideration in respect of this proposal. There is a fundamental need to ensure the continued safe and effective operation of the strategic road network at the Bellfield Interchange and to the east of Bellfield Interchange, including the active travel network. New development to realise economic growth in East Ayrshire will add to the existing safety and operational concerns and therefore improvements are required. In terms of policy 10 point f, new development through the Ayrshire Growth Deal and new housing to the west of Kilmarnock will bring significant prosperity to East Ayrshire. Improvements will therefore be required at the Moorfield roundabout, Kilmarnock and east of Bellfield Interchange in addition to improvements to the Interchange itself.

#### Travel Plan provision (310)

In terms of Travel Plans, SPP (CD26) states, “Development plans should indicate when a travel plan will be required to accompany a proposal for a development which will generate significant travel.” There is no other detailed information set out in SPP. Policy T1 sets out the policy requirement for Travel Plans in line with SPP. It is noted that NPF4 (CD4) sets out no requirement for development plans to indicate when a travel plan will be required. Instead, policy 13(f) sets this out. In addition, LDP2 Volume 2 provides detailed information with regard to site requirements for each development opportunity site. In some of these cases, transport requirements are set out in Volume 2.

With regard to the transportation of goods in a sustainable manner, policy T2 sets out the Council’s support for the transportation of freight by rail – thereby supporting a modal shift from road to more sustainable means as advocated by NPF4 (CD4).

### **Policy T3 - Development and protection of core paths and other routes**

#### NatureScot (157)

NatureScot request that policy T3 is updated to ensure that the correct terminology is used, in terms of the reference made to ‘Natura 2000 sites’. If the Reporter is minded to amend policy T3 then the Council would recommend that the wording ‘Natura 2000 sites’ is removed from paragraph 3 of the policy and replaced with ‘European sites’. Paragraph 3 would therefore read as follows:

“Development of new routes for core paths, other paths which form part of the strategic path network, local footpaths, bridle paths or cycle paths should demonstrate to the Council that they will not have an adverse effect on the integrity of a *European sites* and meet the requirements of all relevant LDP policy “

#### An Other (192)

The Plan is not required to list all legislation which the Council, or even the Planning Authority have responsibilities under. The content of the Plan does not change these

legal requirements, which are set out in the Council's Scheme of Delegation (CD43). East Ayrshire Leisure Trust (EALT) is an independent Arm's Length External Organisation (ALEO), which was created in May 2013 and became operational in July 2013. Through a [Service Level Agreement](#) (SLA) (CD44), certain Council functions are delegated to the Trust. These delegated functions specifically include the provision of support and advice to the Council on the implementation of the Local Authority duties under the Land Reform legislation. The Council has however retained responsibility for the exercise of operational functions under the Land Reform legislation, such as the upholding of access rights, asserting and protecting access rights and keeping them open and free from obstruction or encroachment (Section 13 of the Land Reform (Scotland) Act 2003), and this is specified in the Council's current [Scheme of Delegation](#) (CD43).

Policy T3 relates to core paths and other routes. The note on Stopping Up Orders supporting policy T3 refers to the scenario where a stopping up or footpath order is required for other routes and is not exhaustive, however the Council acknowledges that it could also include reference to core paths and the relevant legislation. If the Reporter is minded to agree to insert a reference to core paths and the Land Reform (Scotland) Act 2003 (and subsequent enactments) (CD45) in the supporting note to policy T3 then the Council would not object to this. The following wording is therefore suggested:

*"Note: Where a diversion of a **core path** or other route, either temporary or permanent, is sought as a result of a planning consent, a Stopping Up Order (SUO) will be required in accordance with section 208 of the Town and Country Planning (Scotland) Act 1997 or in the case of core paths, the Land Reform (Scotland) Act 2003..."*

In 2019, the EALT and the Council's Planning and Economic Development Service agreed to undertake a review of the East Ayrshire Core Path Plan 2008. As part of the review process, new proposals were developed to produce a guide to the outdoors in the form of a Recreation Plan (CD41), which would provide more user-friendly information about the local path network in an online format. The Recreation Plan would incorporate the Core Path Plan for the local area. A draft Recreation Plan was subsequently developed, which defined 'core paths' as strategic routes that connect a network of destinations, settlements, towns and communities but also included five other categories of path, including local paths and shorter routes which sometimes connect in to core paths. It is the view of the Council that this Draft Recreation Plan, along with other strategies, show a proactive role in protecting and enhancing paths. LDP2 supports these documents through a number of policies and there is no need to reiterate other strategies in LDP2, nor is it the function of the LDP to do so.

The reference made to a windfarm developer is not relevant to the LDP preparation process and is a matter, which has been responded to separately through the Council's complaints procedure.

The respondent raises concerns about the condition of some core paths. NPF4 (CD4) states that the remit of LDPs is to safeguard access rights and core paths, including active travel routes, and encourage new and enhanced opportunities for access linked to wider networks. It is the Council's view that the LDP achieves this through Policy T3. Policy T3 is primarily concerned with ensuring that a comprehensive local and strategic

path route network is developed for access and recreational use for local residents and that development does not have a detrimental impact on core paths. The maintenance and management of core paths, whilst a matter for the Council, is not a matter for the LDP.

The East Ayrshire Recreation Plan (CD41) does not form part of LDP2. Policy T3 only cross references to the Plan. Objections to the Draft Recreation Plan are a matter for Scottish Ministers through separate legislation, not for an LDP examination.

#### Scottish Power Renewables (196)

The Council is of the view that parts 4 and 5 of policy T3 do not conflict with each other and clearly set out that firstly, development which disrupts or adversely impacts on any existing or proposed core path will not be supported and secondly, if impacts cannot be avoided then a developer should demonstrate mitigation measures to avoid or reduce impacts on a route. It is acknowledged that the use of 'disrupts' in the fourth paragraph and 'disruption' in the fifth may result in some confusion. It is contended that there is no justifiable need to combine paragraphs 4 and 5 of policy T3; however, it is acknowledged that some clarity would assist. Therefore, in this respect, if the Reporter is minded to agree, we would suggest that the fourth paragraph be amended as follows: The Council will not be supportive of development, which *permanently* disrupts....'And in addition altering the first sentence of the fifth paragraph: '*Where short term or interim disruption or adverse impacts are demonstrated....*'

#### **Policy T4 - Charging Infrastructure for electric vehicles**

##### Homes for Scotland (128) and Barratt Homes (195)

Although EV charging is likely to be a requirement in line with building standards legislation, it is still appropriate to address the subject in LDP2. Indeed, NPF4 (CD4) contains policy measures related to EVs in Policy 13. The provision of EV charging in new development will be considered, in terms of a design layout and therefore appropriate for LDP2 to contain a policy on the matter.

#### **Reporter's conclusions:**

##### **Preliminary matter: relationship between local development plan policies and NPF4**

1. In relation to issues where representations suggest there is potentially significant divergence between the policies of the proposed plan and National Planning Framework 4 (NPF4), reporters invited parties who have submitted representations to make any further comments on the issues they have raised now they are aware of the final form of national policy. In relation to transport issues, further information was sought from parties who submitted representations on Policies T1 and T4 and Proposal PROP4. This puts these parties on the same footing as the council which was able to draft its responses in light of the approved version of NPF4 whereas those lodging representations commented in light of the draft version of NPF4.

2. I note the council's comments about the difficulty of aligning the proposed plan with



NPF4, given the overlapping timescales. I accept that the proposed plan has been produced under transitional arrangements and recognise that a final dovetailing of policies between the two tiers of the development plan will not take place until the council carries out the next review of the plan.

3. Whilst I consider that an ideal position would be removal of duplication between the two parts of the development plan, the role of this examination is limited to presenting conclusions and recommendations on issues raised in representations. Given the nature of the representations on transport in this examination, my focus has been to ensure consistency with NPF4 even when this involves some duplication. Reporters hope that, by taking this approach, where appropriate, they have been able to recommend modifications to the plan which provide the best alignment possible at this time. This is also intended to be consistent with the council's approach of seeking to incorporate policies on the range of topics covered by NPF4 into the proposed plan.

### **Spatial Strategy – Sustainable Travel and Transport**

#### **Proposed Active Travel Network (270)**

4. The national policy context for the sustainable travel and transport part of the spatial strategy is, in the main, set by the policy principles outlined in National Planning Framework 4 (NPF4) in relation to sustainable transport, design, quality and place and blue and green infrastructure.

5. The policy intent of NPF4 in relation to sustainable transport is '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 policy intent of NPF4 in relation to design, quality and place is 'to encourage, promote and facilitate well designed development that makes successful places by taking a design-led approach and applying the Place Principle'. The policy intent of NPF4 in relation to blue and green infrastructure is 'to protect and enhance blue and green infrastructure and their networks'.

6. The focus of NPF4 is on what the development plan is expected to achieve through providing policy guidance for new development and protecting existing assets. This is largely the approach to supporting and enabling a good active travel network which is set out at paragraphs 95 and 96 in section 3.4 of the local development plan. These strategic goals are given effect principally through proposed Policy T1: Transport requirements in new development, proposed Policy T3: Development and protection of core paths and other routes and part 3 of proposed Policy DES1: Development Design, all underpinned by criterion (iii) of proposed Policy SS2: Overarching Policy.

7. I have recommended below modifications to proposed Policies T1 and T3 which are designed to bring these parts of the plan into line with NPF4 and, hence, reflect the emphasis in national policy on active travel. Proposed Policy DES1 sets out the principles that developers must follow to ensure proposals are easy to move around and beyond. Proposed Policy SS2 requires that development is located in accessible locations that reduce the need to travel. I have also recommended the proposed plan be modified to include a policy on 20-minute neighbourhoods which reflects national policy.

8. Delivery is not envisaged to be entirely a reactive process which depends on development proposals coming forward. In particular, the council commits to delivering the Green Infinity Loop in Kilmarnock. However, I accept the council's point that its own direct contributions to an accessible travel network require a significant amount of funding, partnership working and planning. Where projects are not designed and budgets committed to enable implementation during the lifespan of the proposed plan, I do not consider they should be included in the plan as proposals.

9. Suggested council initiatives include the expansion of traffic-free areas around schools and reallocation of road space to enable active travel. I am not aware of designed and funded proposals to enhance the active travel network that have not been included in the proposed plan. In any case, some of the recommended initiatives would not have land use implications that require local development plan support; they could be implemented within the existing road network.

10. The council indicates that Figure 10: Spatial Strategy – Sustainable Travel and Transport does not show the entire East Ayrshire path network and suggests adding a note to the plan to indicate that. I agree this may help to clarify the purpose of the plan. Therefore, I have recommended below a modification to include a note to this effect.

11. I share the council's opinion that the detailed specification of 'end of trip' facilities such as the inclusion of changing facilities and showers goes beyond the level of detail expected in a local development plan and is, instead, a matter which can be addressed through the development management and/or building standards process.

12. The council has suggested a modification to the sustainable travel and transport spatial strategy to include a reference to its ambition to reduce car kilometres travelled by 20%. There is an existing reference to this at paragraph 100 of the proposed plan so I have recommended a modification to this paragraph to reflect the wording in the NPF4 National Spatial Strategy as it relates to sustainable places.

13. Other than the minor modifications I have identified above, I do not consider it necessary to modify section 3.4 of the proposed plan.

#### Improvements to Bellfield Interchange and Moorfield Roundabout, Kilmarnock

14. The Bellfield Interchange is a strategically important junction on the trunk road network linking the A71, A77, A76 and A735 roads. Paragraph 106 of the proposed plan explains that the Scottish Government's second Strategic Transport Projects Review (STPR2) Final Technical Report includes a recommendation (recommendation 40, paragraph 8.7.2) that, as part of proposals to improve access to Stranraer and the ports at Cairnryan, safety, resilience and reliability improvements be carried out to the A77 road corridor. The STPR2 Final Technical Report also highlights Bellfield Interchange Improvements as one of a number of examples where potential improvement schemes could take place. The council also considers that improvements to the junction are necessary to support local economic growth, including delivery of Scottish Government housing land requirements and the Advanced Manufacturing Investment Corridor project on an area to the east of the interchange.

15. However, there is concern that ‘induced demand’ created by improvements would be at odds with national policy to reduce car kilometres by 20% by 2030, as set out in the Climate Change Plan. It is suggested that the council’s Transport Appraisal does not take account of this and that measures to reduce and restrict vehicle use whilst improving the active travel network would represent a more appropriate, greener strategy.

16. I have not been presented with evidence to suggest how national and local economic development objectives can be met without improvement to Bellfield Interchange. I also note that one of the drivers for improvements is road safety, including for cyclists and pedestrians. Furthermore, paragraph 8.1 of the transport assessment report recognises that the provision of greater road capacity could result in undermining the traffic reduction strategy but advises that the proposed mitigations (carriageway widening, signalisation, extension of the A77 southbound off slip and erection of a footbridge) seek to manage delays, congestion, resilience and road safety whilst taking account of the proposed 20% reduction in car kilometres driven by 2030.

17. Additionally, other policies of the proposed plan are designed both to reduce the need to travel and encourage active travel. I have summarised at paragraphs 6 and 7 above the intended effect of Policies T1 and T3, as modified, the recommended policy on 20-minute neighbourhoods and Policies DES1 and SS2 in this regard. I also attached significant weight to the support in STPR2 to the wider economic benefits of junction improvements in relation to improving access to Stranraer and the ports at Cairnryan.

18. I conclude that it is not necessary to modify the proposed plan to remove proposals to improve the Bellfield Interchange.

19. Concern is also expressed about proposed improvements to Moorfield roundabout, west of Kilmarnock. However, I cannot see that this is included as proposal in the proposed plan so have not drawn any conclusions on this matter.

Stronger focus required on achieving Spatial Strategy: Sustainable Travel and Transport (310)

20. The spatial strategy of the plan as it relates to sustainable travel and transport will largely be delivered through the implementation of the relevant policies and proposals of the proposed plan. In order to take account of NPF4 Policies 13 and 15, Transport Scotland considers that further detail within specific policies or proposals is necessary to explain how the proposed plan will support local living, implement high quality active travel and improve public transport routes. I address these issues below in relation to proposed PROP4 and Policy T1.

21. Paragraph 100 of the proposed plan does not align with the National Spatial Strategy set out in NPF4 in relation to net zero emissions and reducing car kilometres travelled. Therefore, I have recommended below a modification to bring the council’s spatial strategy in line with Scotland’s Climate Change Plan.

**PROP4: Improvements to Bellfield Interchange and Kirklandside/Kaimshill**

Scale and costs associated with developer contributions (128) and (141)

22. I accept that the proposed plan has been prepared under transitional arrangements and recognise that a final dovetailing of policy approach between the local development plan and NPF4 will not be possible until the council carries out the next review of the plan. I note the council's advice that, although costs for the improvements are known, a recent bid to the Levelling Up Fund was unsuccessful and, until an alternative source of funding is identified including, potentially, from the council's capital programme, it is not possible to confirm a timescale for implementation.

23. Therefore, I also accept the council's position that, in the meantime, the best means of aligning the two parts of the development plan in relation to improvements to Bellfield Interchange and to make clear what will be required by way of developer contributions is to revise the draft supplementary guidance on developer contributions to take account, as far as is practically possible, of Transport Scotland's advice. Proposed Policy INF4: Developer Contributions states that development in the area of the Bellfield Interchange is likely to trigger the requirement for contributions. Note 2 to the proposed policy advises that Supplementary Guidance on Developer Contributions will provide detailed policy guidance on how contributions will be calculated in relation to transport infrastructure. When key issues such as cost, delivery and timescale are known, this information can be set out in the supplementary guidance.

24. However, if these issues remains an unresolved, this is a matter that the council will be required to address in the next review of the plan when supplementary guidance will no longer be part of the statutory development plan.

25. I consider that the existing text of proposed Policy INF4 under the sub-heading 'Transport Infrastructure' provides a suitable policy hook to support this approach. I do not consider it necessary to modify the proposed plan.

Viability concerns (128) and (141)

26. The council advises that if it can fund the junction improvements from its own resources, or through external funding, this would reduce or remove the need for developer contributions, which may be sufficient to allay the concerns of developers. Failing that, as the council points out, Note 1 to proposed Policy INF4 provides a mechanism for contributions to be reduced or waived in exceptional circumstances. Appendix 1 of the draft supplementary guidance provides a framework for the assessment of viability concerns.

27. I do not consider any modification to the plan is necessary.

LDP2 Transport Appraisal (310)

28. Transport Scotland is disappointed that the proposed improvements to the interchange mainly benefit road traffic. I have noted above the reasons why the proposed improvements are considered necessary to support economic development,

both locally and further afield, including reference in the STPR2 Final Technical Report to Bellfield Interchange Improvements as a project which could contribute to improving access to Stranraer and the ports at Cairnryan. However, I have also noted that the project is not currently funded and recognise the council's position that lack of external financial support for works on the scale proposed restrict its ability to commit to building in more sustainable transport elements at this point in time. Notwithstanding that limitation, the council advises that the proposals do include the construction of a bridge to separate out pedestrians and cyclists. I consider that Transport Scotland support for the inclusion of more sustainable transport features would lend support to any funding bid for a project that would integrate such measures.

29. I do not consider it necessary to recommend a modification to the plan on this matter.

#### Phasing and delivery of improvements (310)

30. I have dealt with this issue under the sub-heading above which reads 'Scale and costs associated with developer contributions' and at Issue 20 of the examination report which deals with infrastructure issues.

### **Policy T1: Transport requirements in new development**

#### Policy wording and relationship with NPF4 (128), (141), (195), (196) and (310)

31. Transport Scotland's position is that, now NPF4 has been approved, proposed Policy T1 is not required. However, if it is to remain within the proposed plan, Transport Scotland considers that the policy should be based on NPF4 Policy 13 with wording changes to strengthen the policy and provide clarity.

32. I have explained in paragraphs 1-3 above my approach to dealing with inconsistencies and repetition. Local development plan policies must take account of NPF4 policies. There is much in proposed Policy T1 that accords with Policy 13 of NPF4, which concerns sustainable transport. However, the development plan is to be read as a whole. I consider reading the two policies side by side would be complicated and confusing for users of the plan. I have considered whether it would be practical to edit proposed Policy T1 to provide consistency with NPF4 Policy 13 but concluded that, due to the length and complexity of the proposed policy, this would be unlikely to deliver an accessible, workable policy. Therefore, as an interim measure, pending the next local development plan review, I have recommended below that the proposed policy be deleted and substituted with the wording from the NPF4 sustainable transport policy.

33. I consider that this approach addresses most of the suggestions made for modifications to the proposed policy. However, there is also concern that the proposed plan does not reflect fully NPF4 policy relating to local living and 20-minute neighbourhoods. Therefore, I have also recommended that a new policy be inserted into the proposed plan after Policy T1 to incorporate the wording of NPF4 Policy 15. There is concern that 20-minute neighbourhoods are not universally workable. However, the recommended policy states that implementation will be required 'where relevant'. I consider that this provides scope, in exceptional circumstances, for

developers to advance an argument that this policy approach is not appropriate. I also note that the Scottish Government is consulting on its Local Living and 20-minute Neighbourhoods Planning Guidance. I note that the draft guidance includes a section on the rural and island context and case studies, including an East Ayrshire example which may be helpful in considering implementation outwith urban areas.

Sufficiency of the spatial strategy in addressing sustainable travel (310)

34. I have addressed issues regarding proposals for the Bellfield Interchange above.

Travel plan provision (310)

35. The modification to proposed Policy T1 recommended below will ensure that proposed plan policy on travel plan provision reflects the requirements of NPF4.

**Policy T3: Development and protection of core paths and other routes**

Reference to Natura 2000 sites (157)

36. I have recommended below a modification to the third paragraph of proposed Policy T3 which changes the reference to 'a Natura 2000 site' to 'a European site'. This reflects the post-Brexit status of such sites.

Core paths (192) and (196)

37. NPF4 requires local plans to safeguard access rights and core paths, including active travel routes, and encourage new and enhanced opportunities for access linked to wider networks.

38. I consider that paragraphs four and five of proposed Policy T3 provide the requisite safeguarding. I consider that paragraphs one, two and three of the proposed policy provide the support required for the development of new routes.

39. Whether or not the council implements this policy effectively, whether it maintains core paths to an appropriate standard and the nature of its working relationship with the leisure trust are operational issues for the council and not matters for this examination.

40. Representations on the core path element of the draft Recreation Plan will be considered by the council initially and, if unresolved, by Scottish Ministers under the Land Reform (Scotland) Act 2003. These are not matters for this examination.

41. The council has suggested a modification to the fourth and fifth paragraphs of the proposed policy to address the concern that, as drafted, the wording is conflicting and potentially difficult to implement. I agree that this would address the concern expressed and have adopted the council's proposed changes in the modification below.

42. The council has also suggested a modification to the note at the end of the proposed policy which refers to the statutory process for diversion of a core path under land reform legislation. I agree this would be a helpful change in providing consistency with the reference to use of a stopping up order under the Planning Act. I have



endorsed the council's suggested wording in the recommendation below.

**Policy T4: Charging infrastructure for electric vehicles**

Provision of EV charging in new development (128) and (195)

43. Policy 13 b) iv. of NPF4 requires developers to 'provide low or zero-emission vehicle and cycle charging points in safe and convenient locations, in alignment with building standards'. Proposed Policy T4 requires provision to meet thresholds set out in a table which links minimum provision to development type.

44. I do not have evidence to show whether the provision in the table equates to current building standards. Even if it does, it is possible that building standards will change in future, putting the plan out of alignment. Therefore, I consider it would be better if the proposed policy mirrored NPF4 by simply referring to alignment with building standards. Specific requirements could then be kept up to date by the council in its Energy and Electric Vehicle Charging Supplementary Guidance.

45. I have recommended a modification to this effect below. The modification also adds in a reference to cycle charging, also in line with NPF4 policy.

46. The proposed Energy and Electric Vehicle Charging Supplementary Guidance provided for by proposed Policy T4 could also be used to address the query about how provision would relate to residential developments with reduced car parking. I consider this to be a level of detail which would not be appropriate for inclusion in the proposed policy.

**Reporter's recommendations:**

I recommend the plan be modified as follows:

1. Inclusion of a note on Figure 10 to read as follows:

'Note: this map does not show the entire path network. More details are available from the Development Planning and Regeneration service.'

2. Deletion of the second sentence of paragraph 100 and substitution with the following sentence:

'The creation of park and ride facilities would assist in achieving the goal in Scotland's Climate Change Plan of achieving net zero emissions by 2045 and making significant progress towards this by 2030, including by reducing car kilometres travelled by 20% through reducing the need to travel and promoting more sustainable transport.'

3. Deletion of the word 'draft' before the acronym 'NPF4' in paragraph 239.

4. Deletion of the text at Policy T1: Transport requirements in new development and substitution with the following text:



'a) Proposals to improve, enhance or provide active travel infrastructure, public transport infrastructure or multi-modal hubs will be supported. This includes proposals:

- i. for electric vehicle charging infrastructure and electric vehicle forecourts, especially where fuelled by renewable energy.
- ii. which support a mode shift of freight from road to more sustainable modes, including last-mile delivery.
- iii. that build in resilience to the effects of climate change and where appropriate incorporate blue and green infrastructure and nature rich habitats (such as natural planting or water systems).

b) Development proposals will be supported where it can be demonstrated that the transport requirements generated have been considered in line with the sustainable travel and investment hierarchies and where appropriate they:

- i. Provide direct, easy, segregated and safe links to local facilities via walking, wheeling and cycling networks before occupation;
- ii. Will be accessible by public transport, ideally supporting the use of existing services;
- iii. Integrate transport modes;
- iv. Provide low or zero-emission vehicle and cycle charging points in safe and convenient locations, in alignment with building standards;
- v. Supply safe, secure and convenient cycle parking to meet the needs of users and which is more conveniently located than car parking;
- vi. Are designed to incorporate safety measures including safe crossings for walking and wheeling and reducing the number and speed of vehicles;
- vii. Have taken into account, at the earliest stage of design, the transport needs of diverse groups including users with protected characteristics to ensure the safety, ease and needs of all users; and
- viii. Adequately mitigate any impact on local public access routes.

c) Where a development proposal will generate a significant increase in the number of person trips, a transport assessment will be required to be undertaken in accordance with the relevant guidance.

d) Development proposals for significant travel generating uses will not be supported in locations which would increase reliance on the private car, taking into account the specific characteristics of the area.

e) Development proposals which are ambitious in terms of low/no car parking will be supported, particularly in urban locations that are well-served by sustainable transport modes and where they do not create barriers to access by disabled people.

f) Development proposals for significant travel generating uses, or smaller-scale developments where it is important to monitor travel patterns resulting from the development, will only be supported if they are accompanied by a Travel Plan with supporting planning conditions/obligations. Travel plans should set out clear arrangements for delivering against targets, as well as monitoring and evaluation.

g) Development proposals that have the potential to affect the operation and safety of

the Strategic Transport Network will be fully assessed to determine their impact. Where it has been demonstrated that existing infrastructure does not have the capacity to accommodate a development without adverse impacts on safety or unacceptable impacts on operational performance, the cost of the mitigation measures required to ensure the continued safe and effective operation of the network should be met by the developer.

While new junctions on trunk roads are not normally acceptable, the case for a new junction will be considered by Transport Scotland where significant economic or regeneration benefits can be demonstrated. New junctions will only be considered if they are designed in accordance with relevant guidance and where there will be no adverse impact on road safety or operational performance.'

5. Insertion of an additional policy after Policy T1, as follows:

'Policy T2: 20-minute neighbourhoods

Development proposals will contribute to local living including, where relevant, 20-minute neighbourhoods. To establish this, consideration will be given to existing settlement pattern and the level and quality of interconnectivity of the proposed development with the surrounding area, including local access to:

- sustainable modes of transport including local public transport and safe, high-quality walking, wheeling and cycling networks;
- employment;
- shopping;
- health and social care facilities;
- childcare, schools, and lifelong learning opportunities;
- playgrounds and informal play opportunities, parks, green streets and spaces, community gardens, opportunities for food growth and allotments, sport and recreation facilities;
- publicly accessible toilets; and
- affordable and accessible housing options, ability to age in place and housing diversity.'

6. Deletion of the name 'Natura 2000' from the third paragraph of Policy T3: Development and protection of core paths and other routes and substitution with the word 'European'.

7. Addition of the word 'permanently' before 'disrupts' in the first sentence of the fourth paragraph of Policy T3.

8. Deletion of the wording 'Where such disruption or adverse impact is demonstrated to be unavoidable,...' from the fifth paragraph of Policy T3 and substitution with the following wording:

'Where short term or interim disruption or adverse impacts are demonstrated to be unavoidable,...'

9. Deletion of the first sentence of the note at the foot of Policy T3 and substitution

with the following sentence:

‘Where a diversion of a core path or other route, either temporary or permanent, is sought as a result of a development proposal, a Stopping Up Order (SUO) will be required in accordance with section 208 of the Town and Country Planning (Scotland) Act 1997 or, in the case of a core path, the Land Reform (Scotland) Act 2003.’

10. Deletion of the first two paragraphs and table from Policy T4: Charging infrastructure for electric vehicles and substitution with the following paragraph:

‘All new development will be required to provide low or zero-emission vehicle and cycle charging points in safe and convenient locations, in alignment with building standards.’

Issue 22	Renewable Energy and low carbon buildings	
Development plan reference:	Policies RE1, RE2, RE3, PROP 5 and Renewable Energy Assessment Criteria	Reporter: Steve Field
Body or person(s) submitting a representation raising the issue (including reference number):		
SEPA (106) REG Power Management and ESB Asset Development (REG/ESB) (145) SSE Renewables (153) NatureScot (157) A.N Other (192) ScottishPower Renewables (SPR) (196) RES UK & Ireland (RES) (198) Community Windpower (261) RWE Renewables UK (284) Scottish Government (310)		
Provision of the development plan to which the issue relates:	The content and wording of Policies RE 1 (Renewable Energy), RE 2 (Heating and Cooling), RE 3 (Low and Zero Carbon Buildings) and PROP 5 (Our Energy Masterplan), Section 8.1 and Renewable Energy Assessment Criteria.	
Planning authority's summary of the representation(s):		
RE1: Renewable Energy and supporting paragraphs		
<u>REG/ESB and RES UK &amp; Ireland (145), (198)</u>		
<p>There are concerns around how East Ayrshire Council intends to plan strategically for future wind energy. It is considered important that the proposed Development Framework related to Hagshaw Energy Cluster does not create a context which would count against what may otherwise be an acceptable stand-alone renewable energy proposal (as not every development will be similar to Hagshaw energy cluster). In addition, it is suggested that the PLDP2 suggests that the Hagshaw energy cluster is a “done deal” between parties however, it can take several years to negotiate agreements and firm up commitments to progress the project.</p> <p>There is concern around the need for a standalone decarbonisation strategy as referenced in the fourth paragraph of the policy and are unclear as to what such a strategy would deliver that is not already submitted as part of a planning application. It is suggested that the policy (which also applies to repowering schemes including lifetime extensions) should include consideration for the need for a decarbonisation strategy to be on a case-by-case basis, either through the EIA Screening and/or pre-application process than set out in policy as a mandatory requirement.</p>		

### SSE Renewables (153)

Policy RE1 should be updated to reflect the significant weight given to the Climate Emergency in Policy SS1 to reflect the important role renewable energy can play in addressing climate change and meeting emissions reductions targets.

When balancing the Climate Emergency and the identified need for and benefits of development proposal with any likely significant effects, decision makers should focus on whether any significant effects would give rise to severe adverse impacts and the policy wording should be amended to reflect this.

### NatureScot (157)

The use of sensitivity mapping and sensitivity assessment can help to guide development to the best locations.

### AN Other (192)

The policy should state that renewable energy projects will not be supported where rural housing is bought by a developer to facilitate a development which would otherwise have unacceptable residential or environmental impacts. Subsequently, what currently happens is that these rural dwellings are left unoccupied to become derelict or demolished impacting on the history and fabric of the rural area.

Within the Renewable Energy Assessment Criteria, there is an absence of assessing the effects of development on private water supplies (PWS) as many rural properties depend on PWD as their only source of domestic and agricultural water. Inclusion of such would align with Policy NE12 within the Plan.

### ScottishPower Renewables (196)

It is suggested that the policy must be strengthened to ensure LDP provides a positive policy framework to enable East Ayrshire to contribute to renewable energy generation and the net zero transition.

The policy should be expanded to state support for the co-location of different renewable and low carbon technologies as there is a growing appetite to co-locate technologies to both increase energy output per hectare and to enhance grid resilience. This will help to decarbonise historically challenging sectors meaning the approach will be essential for building a zero carbon economy.

There is an indication of broad support for renewable energy developments within the policy wording however, there is no guidance on how the acceptability of impacts should be judged and balanced in decision making. Furthermore, the policy fails to explain how impact acceptability should be determined on a clear and consistent basis.

The policy should confirm that renewable energy developments, including onshore wind, should be consented in perpetuity as this would afford developments the same treatment as all other development types (excluding minerals). Any requirement for time-limits (i.e. temporary permission) should only be applied on an individual basis in

light of robust evidence. Planning conditions can be used to require if turbines do not operate, they have to be removed and cover requirements for decommissioning and site restoration.

The requirement for decarbonisation strategy is confusing and justification for and scope is unclear.

#### Community Windpower (261)

Within paragraph 249, they suggest that the text “wind energy development” be further clarified.

Within paragraph 251, it is suggested that the text “renewable energy targets” is further clarified to reflect the urgent nature of the journey to Net Zero which the Scottish Government have been pursuing.

### **RE2: Heating and Cooling**

#### SEPA (106)

Whilst SEPA is supportive of the joined up nature of the policy in relation to co-location and renewable heat generation, they suggest stronger wording is required around the financial and technical barriers that would require to be demonstrated before requirements for pipeworks and piperuns are relaxed.

The policy wording in the second paragraph of the policy should make clearer reference to other policy requirements in addition to the relevant renewable criteria in the Renewable Energy Assessment Criteria table. In addition, referencing sites that could be grouped together within the description tables of Volume 2 of the PLDP2 will improve viability of developing a district heat network.

### **RE3: Low and Zero Carbon Buildings**

#### Scottish Government (310)

The plan should be modified to include a policy that fulfils the requirements of section 3F of the Town and Country Planning (Scotland) Act 1997. The plan includes support for use of low and zero carbon generating technologies (LZCGTs) in new buildings. However, the Act requires that all Local Development Plans must include policies requiring all developments to be designed so as to ensure that all new buildings avoid a specified and rising proportion of the projected greenhouse gas emissions from their use, calculated on the basis of the approved design and plans for the specific development, through the installation and operation of low and zero-carbon generating technologies.

### **PROP 5: Our Energy Masterplan**

#### REG/ESB and RES UK & Ireland (145), (198)

While the production of an energy masterplan is welcomed, further clarity is required in terms of the reference to “strategic planning” in the first bullet point of paragraph 113 as it could have significant implications for future applications across all technologies.

Further clarity is needed on the status of the Masterplan.

RWE Renewables UK (284)

Onshore wind should be an important factor in the masterplan, however identification of suitable sites should be left to developers rather than set out in the masterplan.

NatureScot (157)

Suggest consideration be given to solar energy due to its viability in Scotland and the potential for solar developments to be located on vacant and derelict land.

ScottishPower Renewables (196)

The Masterplan should be aligned with the draft NPF4, in particular Policy 19 (Criterion A), in relation to a spatial approach to positively identifying opportunities for further renewable energy deployment at scale and pace, supporting the co-location of different renewable energy technologies, supporting repowering and life extensions of existing renewable energy developments to avoid backsliding of capacity and be supportive of granting consent for renewable energy developments in-perpetuity.

There is concern in relation to the implementation of mechanisms for the masterplan including how and by whom the masterplan will be developed, how it will implement the national policy requirement and how the masterplan will be applied in the determination of individual consenting applications.

**Modifications sought by those submitting representations:**

**RE1: Renewable Energy**

145 and 198

While there is no specific modification sought, it is suggest that the proposed Development Framework (related to the Hagshaw Energy cluster) does not create a context which would count against what may otherwise be an acceptable stand-alone renewable energy proposal (as not every development will be similar to the Hagshaw energy cluster).

The requirement for a decarbonisation strategy to be removed from the policy wording or that the text, within the policy, be redrafted to note that the potential requirement for such a strategy will be considered on a case by case basis, considering the individual circumstances. 196 also question the inclusion of the need for a decarbonisation strategy

153

The policy wording should be amended to include the text set out at Paragraph 249 as part of the policy.

The policy wording should be amended to confirm that the list of considerations set out



in the assessment criteria will start with an “in principle” support for renewable energy development, with appropriate reference to policy SS1.

157

No specific modifications sought.

192

Modify the policy wording of RE1 to include a presumption against any development which buys up rural property with a view to render it uninhabitable.

Modify the Renewable Energy Criteria to include comprehensive PWS risk assessments to be provided in support of a windfarm application, application for repowering, interconnector work or any other industrial development.

196

While there is no specific modification sought, SPR suggest strengthening the policy wording to ensure a positive policy framework to enable East Ayrshire to contribute to renewable energy generation and net zero transition (at pace and scale).

The policy should be expanded to state support for the co-location of different renewable and low carbon technologies.

While there is no specific modification sought, SPR suggest that there is no guidance on how the acceptability of impacts should be judged and balanced in decision making. Furthermore, the policy fails to explain how impact acceptability should be determined on a clear and consistent basis.

The policy should confirm that renewable energy developments, including onshore wind, should be consented in perpetuity as this would afford developments the same treatment as all other development types (excluding minerals).

261

Within paragraph 249, the text “wind energy development” should be changed to “onshore wind energy development” for clarification purposes.

Within paragraph 251, the text “renewable energy targets” should be changed to “legally-binding Emissions Reduction Targets” to reflect the urgent nature of the journey to Net Zero.

## **RE2: Heating and Cooling**

106

Modify the policy wording within the third paragraph to include that “significant financial or technical barrier” to installation would need to be demonstrated before requirements for pipeworks and piperuns are relaxed.

Modify the policy wording to make clearer reference to other policy requirements in addition to Renewable Energy Criteria.

Description tables for sites in Volume 2 of the PLDP2 (Settlement Maps) include referencing sites that could be grouped together to improve the viability of developing a district heat network.

### **RE3: Low and Zero Carbon Buildings**

310

Modify the plan to include a policy that fulfils the requirements of section 3F of the Town and Country Planning (Scotland) Act 1997.

### **PROP 5: Our Energy Masterplan**

145 and 198

No explicit modification is set out, however, it is suggested that further clarity is required over what is meant by “strategic planning” in the first bullet point of paragraph 113.

Further clarity on the status of the Masterplan is required.

284

Onshore wind should be an important factor in the masterplan. The masterplan should not include proposed locations of areas of search.

157

Consideration to be given to solar energy.

196

No specific modifications sought however, there is suggestion that the masterplan should align with draft NPF4 (in particular Policy 19 (Criterion A)).

Further implementation details should be included in PROP5 in regards to implementation mechanisms for the Masterplan.

### **Summary of responses (including reasons) by planning authority:**

#### **Paragraphs 250 – 251**

A strategic approach to renewable energy development (145, 198)

Within paragraphs 250 and 251 of Section 8.1 of the Plan, the Council recognises the shared benefits that can be achieved by renewable energy developers through a more

strategic and joined up approach to development. This has been highlighted by the work completed on the development framework for Hagshaw Energy Cluster, in which a place-based approach was adopted to plan for the future development of a number of separate wind farm proposals in the area. The Council recognises that not all renewable energy developments will be similar to the Hagshaw Energy Cluster example and there is no presumption of this within the paragraph or policy wording.

The Hagshaw Energy Cluster Development Draft Framework has been underpinned by significant community engagement and its development has been overseen by a steering group comprising the Council, neighbouring local authority, NatureScot and renewable energy developers. The Council anticipate adopting the framework as non-statutory planning guidance and the principles and opportunities contained within the framework will be taken into account in the determination of relevant planning applications.

The Council is of the opinion that including this example within the Plan, gives a viable illustration of how developers can work together to maximise both renewable energy output and environmental, social and economic benefits for the future. It in no way disadvantages developments that cannot be planned and developed in such a way.

### **Policy RE1**

#### **The need for a standalone decarbonisation strategy (145, 196, 198)**

The policy wording clearly states that a decarbonisation strategy will be required for major energy generation developments to demonstrate how greenhouse gas emissions arising from the development will be abated. The Council sees the merit in this requirement, as it will allow decision makers a full understanding of the lifetime carbon implications for a development. However, it is noted that it was included within the policy to align with the requirements of the Draft NPF4 (policy 19) (CD3). It is further noted that policy 19 of the NPF (CD4) has omitted the requirement for a decarbonisation strategy for renewable energy developments. Whilst the Council considers there to be a justification for retaining the requirement, in order to ensure alignment with national policy on this particular matter, the Council would have no strong objection to the Reporter removing this requirement from Policy RE1 if she/he is minded to do so.

#### **Wording of RE1 in relation to the climate emergency and the ensuring a positive approach to renewable energy (153, 196)**

The policy wording is supportive of all forms of renewable energy to ensure that East Ayrshire can play its part in tackling the climate emergency. However, when assessing applications, Policy RE1 and the Renewable Energy Criteria will be used to balance the contribution to energy targets and reducing carbon emissions against the environmental, cumulative and community issues related to a proposal. All renewable energy developments will also be required to meet the aspirations set out in Policy SS1. In relation to impact assessment and acceptability, policy RE1 is clear that detailed supporting information from the applicant will be required to allow a detailed assessment to be made against the criteria both in terms of the individual impacts of the development but also the cumulative impacts when considered alongside other

development. The policy allows for proposals to be assessed on a case-by-case basis (as not every development will have similar impacts) and impacts will be assessed by Development Management on the level of detail (in relation to the impact and its mitigation) submitted by the applicant, consultation with key stakeholders and on the cumulative impact. The Council is of the opinion that this is a responsible and positive approach to renewable energy development, gives appropriate weight to the climate emergency within the policy and aligns with existing Development Management procedures.

The wording of paragraph 249 gives a high level perspective of how Policy RE1 and the Renewable Energy Criteria will support renewable energy development and the Council is of the view that if this was included in the policy wording, there would be a risk of duplication.

#### The use of Sensitivity Mapping and Assessment (157)

Given the context set by the NPF4 (CD4), and in particular the removal from national policy of the need for a spatial framework for wind energy, the Council is of the view that it would be inappropriate to use sensitivity mapping to guide development. The Plan, through policy RE1 and paragraphs 247 – 249, makes clear that renewable energy development is supported in principle throughout East Ayrshire, where it can be developed without significant impacts on the criteria listed within the renewable energy criteria. It is considered that whilst sensitivity mapping may identify areas with capacity for renewable energy development, it would also have the consequence of identifying areas of less capacity. This kind of approach, the Council consider, would not be in accordance with the overall principles of NPF4 (CD4). Notwithstanding this, the Plan in policy RE1 confirms that Supplementary Guidance will be prepared to support policy RE1 and it may be that, in consultation with NatureScot (157), a degree of sensitivity mapping could be contained within the guidance to help direct development to the most suitable locations.

#### Impact of renewable development on rural housing (192)

In relation to the issue of developments buying and then effectively abandoning rural houses, the Council is of the view that the LDP is limited in its powers to address this. It would not be appropriate for, or indeed within the remit of, the Plan to effectively stop the sale of rural housing to renewable energy developers. Whilst the Council does not wish to see the removal of established rural houses, in the context of the climate emergency and national renewable energy targets, it would also not be appropriate to prevent an otherwise acceptable renewable energy development, because of a blanket restriction on the removal of any houses.

#### Consideration to Private Water Supplies (192)

In relation to private water supply (PWS) assessments, the policy wording is clear that all applications will be assessed against the Renewable Energy Assessment Criteria which includes effects on hydrology and water environment. The Council considers that PWS assessments will be assessed under this criterion within the Assessment Criteria and the specifically including PWS assessments is not required. In addition, policy NE12 gives a policy hook to require a private water supply assessment, where

considered necessary.

#### Co-location of different technologies (196)

RE1 or indeed any other provision of the Plan does not specifically support the co-location of different renewable and low carbon technologies. However, neither does it presume against such development. Indeed, the Council consider the policy framework will allow for robust and fair assessment of any type of renewable energy development, whether this is for one or multiple types of technologies. If, as the respondent suggests, co-location would increase energy output per hectare, this would be fully captured in decision making through the first criterion of the renewable energy criteria i.e. 'Scale of contribution to renewable energy targets'. Therefore it is considered that there is no need to give explicit policy support for the co-location of different technologies.

In regards to the description tables in Volume 2, the Council are of the opinion that once the local authority-wide Local Heat and Energy Efficiency Strategy (LHEES) is completed, this will contain information on sites that could be viable for a district heat network. LHEES will set out the long term plan for decarbonising heat in buildings and improving their energy efficiency across East Ayrshire. Within the LHEES Delivery Plan, Delivery Areas will be identified which will set out clusters of buildings that will identify potential solution(s) for heat and energy efficiency and will be important as a starting point for the local authority to identify projects and actions for delivery of those proposed solutions. It is anticipated that this work will be completed by the end of 2023 and this information will be used to inform the next Local Development Plan.

#### Consents in Perpetuity (196)

The Council are of the opinion that there is nothing within the policy wording of RE1 that would prevent a wind farm application in perpetuity being submitted and being assessed against the relevant policies of the Plan. It is not necessary for the policy to specifically state that such applications will be supported. The Council consider that it is important to require applicants to consider decommissioning and restoration proposals as part of their application (as per the Renewable Energy Assessment Criteria) to ensure that there is no long-lasting environmental, biodiversity, landscape or amenity impact on the site if the windfarm is to be decommissioned or continued to be operational. On this basis, no change in the policy wording is required.

#### Modification of wording in supporting paragraphs 249 and 251 (261)

In relation to the clarification sought for "wind energy development", East Ayrshire does not contain a coast and is land-locked. Therefore, any wind energy development that comes forward will be onshore in nature and the Council is of the opinion that the further clarification of "onshore wind energy development" is not needed.

There is no reference to "renewable energy targets" within paragraph 251, however, the Council would highlight that the use of this term throughout the Plan encompasses the national and local targets (which can sometimes be different) in respect of reducing greenhouse gas emissions and tackling climate change.

## **Policy RE2**

### Relaxation of requirement for pipeworks and piperuns (106)

If the Reporter is minded, the Council see no objection to the inclusion of the word “significant” before “financial or technical barrier” in relation to the requirements for pipeworks and piperuns within Policy RE2.

### Relationship between RE2 and other policies (106)

In response to the comment (106) that the second paragraph of RE2 should make clearer a reference to other policy requirements, it is noted up front at paragraph 14 of the Plan that all relevant parts of the Plan must be taken into account when assessing proposals. There is therefore no need to cross-reference different policies, and indeed the Plan has generally sought not to do this, as in different instances different policies will be relevant, depending on the particular nature of a particular proposal.

## **Policy RE3**

### The need to change policy wording to align with the Town and Country Planning (Scotland) Act 1997 (310)

Policy RE3 of LDP2 requires development new buildings to demonstrate that at least 15% of the overall reduction in carbon emissions as required by Building Standards will be achieved by the installation and operation of LZCGTs. It is considered that this policy meets the requirement of section 3F of the 1997 Act (CD65), as it closely reflects policy ENV14 of the EALDP 2017 (CD23), which has been included in the Annex “Adopted Section 3F Policies” to the annual reporting published by the Scottish Government: Climate Change Act annual reports. As such, the Council is satisfied that policy RE3 “Low and Zero Carbon Buildings” of LDP2 meets the requirement of the Town and Country Planning (Scotland) Act 1997 (as amended) (CD65). It is noted that the “specified proportion” of the projected greenhouse gas emissions reduction is not “rising”; if the Reporter were minded to amend the policy to include a “rising proportion”, the Council would have no objection.

## **PROP 5**

### Clarity over the Ayrshire Energy Masterplan (145, 157, 196, 198, 284)

Given that the development of the Ayrshire Energy Masterplan is at an early stage (procurement of consultant), the implementation mechanisms have yet to be developed. An important element of the Masterplan will be a policy review and NPF4 will be taken into account along with each Ayrshire authorities’ Local Development Plans. The Energy Masterplan will include consideration of all forms of renewable energy technologies and all energy sources (including solar) which are available within the Ayrshire area.

Developing an Energy Masterplan at an Ayrshire regional level offers scale and enables a holistic approach to considering electricity, heat and transport that will help the region understand how the collective Ayrshire systems can be decarbonised and



help to identify a number of cluster opportunities that can be developed collectively at regional level or local authority level. Therefore, it is anticipated that the Masterplan will help the Council to strategically plan its own decarbonisation projects while aligning with other regional activities. For clarity, in terms of status it is anticipated that it may be adopted as non-statutory planning guidance which can be used by stakeholders beyond solely the local authorities, to inform service and project delivery. Its role will not, however, be to identify locations or areas of search for commercial wind energy developments.

The development of the Ayrshire Energy Masterplan is at an early stage and the comments raised within the PLDP2 representations will be considered as the Council progress the Masterplan with its local authority partners.

### Reporter's conclusions:

#### **Preliminary matter: relationship between local development plan policies and NPF4**

1. In relation to issues where representations suggest there is potentially significant divergence between the policies of the proposed plan and National Planning Framework 4 (NPF4), reporters invited parties who have submitted representations to make any further comments on the issues they have raised now they are aware of the final form of national policy. This puts them on the same footing as the council which was able to draft its responses in light of the approved version of NPF4 whereas those lodging representations commented in light of the draft version of NPF4.
2. I note the council's comments about the difficulty of aligning the proposed plan with NPF4, given the overlapping timescales. I accept that the proposed plan has been produced under transitional arrangements and recognise that a final dovetailing of policies between the two tiers of the development plan will not take place until the council carries out the next review of the plan.
3. Whilst I consider that an ideal position would be removal of duplication between the two parts of the development plan, the role of this examination is limited to presenting conclusions and recommendations on issues raised in representations. Given the nature of the representations on renewable energy in this examination, my focus has been to ensure consistency with NPF4 even when this involves some duplication. Reporters hope that, by taking this approach, where appropriate, they have been able to recommend modifications to the plan which provide the best alignment possible at this time. This is also intended to be consistent with the council's approach of seeking to incorporate policies on the range of topics covered by NPF4 into the proposed plan.

#### **Preamble to Policy RE1: Renewable Energy, paragraphs 250-251**

##### Encouraging a strategic approach to renewable energy development (145) and (198)

4. I consider it is reasonable for the council to outline what it considers to be an example of good practice in the preamble to Policy RE1 for the consideration of developers, communities and consultees. However, the council recognises that what it describes as a 'place-based approach' to planning the Hagshaw Energy Cluster will not



be feasible in all circumstances and there is no requirement in Policy RE1 for all renewable energy proposals to adopt the same process. Furthermore, Policy RE1 provides support for renewable energy development in standalone locations where these are acceptable when assessed against the renewable energy assessment criteria. Consequently, there would be no detriment to renewable energy proposals in locations or circumstances where it would not be appropriate to employ this place-based approach.

5. I do not consider that a modification to the text at paragraphs 250 and 251 is required.

## **Policy RE1**

### The need for a standalone decarbonisation strategy (145), (196) and (198)

6. Policy 11 of NPF4 does not require that planning applications for renewable energy developments should be accompanied by a decarbonisation strategy. To provide consistency between the proposed plan and NPF4, I consider that the requirement in proposed Policy RE1 that applications for major energy generation developments be accompanied by a decarbonisation strategy be deleted. I note that the council is not strongly opposed to this change.

7. Policy 2 a) of NPF4 requires that development proposals be sited and designed to minimise lifecycle greenhouse gas emissions, as far as possible. This is reflected in requirements (i) and (ii) of proposed plan Policy SS1: Climate Change which require that, where possible, all development should minimise carbon emissions and maximise carbon storage and sequestration. Therefore, it will be appropriate for the council to consider how greenhouse gas emissions arising from major renewable energy development will be abated.

8. To provide consistency between the two parts of the development plan, I have recommended below a modification to proposed Policy RE1 which deletes the reference to decarbonisation strategies.

### Wording of Policy RE1 in relation to the climate emergency and ensuring a positive approach to renewable energy (153) and (196)

9. I consider that proposed Policy SS1: Climate Change sets out the council's stall in relation to the global climate emergency. I also consider that paragraph 249 of the preamble to proposed Policy RE1 is consistent with that strategic policy position and that the first paragraph of proposed Policy RE1 captures in summary form the positive intent set out in the preamble.

10. I conclude that it is not necessary to modify proposed Policy RE1 on this point.

### The use of sensitivity mapping and assessment (157)

11. There is no requirement in NPF4 for the local development plan to set out a spatial framework identifying those areas that are likely to be most appropriate for onshore wind farms. Therefore, I consider that the council is correct to take the view

that it is not appropriate to include a requirement to use sensitivity mapping and assessment in proposed Policy RE1. The council suggests that the supplementary guidance to be prepared in support of proposed Policy RE1, referred to in paragraph five of the proposed policy, may contain a degree of sensitivity mapping. NatureScot has advised it would be prepared to advise on this approach. Paragraph 3.6.6 of the Scottish Government's Onshore Wind Policy Statement, 2022 advises that, following adoption of NPF4, landscape sensitivity studies will continue to be a useful tool in assessing the specific sensitivities within an area. Provided that council guidance complies with NPF4 and is consistent with the Onshore Wind Policy Statement, I consider this would be a reasonable approach.

12. I do not consider it is necessary to modify the proposed policy to include a reference to sensitivity mapping and assessment.

#### Impact of renewable development on rural housing (192)

13. Section e) i. of NPF4 Policy 11 enables the planning system to intervene where development proposals for renewable technologies affect individual dwellings. The illustration of impacts which can be considered in this context are residential amenity, visual impact, noise and shadow flicker. Section e) vii. allows for assessment of impacts on the historic environment, which would include listed buildings. I am aware that NPF 4 provides support for rural communities and rural economies, including through Policy 17 and Policy 29 but there is no national policy context for the council intervening to prevent the dereliction or demolition of rural housing, other than in the circumstances I have outlined.

14. I do not consider it would be reasonable to modify proposed Policy RE1 to add to the protection it provides for individual dwellings.

#### Consideration of private water supplies (192)

15. Proposed Policy RE1 states that the acceptability of proposals for renewable energy development will depend on assessment against the criteria listed as part of the policy. This includes effects on hydrology and the water environment. This is consistent with section e) viii. of NPF4 Policy 11. I am of the view that this provides an adequate policy hook for the consideration of impacts on private water supplies where this is a potential issue. How this is implemented through the council's development management process in relation to individual applications for planning permission is outwith the scope of this examination. It may be an issue the council would wish to consider in preparing the proposed supplementary guidance.

16. I do not consider a modification to the plan is required.

#### Co-location of different technologies (196)

17. There is nothing in the proposed wording of Policy RE1 that would militate against co-location of different renewable and low carbon technologies. The first two criteria in the list of proposed renewable energy assessment criteria ensure that assessment of any such proposals would take account of both the contribution to renewable energy targets and the effect on greenhouse gas and carbon emissions. Therefore, if co-

location would increase energy output per hectare and/or enhance grid resilience, this would be reflected in the assessment.

18. However, section a) vii. of NPF4 makes specific reference to support for co-location proposals. For consistency, I have recommended below a modification to the first part of proposed Policy RE1.

#### Guidance on assessment of impacts (196)

19. This is not a matter on which the council has provided a summary response. However, the fifth paragraph of proposed Policy RE1 explains that supplementary guidance will set out in greater detail the criteria that will be used to assess renewable energy proposals. I consider this approach strikes a reasonable balance between providing concisely worded policies in the proposed plan and more detailed information on policy interpretation in supplementary guidance.

20. I do not consider it necessary to modify the plan in order to provide more guidance on how the acceptability of impacts should be judged and balanced in decision making.

#### Consents in perpetuity (196)

21. Section f) of NPF4 Policy 11 allows permissions for renewable energy proposals to be time limited. However, the same section also states that areas identified for wind farms are expected to be suitable for use in perpetuity.

22. This is not reflected in proposed Policy RE1. The council indicates that the proposed wording takes account of its desire for developers to consider decommissioning and restoration proposals. I consider that the final section of the council's proposed renewable energy assessment criteria is consistent with NPF4 Policy 11 sections e) xi. and xii. which relate to decommissioning and restoration. However, to improve alignment with NPF4 further, I have recommended below a modification reflecting the wording in NPF4 regarding the expectation that areas identified for windfarms will be suitable for use in perpetuity.

#### Modification of wording in supporting paragraphs 249 and 251 (261)

23. The geography of East Ayrshire means that any proposals for wind energy development will be onshore. I do not consider it adds to the clarity of the proposed text to insert the word 'onshore'.

24. As the council points out, there is no reference to renewable energy targets in paragraph 251 of the preamble to proposed Policy RE1. Therefore, further clarification of this phrase is not possible. I note the council's comment that, elsewhere in the plan, this wording can refer to national or local targets, depending on context.

25. I do not consider that any modification to the plan is required on these matters.

#### National Developments (196)

26. NPF4 designates three types of development contributing to National

Development 3. Strategic Renewable Electricity Generation and Transmission Infrastructure as national development. I have recommended below a modification to the preamble to proposed Policy RE1 which reflects this change. The council has not commented on this matter in its responses to representations. However, the modification is intended solely to ensure the local development plan reflects national policy.

Duplication of policy tests in Policy RE1 and NPF4 (196)

27. The proposed renewable energy assessment criteria which form part of Policy RE1 mirror much of what is set out in Policy 11 of NPF4 but are not entirely consistent. The statutory development plan for East Ayrshire comprises NPF4 and the local development plan. Paragraph 165 of the Scottish Government's Development planning guidance states that the local development plan is not required to duplicate NPF4 policies. Rather, it is intended that local development plan policies add value by either providing further detail, building on NPF4 policies, or by introducing place-based policies.

28. However, the proposed plan has been produced under transitional arrangements covering the time from when NPF3 was not part of the statutory development plan to the time when NPF4 became part of the statutory development plan. Whilst the local development plan is not required to duplicate national policy, it is not prohibited from doing so.

29. I have set out my approach to dealing with inconsistencies between the proposed plan and NPF4 above in the first section of my conclusions. In that context, I have recommended changes to the proposed renewable energy assessment criteria as follows:

Climate change impacts

- Scale of contributions to renewable energy targets – No change: consistent with NPF4 Policy 11 e) xiii.
- Effect on greenhouse gas and carbon emissions – No change: consistent with NPF4 Policy 11 e) xiii.

Environmental impacts

- Landscape and visual impacts – Modified to include the adjective 'significant' in recognition that such impacts are to be expected in some cases and the general acceptability of proposals where impacts are localised or appropriate design mitigation has been applied. I note that the council is preparing supplementary guidance to provide further advice for developers.
- Impact on wild land – Deleted: there is no specific reference to wild land in NPF4 Policy 11. This matter is covered by proposed Policy NE2, subject to the recommended modifications.
- Impacts on carbon-rich soils etc. – Deleted: there is no specific reference to carbon-rich soils and peat in NPF4 Policy 11. This matter is covered by proposed Policy NE11, subject to the recommended modifications.
- Effects on natural heritage etc. – No change: this is broadly consistent with

NPF4 Policy 11 e) xi and Policy 4. This criterion would ensure loss of rural cultural heritage is considered where this is within the scope of the planning system.

- Impacts on all aspects of the historic environment, including setting – No change: this is broadly consistent with NPF4 Policy 11 e) vii. I note that NPF4 Policy 7 refers to the setting of listed buildings and conservation areas.
- Effects on hydrology etc – No change; this is broadly consistent with NPF4 Policy 11 e) viii. Arguably, impacts on groundwater dependent terrestrial ecosystems (GWDTE) are covered by the general reference to ‘the water environment’ but the addition of this reference highlights the sensitivity of these ecosystems which are protected by the Water Framework Directive.
- Impacts on forestry and woodlands – Modified to include reference to ‘trees’ in line with NPF4 Policy 11 e) x.
- Impacts of proposals to manage forestry removal and forest waste – Deleted: there is no specific reference to these processes in NPF4 Policy 11. I consider that the criteria relating to forestry and roads provide an adequate policy hook to enable the council to ensure a responsible approach to forest management. More detail could be provided in the proposed supplementary guidance.

#### Community and economic impacts

- Impacts on tourism and recreation etc – Modified to delete the reference to tourism and recreation which goes beyond the scope of NPF4 Policy 11 e) iii. and inclusion of a reference to ‘scenic routes’ for consistency with this part of Policy 11. I consider that impacts on tourism could be considered legitimately in any assessment of net economic impact. NPF4 refers to impact on public access. The proposed reference to recreation is not defined but, potentially, extends beyond the effect on access.
- Impacts on communities etc – No change: this is consistent with NPF4 Policy 11 e) i.
- Net economic impact etc. – No change: this is broadly consistent with NPF4 Policy 11 c).

#### Infrastructure impacts

- Impacts on aviation and defence interests etc. – No change: this is consistent with NPF4 Policy 11 e) iv.
- Impacts on trunk roads and on road traffic etc. – No change: the proposed impacts on the local road network during decommissioning could be comparable to impacts during construction; impacts during operation are likely to be less significant but the additional wording covers unforeseen impacts; the proposed additional wording ensures that both would be considered.
- Impacts on telecommunications etc – No change: this is consistent with NPF4 Policy 11 e) v.
- Decommissioning etc – No change: this is broadly consistent with NPF4 Policy 11 e) xi. and xii.

Other impacts:

- I have included two new criteria, relating to cumulative impacts and grid capacity, for consistency with NPF4 Policy 11 e) xiii and the final paragraph of Policy 11 e), respectively.

30. It is suggested that proposed Policy RE1 be revised to refer to The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017. However, where proposed energy industry developments meet the thresholds and criteria in the regulations, a screening assessment will be required to determine whether an environmental impact assessment is required. I do not consider it necessary to set out these regulatory requirements in the proposed plan.

31. I consider that the above changes, taken together, serve adequately to align proposed Policy RE1 with NPF4 and address the representations made on this topic.

## **Policy RE2: Heating and Cooling**

### Relaxation of requirement for pipework and piperuns (106)

32. The third paragraph of proposed Policy RE2 requires that, where a heat network is not viable, developers must ensure that sites have the capability to be connected to any heat network which may be developed in the future. This is consistent with part c) of NPF4 Policy 2 which supports proposals to retrofit measures to existing development that reduce emissions or support adaptation to climate change. It is also consistent with parts a), b) and c) of NPF4 Policy 19 which relate to heat networks.

33. Given this policy commitment, I consider that it would be appropriate to strengthen the wording of the policy so that developers are required to demonstrate there are significant financial or technical barriers to installation of enabling measures. I note that the council is supportive of this proposed change.

34. I have recommended below a modification to address this.

### Relationship between Policy RE2 and other policies (106)

35. Paragraph 14 of the introduction to the proposed plan states that the whole plan must be taken into account when assessing development proposals and that policies cannot be used in isolation. This is consistent with the objective of producing a concise and easy to use plan. Consequently, although potentially relevant to the assessment of proposals for renewable heat generation, I do not consider it necessary for proposed Policy RE2 directly to cross-reference proposed Policy NE12: Water, air, light and noise pollution.

36. I do not consider a modification to the plan is required.

### Identification of potential district heat networks among developer requirements

37. NPF4 requires that local development plans take into account the area's Local Heat and Energy Efficiency Strategy (LHEES). I agree that identification of potential



district heat networks in volume 2 of the proposed plan would be helpful to users of the plan. However, I note that this information is not currently available. The council advises that this will be produced as part of its work on the LHEES and will be taken into account in the next review of the local development plan.

38. I consider that this is a reasonable approach under the circumstances. I do not consider it is practical to modify the proposed plan at this juncture to show potential district heat networks.

### **Policy RE3: Low and Zero Carbon Buildings**

The need to change policy wording to align with the Town and Country Planning (Scotland) Act 1997 (310)

39. The annual report on operation of section 72 of the Climate Change (Scotland) Act 2009 referred to in the Scottish Government's representation indicates that local development plan policy compliance with section 3F of the Town and Country Planning (Scotland) Act 1997 requires three elements:

- a proportion of emissions to be saved;
- at least one increase in the proportion of emissions to be saved; and
- a requirement that savings should be achieved through the use of generating technology rather than energy efficiency measures.

40. Proposed Policy RE3 states that proposals for all new buildings will be required to demonstrate that at least 15% of the overall reduction in carbon emissions as required by Building Standards will be achieved by the installation and operation of low and zero carbon generating technologies (LZCGTs). The council advises that proposed Policy RE3 closely reflects existing (2017) council policy on this matter. As the 2017 local development plan policy is included in the appendix to the Scottish Government's annual report, the council indicates that it is satisfied that the proposed policy complies with section 3F of the Act.

41. However, the annual report does not suggest that the policies listed in the appendix are examples of good practice, only that they are the section 3F policies adopted by 31 December 2021. I consider that the proposed policy addresses satisfactorily the first and third elements above. To address the second element more fully, the council has advised that it would not object to a modification which indicates that the specified proportion of emissions to be saved will rise.

42. I am concerned that this would not necessarily demonstrate commitment to at least one increase during the life of the plan. Therefore, the modification I have recommended below builds on the council's suggested change by committing the council to a review of the proportion of emissions to be saved through the installation and operation of LZCGTs within two years of adopting the plan.

### **PROP5: Our energy masterplan**

Clarity over the Ayrshire Energy Masterplan (145), (157), (196), (198) and (284)



43. The council provides a number of comments in relation to the proposal to prepare an Ayrshire Energy Masterplan with North and South Ayrshire Councils, as follows:

- Although at an early stage, it is anticipated that the masterplan will be adopted as non-statutory planning guidance.
- The masterplan will not identify areas for commercial wind energy developments.
- The scope will include all forms of renewable energy technologies and energy sources, including solar.
- The masterplan will take account of NPF4.
- Given the early stage of masterplan preparation, implementation mechanisms have not yet been developed.

44. I consider that these assurances address, as far as is possible at this stage, the issues raised in relation to proposal PROP5 in the proposed plan. I also note the council's commitment to considering relevant representations on the local development plan as the masterplan is prepared.

45. I do not consider it necessary to modify the plan in relation to this matter.

#### **Reporter's recommendations:**

I recommend the plan be modified as follows:

1. An additional paragraph be inserted into Section 8.1 Supporting Renewable Energy before the sub-heading 'Encouraging a strategic approach to renewable energy development' to read as follows:

'The following classes of development are designated as national development in National Planning Framework 4:

- Onshore electricity generation, including electricity storage, from renewables exceeding 50 megawatts capacity.
- New and/or replacement upgraded onshore high voltage electricity transmission lines, cables and interconnectors of 132kv or more.
- New and/or upgraded infrastructure directly supporting onshore high voltage electricity lines, cables and interconnectors including converter stations, switching stations and substations.

This designation means that the principle of the development does not need to be agreed in the planning application process, providing more certainty for communities, business and investors.'

2. Policy RE1: Renewable Energy be modified as follows:

(i) Deletion of the first paragraph and substitution with the following paragraph:

'Proposals for the generation, storage and utilisation of renewable energy, including proposals for the co-location of these technologies, in the form of new build

development, infrastructure or retrofit projects are encouraged and will be supported in standalone locations and as integral parts of new and existing developments, where they are acceptable when assessed against all relevant criteria set out in the Renewable Energy Assessment Criteria table below.'

(ii) Introduction of an additional paragraph after the existing second paragraph as follows:

'Areas identified for windfarms are expected to be suitable for use in perpetuity.'

(iii) Deletion of the following sentence of the existing fourth paragraph:

'Applications for major energy generation developments should also be accompanied by a decarbonisation strategy to demonstrate how greenhouse gas emissions arising from the development will be abated.'

(iv) Deletion of the text under the sub-heading 'Renewable Energy Assessment Criteria' and substitution with the following text:

Climate change impacts:

- Scale of contribution to renewable energy targets.
- Effect on greenhouse gas and carbon emissions.

Environmental impacts:

- 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.
- Effects on biodiversity, including impacts on birds, with particular reference to European sites and other national and local designations.
- Impacts on the historic environment.
- Effects on hydrology, the water environment, flood risk and groundwater dependent terrestrial ecosystems.
- Impacts on trees, forests and woodlands.

Community and economic impacts:

- Impacts on public access, including long distance walking and cycling routes and scenic routes.
- Impacts on communities and individual dwellings, including visual impact, residential amenity, noise and shadow flicker.
- Net economic impact, including employment, training and business and supply chain opportunities.

Infrastructure impacts:

- Impacts on aviation and defence interests and seismological recording.

- Impacts on trunk roads and road traffic during construction, operation and decommissioning.
- Impacts on telecommunications and broadcasting installations, particularly ensuring that transmission links are not compromised.

Other impacts:

- Cumulative impacts.
- Grid capacity should not constrain renewable energy development.

Proposals for renewable energy must consider decommissioning and restoration proposals as part of their applications. The need for planning conditions relating to the decommissioning of developments, including ancillary infrastructure, and site restoration will be considered, as will the need for planning obligations to achieve site restoration.'

3. The last sentence of the third paragraph of Policy RE2: Heating and Cooling be deleted and substituted with the following sentence:

'The installation of pipework to the curtilage of development and safeguarding of piperuns within developments to allow future connection will be required unless the submitted energy statement demonstrates that there are significant financial or technical barriers to installation.'

4. The following sentence be added at the end of the second paragraph of Policy RE3: Low and Zero Carbon Buildings:

'The minimum 15% reduction target will be reviewed two years after adoption of the local development plan to identify a rising target. The revised target will be published in the Energy and Electric Vehicle Charging Supplementary Guidance.'

Issue 23	Flood Risk	
Development plan reference:	Volume 1; Chapter 8.6. Climate Resilience; Policy CR1: Flood Risk Management	Reporter: Andrew Fleming
Body or person(s) submitting a representation raising the issue (including reference number):		
SEPA (106) NatureScot (157)		
Provision of the development plan to which the issue relates:	The content and wording of policy CR1 Flood Risk Management	
Planning authority's summary of the representation(s):		
<p><b>Policy CR1: Flood Risk Management</b></p> <p><u>SEPA (106)</u></p> <p>Some flood risk terminology (such as the term 'strategy') has changed and it is recommended that the wording in the Plan is changed accordingly.</p> <p>SEPA has specified the sites that will require a flood risk assessment (FRA), and recommend that this is included in the key to Volume 4.</p> <p>In addition to referencing not increasing flood risk elsewhere in (ii).c, similar reference should be made to not increasing risk on site, and in section (vi) to blue and green infrastructure creation.</p> <p>Roles and responsibilities should be more clearly defined regarding FRAs: the Ayrshire Roads Alliance (ARA) should be consulted when an FRA is submitted in relation to pluvial flood risk only and SEPA when the FRA considers fluvial risk.</p> <p>The table on page 159 of Volume 1 includes text that differs from the risk framework in Scottish Planning Policy (SPP) (CD26). This section should be amended so that it fully aligns with SPP.</p> <p>Climate change is included within the policy wording but it should be more clear. It should be noted that 'freeboard' accounts for uncertainty in flood modelling. It is separate from climate change and is the difference between the design flood level and the finished floor/deck level, rather than an increase in the design level of the flood.</p> <p>Reference should be made to SEPA's 'Position on Development Protected by a Flood Protection Scheme' (CD46) for clarity regarding requirements for sites protected by a scheme.</p>		

Requirement to manage surface water through SUDS should include its use during construction phase so that pollution during construction is minimised. Mitigation measures should be implemented to reduce risk of surface water flooding and Ayrshire Roads Alliance should assess any surface water management proposals.

#### NatureScot (157)

Natural flood management measures set out in policy CR1 criterion (vi) should present measures that will be supported in a way that reflects their likely location and purpose: green infrastructure most applicable to developed areas, whereas peatland restoration and wetland creation are larger in scale and more likely to locate outwith settlements.

### **Modifications sought by those submitting representations:**

#### SEPA (106)

'Local Flood Risk Management Strategies and Plans' should be amended to 'Flood Risk Management Plans' and 'Local Flood Risk Management Plans'.

The symbol key in page 4 of Volume 2 should be amended to read: "FR: The site may be subject to risk of flooding. Early contact with SEPA and the Ayrshire Roads Alliance Flooding Officer is required. A Flood Risk Assessment will be required".

Amend (ii).c to refer to not increasing flood risk on site, in addition to elsewhere.

Add a note stating that the Ayrshire Roads Alliance should be consulted when an FRA is submitted in relation to pluvial flood risk only and SEPA when the FRA considers fluvial risk.

The section starting "Generally suitable for residential, institutional, commercial and essential infrastructure..." be amended to "May be suitable for residential, institutional, commercial and industrial development within built-up areas provided flood protection measures to the appropriate standard already exist and are maintained, are under construction, or are a planned measure in a current flood risk management plan".

SEPA guidance on 'Climate Change Allowances for Flood Risk in Land Use Planning' be referenced in section (ii). Clarify wording related to 'freeboard' and 'climate change allowance' in (ii).e.

Reference be made to SEPA's 'Position on Development Protected by a Flood Protection Scheme' (CD46).

106 and 157 suggest that section (vi) be amended to: "a. Wetland creation and peatland restoration; b. Green and blue infrastructure; c. Flood protection schemes..."

157 recommend that clarification be added to criterion (vi) to reflect the likely location and purpose of flood prevention measures: green infrastructure most applicable to developed areas, peatland restoration and wetland creation outwith settlements.

**Summary of responses (including reasons) by planning authority:**

Flood risk terminology (106)

The change in flood risk terminology is noted, and it is agreed to amend “Local Flood Risk Management Strategies and Plans” to “Flood Risk Management Plans and Local Flood Risk Management Plans”, as recommended. This is considered to be a non-material change.

Regarding the wording around climate change in section (ii).e, the clarification is noted and it is agreed to amend the bullet point, with the suggested wording as follows: “e. incorporates flood protection measures that allow a climate change allowance in line with SEPA’s ‘Climate change allowances for flood risk assessment in land use planning’ guidance. Design solutions should also include some leeway for the unknown effects of climate change”. This is considered to be a non-material change.

Volume 2 developer requirements (106)

The sites marked “FR” in the site descriptions of Volume 2 indicate that “the site may be subject to risk of flooding”, and recommend “early contact with SEPA and the Ayrshire Roads Alliance”. The decision to whether a site is marked as FR is based on a mixture of requirements from the EALDP 2017 (CD23), site comments from SEPA, and looking at flood risk mapping. The FR mark errs on the side of caution, and as a result not all sites marked FR may need an FRA, and not all FRAs will need input from SEPA. This is considered adequate, as the framework that determines whether an FRA is required is set out in the table within policy CR1, while the FR mark is indicative. As such, the Council is of the view that no amendment is necessary.

Refer to not increasing flood risk on site (106)

It is considered that in the current wording, “elsewhere” can also be construed to mean “elsewhere on or outwith the site”. However, should the reporter be minded to amend the policy per the recommendation, the Council would have no objection.

Climate change/freeboard (106)

The comment is noted. If the Reporter deems necessary, the Council would have no objection to the removal of ‘in climate change predictions’ from the first sentence of policy CR1, clause e. to remove any misunderstanding around the interpretation of the term freeboard. This in no way changes the intent or requirements of the policy and therefore is not deemed to be a significant change.

Add who should be consulted for FRAs (106)

It is considered that the roles and responsibilities pertaining to the requirement for and assessment of an FRA can be determined through the case officer assigned to any planning enquiry or application and the applicant can be directed accordingly. However, should the reporter be minded to add the recommended clarification, the Council would have no objection. If that is the case the Council would suggest that the key on page 4 of Volume 2 relating to FR instead reads: ‘The site may be subject to

risk of flooding. Early contact with SEPA (*fluvial flooding*) and the Ayrshire Roads Alliance Flooding Officer (*pluvial flooding*) is recommended.’ This matter of detail is not considered to be significant.

#### SPP risk framework (106)

It is considered that the text in the p159 table paraphrases, but does not significantly deviate from the risk framework in SPP (CD26). It is noted that NPF4 (CD4) does not contain a risk framework and instead states: ‘LDPs should strengthen community resilience to the current and future impacts of climate change, by avoiding development in areas at flood risk as a first principle. Resilience should also be supported by managing the need to bring previously used sites in built up areas into positive use; planning for adaptation measures; and identifying opportunities to implement improvements to the water environment through natural flood risk management and blue green infrastructure. Plans should take into account the probability of flooding from all sources and make use of relevant flood risk and river basin management plans for the area. A precautionary approach should be taken, regarding the calculated probability of flooding as a best estimate, not a precise forecast. For areas where climate change is likely to result in increased flood exposure that becomes unmanageable, consideration should be given to alternative sustainable land use’.

It is noted that NPF4 has also softened the position on development proposals at risk of flooding or in a flood risk area which will be supported if they are for redevelopment of previously used sites in built up areas where the LDP has identified a need to bring these into positive use where proposals demonstrate that long-term safety and resilience can be secured in accordance with relevant SEPA advice. In this context, the Council is of the view that the text in the table on page 159 is appropriate.

#### Reference to ‘Position on Development Protected by a Flood Protection Scheme’ (106)

This is a publicly available document (CD46) that reflects SEPA’s interpretation of SPP, and as such, it is not considered necessary to include a reference. However, should the Reporter be minded to add a reference to this planning information note, the Council would have no objection.

#### SUDS requirement should include use during construction phase (106)

It is considered that this can be addressed at the planning application stage and is unnecessary to add into policy. However, should the Reporter be minded to amend the requirement for the use of SUDS to manage surface water flooding through policies CR1 and OS1, the Council would have no objection.

#### Add green and blue infrastructure to section (vi) (106 and 157)

Section (vi) of CR1 supports the creation of “wetland, peatland or green infrastructure”. It is considered that, within the context of flood risk, green infrastructure can be understood to mean “green and blue infrastructure”. This is further underpinned by policy OS1 and the Green and Blue Network sub chapter. It is not considered that the recommended amendment is substantially different to the current wording; as such, whilst the Council does not consider the amendment necessary, should the Reporter



be minded, the Council would have no objection to amending the policy as per the recommendations.

#### Reflect likely location of flood prevention measures (157)

It is agreed that, due to their characteristics, the most likely location for green infrastructure creation is within urban areas and, conversely, wetland creation and peatland restoration are more likely to take place outwith settlements. However, the Council does not agree that wording of paragraph (vi) should be amended to reflect this, as there may be cases where wetland creation would be appropriate within settlements or green infrastructure creation outwith settlements, and there are no benefits from an overly prescriptive wording in this instance. As such, the Council is of the view that the policy should not be amended to this end.

#### **Reporter's conclusions:**

##### Implications of the approved NPF4 for representations made on the proposed plan

1. Parties were invited (20 July 2023), if they chose, to comment on the implications of the approved NPF4 for their representations relating to Section 8.6 of the plan as it relates to climate resilience, including Policy CR1. Comments were to relate to matters raised in the original representations and not to raise new matters.
2. I am conscious that given the overlapping timescales, there is difficulty in fully aligning the proposed plan with NPF4. I accept that the proposed plan has been produced under transitional arrangements and recognise that a final dovetailing of policies between the two tiers of development plan will not take place until the council carries out the next review of the plan. However, reporters hope that, where appropriate, they will be able to recommend modifications to the plan to provide the best alignment possible at this time. I have considered the responses to the request for further information on the implications of the approved NPF4 below and made recommendations accordingly.

##### Flood risk terminology (106)

3. The resposdee has advised that terminology related to flood risk management has changed since publication of the plan, specifically, that the term 'strategy' is no longer used in relation to flood risk management. I consider it logical to amend the wording of Policy CR1 accordingly and I make a recommendation below regarding this matter.

##### Volume 2 developer requirements (106)

4. Comments from SEPA, analysis of flood risk mapping and requirements set out in the adopted local development plan (2017) have, according to the council, all been factored into the council's decision making on whether or not to identify sites within Volume 2 of the plan (Settlement maps) as being potentially subject to flood risk. Flood risk is identified by 'FL' in the symbol key to settlement maps as part of general developer requirements. It will be at the application stage when the need or not for a Flood Risk Assessment (FRA) for the proposed development of a site will be established.

5. I acknowledge that not every site identified as a potential flood risk will necessarily be one. However, in order to make sure that any possible flood issues are properly considered at an early stage, it makes sense to require, rather than simply recommend, that promoters/ developers of sites that are identified as being at potential risk of flooding contact SEPA and/or the Ayrshire Roads Alliance Flooding Officer early on in the planning process. I make a recommendation below to address this matter. I concur with the council, however, that not all sites identified as allocations will automatically require an FRA. Therefore, the respondent's recommendation to include a statement within the symbol key to the settlement maps that a FRA will be required, is not necessary.

6. SEPA has suggested that there will now be additional sites that will require an FRA that were not specified previously. However, SEPA does not identify which sites. As referred to above, the planning enquiry/ application process would ultimately determine which sites should be accompanied by a FRA. Given this advanced stage in the Examination of the plan, given that the respondent does not identify these additional sites requiring FRA, and given that the planning process would ultimately dictate the need or not for a FRA of a site, I do not recommend any further changes to Volume 2 of the plan in respect of developer requirements.

Refer to not increasing flood risk on site (106)

7. The policy makes reference to development not increasing flooding 'elsewhere'. Whilst this could be interpreted as meaning on site, in order to avoid any ambiguity, I recommend below a clarification that this is in relation to flooding both on and off site.

Climate change/ freeboard (106)

8. Policy CR1 section (ii) e. refers to 'freeboard allowance'. The respondent advises that the term 'freeboard' accounts for uncertainty in flood modelling. It is separate from climate change and represents the difference between the design flood level and the finished floor level of a development. I accept that section (ii) e. of the policy could be worded more accurately in this regard and therefore I make a recommendation below regarding this matter.

Add who should be consulted for FRAs (106)

9. The wording contained within the symbol key on page 4 of Volume 2 of the plan is generic and deliberately brief. Some developer requirements identified within Volume 2 of the plan are specific to a particular site and hence more detail is provided for the respective site. SEPA and the Ayrshire Roads Alliance Flooding Officer are both identified in the symbol key in relation to flood risk and I consider this is appropriate and sufficient for the purpose of this element of the plan. It would be at the planning enquiry/ application stage that prospective applicants could be directed to the relevant organisation depending on whether the flood risk identified for the respective site was fluvial or pluvial. I therefore do not recommend any change to the plan in respect of this matter.

SPP risk framework (106)

10. The table on page 159 of Volume 1 includes text that differs from the risk framework in SPP and the respondent in their representation on the proposed plan called for this section to be amended in order that it fully aligned with SPP.

11. Subsequently and in response to the FIR, the respondent has highlighted that the changes to policy set out in NPF4 mean that the requested changes are no longer necessary as they relate to complying with policy wording of SPP which has now been superseded by NPF4. The respondent in their response to the FIR, requests that the wording of Policy CR1 is redrafted to align with NPF4 Policy 22. The respondent advises that updating Policy CR1 will provide certainty for all parties involved.

12. The council has confirmed that the majority of the content of Policy CR1 was based on SPP which was then subsequently updated to accord with Draft NPF4 prior to public consultation. These were, according to the council, the most up to date policy documents at the time of formulation.

13. I have some sympathy with the council about aligning the proposed plan with NPF4, given the overlapping timescales. Importantly, the proposed plan has been produced under transitional arrangements and therefore final dovetailing of policies between the local development plan and NPF4, comprising the two tiers of the development plan, will not take place until the council carries out the next review of the plan. It is anticipated that given the transitional nature of this proposed plan, that the review could commence relatively soon after plan adoption to fully align the two tiers of the development plan. However, under the current circumstances, the approach being taken in the examination is for reporters, where appropriate, to recommend modifications to the plan in order to provide the best alignment possible at this time.

14. In this context, the council has suggested, in its response to the FIR, amendments to Policy CR1 in order to align it with the requirements of NPF4 Policy 22: 'Flood risk and water management'. I am mindful that the respondent has not provided a suggested form of words for the policy. The council in its response to the FIR has provided significant wording amendments and I consider that, overall, these provide appropriate alignment at this time. I make recommendations below about amendments to the policy to align it with NPF4. In making these recommendations, I am keenly aware that the respondent's recommendations during the proposed plan consultation period were about ensuring that the plan aligned with SPP.

15. In addition to amendments to wording of Policy CR1, the respondent calls for all site allocations contained in Volume 2 of the plan to be reassessed stating that sites that were marginal would now no longer be viable and that for sites where flood risk was not an issue previously, that it now would be. The respondent states that, in this context, the indicative housing capacity figures would be unduly optimistic for some housing allocation sites, in turn affecting supply of housing land.

16. I understand that this call for reassessment of site allocations is based on new SEPA guidance and future flood maps recently published. Such reassessment work at this stage in the Examination process would have significant implications for the timescale for adoption of this plan (already beyond its 5 year intended lifespan).

This would have a knock on effect on the work necessary to commence the new style LDP3, which as stated above, would enable the two tiers of the development plan to fully align. In any event, the new SEPA guidance and mapping which has recently been published could be applied at the planning application stage. I therefore do not consider it necessary or appropriate to undertake reassessment of sites at this late stage of the Examination.

17. With regards to concerns expressed about the capacity figures being unduly optimistic for sites, I note that the capacities are indicative. Whilst they may be reduced for certain sites, they may equally be increased for other sites. I am not convinced that the reassessment exercise suggested by the respondent would necessarily impact the supply of housing land. As referred to under other issues, the council has identified a housing land requirement of 4050 dwellings for the plan period, augmented with a further 2095 units. This 'surplus' which has been accommodated across each part of the council area is intended to ensure that housing land supply is sufficiently generous to allow for any unforeseen problems in the delivery of sites.

Reference to 'Position on Development Protected by a Flood Protection Scheme (106)

18. This document (CD46), whilst containing useful information, was published in 2018 in the context of SPP. Given that SPP is now superseded by NPF4, this document is out of date and currently being reviewed and updated by its author. I therefore do not consider it appropriate to reference this document within the plan.

SUDS requirement should include use during construction phase (106)

19. SUDS requirements during the construction phase of any development would most appropriately be addressed during the planning application stage in consultation with relevant consultees. I therefore do not consider it necessary to recommend any changes to the plan in respect of this matter.

Add green and blue infrastructure to section (vi) (106 and 157)

20. Section 4 of the plan dealing with 'Place and Environment' makes reference to the 'Green and blue network', defining this as '... a variety of elements, from large-scale open spaces (e.g. parks), connecting corridors and links (Footpaths, cycleways and waterways) right down to small-scale features (e.g. hedgerows, amenity spaces, gaps/ infill spaces and landscaped elements with developments).' Policy OS1 addresses, amongst other things, the design approach to this infrastructure and its functions. In order to avoid ambiguity and for clarity, I therefore consider that there is merit in referring in policy to 'green and blue infrastructure' as opposed to only 'green infrastructure'. I make a recommendation below regarding this matter.

Reflect likely location of flood prevention measures (157)

21. Green and blue infrastructure is differentiated from wetland and peatland habitats and this is largely, but not entirely, due to likely location and the council acknowledges this. This in turn will affect how such flood management measures are supported going forward. I therefore consider that there is merit in differentiating between the flood management measures identified in Policy CR1 (vi) and I make a recommendation

below regarding this matter. I am satisfied that no party would be disadvantaged by this change.

### **Reporter's recommendations:**

I recommend that the plan be modified as follows:

1. Delete the wording under Policy CR1: 'Flood risk management' in its entirety and replace with the following:

'The Council will take a precautionary approach to flood risk from all sources and will promote flood avoidance in the first instance. Flood storage and conveying capacity will be protected and development will be directed away from functional flood plains and undeveloped areas of medium to high flood risk.

Where development proposals are at risk of flooding or in a flood risk area, proposals will only be supported if they are for:

- i. Essential infrastructure where the location is required for operational reasons;
- ii. Water compatible uses;
- iii. Redevelopment of an existing building or site for an equal or less vulnerable use; or
- iv. Redevelopment of previously used sites in built up areas where the LDP has identified a need to bring these into positive use and where proposals demonstrate that long-term safety and resilience can be secured in accordance with relevant SEPA advice.

The following provisions apply:

(i) Subject to Flood Risk Assessment (FRA), there will be a presumption in favour of new development which:

- a. takes account of SEPA's flood risk and land use vulnerability guidance (2018) and any relevant updates to, or replacements of this guidance;
- b. demonstrates that flood risk is understood and addressed, with measures to protect against and manage that flood risk clearly set out;
- c. ensures there is no reduction in floodplain capacity;
- d. does not lead to an increase in the probability of flooding on or outwith the site or a need for future flood protection schemes;
- e. does not result in development of a use more vulnerable to flooding or with a larger footprint than any previous development on site;
- f. incorporates flood protection measures to allow a 'freeboard allowance', whereby additional height should be added to the predicted level of a flood to make allowances for uncertainties. Design solutions should also include some leeway for the unknown effects of climate change;
- g. discharge to a watercourse (open or piped) is limited to 4.5L/sec/ha if the site is greater than 1ha in size or 5L/sec/ha if the site is smaller than 1ha in size;
- h. incorporates permeable surfaces (minimising the area of impermeable surfaces) and the use of sustainable drainage systems (SuDS), with adequate maintenance arrangements, to avoid increased surface water flooding. SuDS/attenuation should be suitably sized to accommodate a 1:200yr event so as to reflect the discharge rate stated in (g) above;

- i. incorporates the use of water resistant and/or resilient construction materials and measures; and
- j. does not create an island of development and provides safe access and egress free of flood risk to the site.

(ii) Small scale extensions and alterations to existing buildings will only be supported where they will not significantly increase flood risk.

(iii) the Council will support development proposals that demonstrate accordance with Local Flood Risk Management Plans. There will be a presumption against development which would prejudice the implementation of such plans.

(iv) land raising and elevated buildings will only be supported in exceptional circumstances and where it is demonstrated that it would not have an adverse impact on flood risk outside the raised area.

(v) proposals must be accompanied by a Drainage Assessment and Surface Water Management Plans (SWMP) (including flood route to the SUDS/attenuation) to the satisfaction of the Council, where drainage is already constrained or problematic.

(vi) the Council will support development of the following flood prevention measures:

- a. wetland creation and peatland restoration;
- b. green and blue infrastructure;
- c. flood protection schemes, restoring natural features, enhancing flood storage capacity and avoiding the construction of new culverts and the opening of existing culverts; and
- d. creation, expansion and enhancement of natural Flood Management (NFM) techniques in reducing the risk of flooding. Development that has an impact on the potential to provide NFM will only be supported by the Council where the land's sustainable flood management function can be safeguarded.

(vii) Development proposals will be supported if they can be connected to the public water mains. If connection is not feasible, the applicant will need to demonstrate that water for drinking water purposes will be sourced from a sustainable water source that is resilient to periods of water scarcity.

(viii) All proposals should presume no surface water connection to the combined sewer.

The protection offered by an existing formal flood protection scheme or one under construction can be taken into account when determining flood risk.

Development proposals should demonstrate that future adaptations can be made to accommodate the effects of climate change.'

2. Under 'FL' in the symbol key to the Settlement Maps on page 4 of Volume 2 of the plan, delete the word 'recommended' and replace with the word 'required'.



Issue 24	Auchinleck and Catrine	
Development plan reference:	Residential allocations AL-H2, CA-H3, CA-H4, Miscellaneous allocation AL-M2 and change of allocation of CA-X4	Reporter: Andrew Fleming
Body or person(s) submitting a representation raising the issue (including reference number):		
J Rowan (27) SEPA (106) SASS Pension Fund (121)	Hargreaves (150) P Cobb (189)	
Provision of the development plan to which the issue relates:	The inclusion of sites in Auchinleck; AL-H2 and AL-M2 and Catrine; CA-H3 and CA-H4 and change of allocation of CA-X4.	
Planning authority's summary of the representation(s):		
<p><b>AL-H2: Dalshalloch Wood</b></p> <p><u>27</u></p> <p>There is concern around the environmental and conservation issues including the removal of trees, which could result in a release of carbon into the atmosphere and the displacement of wildlife within the local area. The extents of the site in question can be viewed in Map 'Issue 24 – Dalshalloch Wood, Auchinleck – AL-H2'.</p> <p><b>AL-M2: Templeton Roundabout</b></p> <p><u>150</u></p> <p>It is considered that retail use is compatible and complementary with business and industrial use and that a retail use would add to the vitality and viability of the site, which ensures the site is sustainable, adaptable and resilient to future market and settlement demands. The Review of Business &amp; Industrial Land Supply in East Ayrshire (CD50), published in February 2021, scored this site 14 out of a maximum of 30. The assessment analysis suggested that sites which scored below 12 were considered to be less suitable for employment uses as their size or location makes them less desirable for market demand and development potential. Therefore, retail and commercial uses should be considered to maximise the future potential of the site. The extents of the site in question can be viewed in Map 'Issue 24 – Templeton Roundabout, Auchinleck – AL-M2'.</p> <p><b>CA-H3: Mill Street</b></p> <p><u>106</u></p>		



(106) recommend that the site (or part of it, subject to further information) is removed from the Plan as SEPA Flood Map indicates that the majority of the site is within the functional floodplain and that more detailed modelling of the River Ayr at this location will be required to provide a site specific assessment of flood risk and to show that the redevelopment of the site is consistent with the requirements of SPP (CD26). The extents of the site in question can be viewed in Map 'Issue 24 – Mill Street, Catrine – CA-H3'.

#### **CA-H4: Shawwood Farm**

189

The site should not be allocated due to a number of disused existing housing in the area. This housing should be brought back into use first before large-scale new build housing is considered. The extents of the site in question can be viewed in Map 'Issue 24 – Shawwood Farm, Catrine – CA-H4'.

#### **Change of allocation for CA-X4: Newton Street**

121

The site should not be designated as protected open space and instead be allocated for housing. The extents of the site can be viewed in Map 'Issue 24 – Newton Street, Catrine – CA-X4 [New Site]'. The concept of the site having value as open space is challenged and it is argued that the site is not open space due to dense bushes and self-seeded trees located on the site. Furthermore, there is no public access to the site and it does not serve any active or passive recreational function and it could be argued that there is existing greenspace provision adjacent to the site and that the wider settlement is well supplied with greenspace.

In relation to other housing allocations in Catrine, it is argued that this site is better located within the settlement to provide additional homes compared to site CA-H4 which is a large greenfield site and has not yet been developed (given it was also allocated within the adopted LDP (CD23).

The site is believed to have development potential and is not constrained by flooding or other impacts such as bats. A planning application has been submitted for the development of the northern portion of the site, but the application is yet to be determined.

#### **Modifications sought by those submitting representations:**

#### **AL-H2: Dalshalloch Wood**

27

No specific modification is sought, however it is suggested that the site should not be allocated within the Plan.

### **AL-M2: Templeton Roundabout**

150

Modify the wording in Volume 2 under Site AL-M2: “Developer Requirements (site specific) with:

“Business, industrial, **retail and other commercial uses** on the site is supported. Employment-generating uses will be supported, where they are compatible with business and industrial use and are of a scale that will not preclude the development of some of the site for business and industry, **this would include some retail uses within the site**. The Council will require the developer of the site to make early contact with Transport Scotland regarding access from the A76 trunk road. It should be noted that an area of flood risk is present adjacent to the site boundary and early contact should therefore be made with the flooding officer at the Ayrshire Roads Alliance to determine whether an FRA may be required.”

### **CA-H3: Mill Street**

106

Removal of Site CA-H3 or part of it, subject to further information in relation to modelling of the River Ayr to provide a site-specific assessment of flood risk.

### **CA-H4: Shawwood Farm**

189

The site should not be allocated in the Plan.

### **Change of allocation for CA-X4: Newton Street**

121

Remove the “safeguarded open space” designation in the Proposed Local Development Plan.

Allocate the site for housing development with an approximate capacity of 30 houses.

### **Summary of responses (including reasons) by planning authority:**

### **AL-H2: Dalshalloch Wood**

27

The PLDP2 has been subject to strategic environmental assessment (SEA), which assess the Plan for any significant environmental impacts on environmental factors such as biodiversity and landscape. The SEA Environmental Report (CD47, Appendix 11.1) identified the impact of the loss of woodland on the site and proposed a number of mitigating factors such as ensuring that as many trees were retained as possible.

Another mitigation measure suggested that the design of future development should add new natural landscape features including trees to encourage new forms of green infrastructure, which will have a positive impact in terms of biodiversity and habitat networks to offset loss. To comply with Policy SS2, the developer will be required to implement the relevant mitigation measures contained within the SEA for this site. The Council is therefore of the opinion that the site should be retained.

#### **AL-M2: Templeton Roundabout**

150

Retail and Commercial uses are considered to be footfall generating development. The PLDP2 (Policies TC1-TC5) is clear that any footfall generating developments should be firstly directed to town centre locations in order to help improve the vitality of the relevant centre. A number of provisions within Policy TC3 (including a robust sequential assessment) would need to be met before footfall generating developments are supported. This site falls outside the town centre boundary of Auchinleck and the Council is of the opinion that retail and commercial uses would not be suitable in this location, and that business and industry uses are more appropriate given the site location (edge of town) and proximity to the A76. Therefore, the Council is of the opinion that no changes are required to this site information within Volume 2.

Notwithstanding the above, the develop requirements for site AL-M2 and the wording of policy IND3 give some flexibility for wider employment-generating uses on the site, where they would be compatible with the business and industrial use of the site. This is concerned a balanced approach, giving some flexibility but not to the detriment of local town centre.

#### **CA-H3: Mill Street**

106

The Council has highlighted in PLDP2 Volume 2 that the site may be subject to flood risk and has included a requirement for the developer to have early contact with SEPA (RD13) and Ayrshire Roads Alliance Flooding Officer. Discussions around further information to inform a site-specific assessment would be part of the Development Management process involving SEPA and the developer. The Council is of the opinion that all of the site should be retained.

#### **CA-H4: Shawwood Farm**

189

A key aim of the PLDP2 (outlined in the Spatial Strategy) is to encourage new housing across communities to stabilise the population and achieve population growth. A three stage assessment was used to assess all sites which were allocated in the current Local Development Plan 2017 (CD23), submitted as part of the Call for Priorities, Issues and Proposals and those consulted as part of the MIR. The sites were also subject to an interim SEA assessment. These SEA assessment outcomes (CD56) as well as the use of the site selection methodology (CD8), which was used to assess the

site, in terms of, for example it's sustainable location, contribution to the LDP2 spatial strategy and site viability and marketability, informed what sites were identified as development opportunity sites for housing in the PLDP2. For this site, it was considered that appropriate mitigation through the SEA would reduce any impacts on woodland and that there had been interest in developing this site through the MIR consultation.

As a result of the assessment outcomes, it was deemed appropriate to allocate this site as a development opportunity site for housing and therefore, the Council is of the opinion that the site be retained in the Plan.

#### **Allocation change for CA-X4: Newton Street**

##### 121

In preparation of the PLDP2, a three stage assessment was used to assess all sites which were allocated in the current Local Development 2017 (CD23), submitted as part of the Call for Priorities, Issues and Proposals and those consulted as part of the MIR (CD1). The sites were also subject to a SEA. These SEA assessment outcomes as well as the use of the housing site selection methodology (HSAM) (CD8), which was used to assess the site, in terms of, for example its sustainable location, contribution to the LDP2 spatial strategy and site viability and marketability, informed what sites were identified as development opportunity sites for housing in the PLDP2. The Council is of the opinion that an appropriate amount of housing sites have been identified in the plan and that there is not a requirement to allocate any additional housing sites.

Looking at this site in detail, a planning application for 10 dwellings was refused by the Council in 2020. The application was refused on the grounds that it did not comply with a number of policies in Local Development Plan 2017 (CD23), SPP (CD26) and that there were issues around flooding, the impact of the development on the landscape character of the area and a concern over the loss of trees, hedgerows and woodland. Therefore, the principle of housing has not be accepted on this site.

In addition, the Council undertook an Open Space audit, which assessed the amount of good quality open space across all settlements. Following an assessment process, it was considered that this site should be safeguarded as open space as it provided a natural, green gateway to the settlement and extended a larger area of open space within Catrine. Therefore, it is the opinion of the Council that the allocation for this site should remain.

#### **Reporter's conclusions:**

##### Housing Sites – General

1. The need for additional housing land is addressed through Issue 17 of this examination report. This sets the strategic context for the housing land allocations and also explains the context established through National Planning Framework 4 (NPF4). My assessment of sites below reflects the conclusion as extracted from Issue 17; that there is sufficient land identified to meet the Council's Minimum All-Tenure Housing Land Requirement during the Plan period and that it is not necessary to allocate any

additional land for residential development.

AL-H2: Dalshalloch Wood (27)

2. The site is located on the western side of Auchinleck with built development to the north and south of the site. It is predominantly given over to coniferous plantation woodland although there is a large area on the eastern side of the site which was formerly the site of a race track and this is now mainly meadow habitat. There is a local road which forms the site's western boundary beyond which is the A76 road. The B7083 road is immediately to the north and beyond this, modern housing development. There is a recreation ground, incorporating a play park and sports pitches, immediately to the east beyond which is the northwest boundary of the town centre. Users of the site would be able to safely access the town centre and its amenities by foot as well as by using public transport services which operate along the B7083 road. Immediately to the south of the site is a railway line and beyond this, modern residential development at Darnlaw View and Pennylands View. Concerns raised by a representee relate to the environmental impact of the removal of the woodland from the site and the impact of this on wildlife.

3. The proposed plan, including its policies, proposals and site allocations, has been the subject of a Strategic Environmental Assessment (SEA) which included the preparation of an SEA Environmental Report (CD47). This assessment identifies the significant environmental impacts in relation to each of the individual environmental components screened into the assessment. The SEA acknowledges that the development of this site would have a negative impact on landscape and biodiversity, flora and fauna. That said, the SEA concludes that long terms impacts are likely to be 'significant positive' if mitigation and enhancement methods are to be taken into account and if development proposals follow the council's design guidance to create a sense of place.

4. Whilst I have some sympathy with the representee regarding their concerns about the loss of trees on the site, I consider that the mitigation measures identified in the SEA would help to address such concerns. The SEA advises that development of the site should try to ensure that as many trees as possible are retained on site particularly those that screen the site from the A76 bypass to the west and that where trees are lost due to development, new landscape features should be added to encourage new forms of green infrastructure which in turn would be positive for landscape character and biodiversity and habitat networks to offset loss. I am reassured about the site's allocation in respect of the identified mitigation measures given that whoever develops the site would be required to implement the relevant mitigation measures contained within the SEA in order to comply with proposed Policy SS2: 'Overarching policy'.

5. There is nothing before me which I consider would justify removing this allocation. In reaching this conclusion, I am conscious that the site is currently allocated in the adopted East Ayrshire Local Development Plan (2017) (CD23) as a housing development opportunity site and that there have been several applications for residential development of the site approved previously by the council. The principle of housing on the site is clearly established.

6. No change is recommended to the proposed plan in respect of this site

AL-M2: Templeton Roundabout (150)

7. This site is located on the western edge of the settlement with the A76 bypass and associated landscape buffer separating it from the main settlement. It is identified in the proposed plan as a 'Miscellaneous opportunity' site which includes business/ industry and employment-generating uses. Whilst supporting the site's allocation within the proposed plan for business and industry and employment-generating uses, the representee (150) considers retail use compatible and complimentary with the aforementioned uses and maintains that such a use should also be supported on the site.

8. Auchinleck town centre is identified in the proposed plan as a 'local town centre' which serves the day-to-day needs of its inhabitants. One of the key roles of the proposed plan, through its policies TC1-TC5, is to promote town centres as the main focus for all 'footfall generating uses' as a sustainable approach to guiding development. I noted during my site inspection that the site is 0.5 miles from the nearest part of the town centre boundary (defined on the proposed plan settlement map for Auchinleck) to the east. The introduction of retail use (a footfall generating use) on the site would therefore run counter to the policies of the proposed plan which are deliberately intended to support town centres.

9. Having observed the site, located next to Templeton roundabout with access to the A76, I concur with the council that it represents a logical location for business and industry uses. I also consider that it is somewhat physically divorced from the town centre and that the introduction of footfall generating uses on the site would have the potential to undermine the town centre as the main focus for such uses.

10. Despite the above, I am mindful that the 'Developer requirements' for this site, as set out in the proposed plan, include scope for other employment generating uses where they are compatible with and of a scale that would not preclude development for business and industry on the site. Similarly, I note that proposed policy IND3: 'Alternative use of business and industrial land for premises' provides a degree of flexibility for other employment generating uses on this and similar sites.

11. No change is recommended to the proposed plan in respect of this site.

CA-H3: Mill Street (106)

12. This brownfield site is located within the northwest part of the Catrine town centre and within the town's conservation area. It is effectively a gap site with a terrace block immediately to the east and a terrace block immediately to the west. The site is in a prominent location, fronting onto Mill Street and opposite a pleasant formal open space. I observed that demolition works have taken place on the site although the remains of the former building are still present and the site is now becoming overgrown with an unkempt appearance to the detriment of the surrounding townscape.

13. SEPA recommends the removal of the site allocation from the plan (or part of it, subject to further information). SEPA have advised that more detailed modelling of the River Ayr at this location would be required in order to provide a site specific assessment of flood risk. SEPA acknowledge, however, that a site specific assessment



could show that flood risk is a less significant constraint than previously thought. I note that the proposed plan acknowledges, in relation to this site, the risk of flooding and that dialogue with SEPA and the Ayrshire Roads Alliance Flooding Officer is a requirement in taking this site forward. I concur with the council that such necessary discussions would inform a site-specific assessment and that this would contribute to the consideration of the future use of the site as part of the Development Management process.

14. I am conscious that NPF4 Policy 22 part a) lends support to development proposals at risk of flooding or in a flood risk area where they are for the redevelopment of previously used sites in built up areas where the LDP has identified a need to bring these into positive use and where proposals demonstrate that long-term safety and resilience can be secured in accordance with relevant SEPA advice. Given this stance combined with the site's current condition and surrounding context, I consider it appropriate to retain the site as an allocation. This notwithstanding that future assessment might discount this site (or part thereof) from being viable for residential development.

15. No change is recommended to the proposed plan in respect of this site.

#### CA-H4: Shawwood Farm (189)

16. I observed boarded up and empty homes during my site visit to Catrine settlement and noted the detrimental impact these have on the amenity of the neighbouring properties and the wider area. I therefore have some sympathy with the respondent who calls for these to be brought back into use before greenfield sites, such as site CA-H4 at Shawwood Farm on the eastern edge of the settlement, are developed.

17. Whilst the council encourages the redevelopment of vacant and derelict land as part of its spatial strategy, I am conscious that new housing on new housing sites is also integral to this strategy as it can help to stabilise the population and achieve population growth. I therefore consider that there is logic in looking to new sites whilst at the same time seeking to reduce the amount of brownfield land/ vacant buildings. The strategy seeks to focus on sustainable locations where there is market demand in order to ensure that sites are viable for developing and there is a realistic chance of their development during the plan period.

18. The site was considered as part of the council's Housing Site Appraisal Methodology (HSAM) (CD16) where it was assessed against matters such as the sustainability of the location, the site's contribution to the proposed plan's spatial strategy, site viability and marketability. I observed that the site is close to bus stops (and public transport services) on the B705 road which forms the site's northern boundary. There are also footpaths along this road which connect the site with the wider settlement including local amenities within comfortable walking distance. The site has been subject to developer interest/ promotion in the past. Taking all these factors into account, there is potential for this site to come forward for development during the lifetime of the plan. In reaching this conclusion, I am mindful that the site is currently allocated in the adopted local development plan. I am not aware of any significant changes in circumstance since the preparation of the previous plan such as to render this site less suitable for development than it was then. Further, it is not conducive to



the certainty that the planning system seeks to deliver for existing allocated sites to be removed from subsequent plans without a clear justification.

19. No change is recommended to the proposed plan in respect of this site.

Change of allocation for CA-X4: Newton Street (121)

20. The site lies to the southwest edge of the settlement. It is roughly rectilinear in shape and stretches in a northeast-southwest direction. The B713 road forms the site's northwest boundary. There are residential properties to the northeast site boundary. There is residential development to the south and southeast of the site on elevated land. The Bogend Burn crosses the site in a northeast-southwest direction with the land to the northwest of the burn and parallel the B713 road largely given over to shrubs and grasses. The part of the site to the east, southeast of the burn is largely given over to trees and woodland. These trees and woodland vary in age but they visually connect with the woodland to the south of the site and also with the woodland to the northeast, contributing to this green corridor which runs through the heart of the settlement. In combination with the trees along the northern side of the B713, which form part of the entrance to the cemetery grounds, I consider that the site contributes to the landscape setting of the settlement and provides a pleasant 'green' approach to the settlement from the southwest.

21. I observed during my site inspection that there are informal tracks through the site which suggest that it is used informally by walkers and that it has some local amenity value in this respect.

22. I note that a planning application (ref: 22/0694/PP) for the erection of 10 dwellings on the northwest part of the site was referred to the council's local review body (LRB) due to non-determination. On 19 June 2023, the LRB approved the application, subject to conditions.

23. Given my comments in paragraph 1 above regarding the sufficiency of the land supply to meet the Council's Minimum All-Tenure Housing Land Requirement during the Plan period and given my findings above in respect of the allocated housing sites, it is not necessary for me to identify additional/ alternative housing sites within Catrine. This notwithstanding the contribution that the site currently makes to the 'green' entrance to the settlement from the southwest. I therefore conclude that this site should not be allocated as a housing opportunity.

24. Whilst I do not agree that the CA-X4 site should be allocated, I do consider it logical and prudent to amend the Catrine settlement map to reflect the recent planning permission (ref: 22/0694/PP) on the northwest part of the CA-X4 site. Accordingly, I make a recommendation below in order to address this matter.

**Reporter's recommendations:**

I recommend that the Catrine settlement map (page 16 of Volume 2 of the Local Development Plan 2) be amended by excluding the site with planning permission for 10 houses (ref:22/0694/PP) from the area covered by 'safeguarded open space'.

Issue 25	Bank Glen	
Development plan reference:	Non-inclusion of sites BG-X3, BG-X4, BG-X5	Reporter: Andrew Fleming
Body or person(s) submitting a representation raising the issue (including reference number):		
Ronnie Caldwell (109)		
Provision of the development plan to which the issue relates:	The non-inclusion of sites in Leggate, Connel Park and Bank Glen: BG-X3, BG-X4, BG-X5.	
Planning authority's summary of the representation(s):		
<p><b>The non-inclusion of site BG-X3</b></p> <p><u>109</u></p> <p>Site BG-X3 is at the edge of the Connel Park &amp; Leggate settlement boundary, within close proximity of local amenities and bus stops, with no land use conflicts, can be accessed from public roads and footpaths, is adjacent to existing service networks, has adequate visibility, no environmental constraints, and will provide much needed housing to meet demand. The site is within 1 mile of a recent school in New Cumnock, the local Town Hall and an outdoor swimming pool. Housing would be of economic benefit. The site benefits from vehicular, pedestrian and bus access, and a train station in New Cumnock. The site is flat and the mains sewer has capacity for the proposed development, surface water can be managed within the site, and no pumped drainage is required. As such, the site is deliverable and effective.</p> <p><b>The non-inclusion of site BG-X4</b></p> <p><u>109</u></p> <p>Site BG-X4 is at the edge of the Connel Park &amp; Leggate settlement boundary and between established dwellings, thus constituting infill development. It is located within close proximity to local amenities and bus stops, with no land use conflicts, can be accessed from public roads and footpaths, is adjacent to existing service networks, has adequate visibility, no environmental constraints, and will provide much needed housing to meet local demand. The site is within 1 mile of a recent school in New Cumnock, the local Town Hall and an outdoor swimming pool. Housing would be of economic benefit. The site benefits from vehicular, pedestrian and bus access, and a train station in New Cumnock. The site slopes southward; the mains sewer has capacity for the proposed development, surface water can be retained on site and no pumped drainage is required. As such, the site is deliverable and effective.</p>		

**The non-inclusion of BG-X5**

109

Site BG-X5 is at the edge of the Bank Glen settlement boundary, within close proximity to local amenities and bus stops, with no land use conflicts, containing remains of 6 former dwellings, can be accessed from public roads and footpaths, is adjacent to existing service networks, has adequate visibility, no environmental constraints, and will provide much needed housing to meet local demand. The site is within 1 mile of a recent school in New Cumnock, the local Town Hall and an outdoor swimming pool. Housing would be of economic benefit. The site benefits from vehicular, pedestrian and bus access, and a train station in New Cumnock. The site is sloping from the roadway southwards and eastwards; no mains sewer is present so private sewage treatment would be needed, surface water can be retained on site and no pumped drainage is required. As such, the site is deliverable and effective.

**Modifications sought by those submitting representations:**

**The non-inclusion of BG-X3, BG-X4 and BG-X5**

109 seeks allocation of sites BG-X3, BG-X4 and BG-X5 as a residential development opportunity sites.

**Summary of responses (including reasons) by planning authority:**

**The non-inclusion of BG-X3, BG-X4, BG-X5 (109)**

It is firstly pointed out that LDP2 allocates sufficient land for housing to meet the Council's Minimum All-Tenure Housing Land Requirement during the Plan period. As such, it is not considered necessary to allocate any additional land for residential development.

The sites suggested for allocation by 109 were put forward at Priorities, Issues and Proposals stage, and as such they were assessed when preparing the proposed LDP2, at which point it was not considered appropriate to allocate them. All three sites are small and the settlements within which the sites are located were not considered marketable according to the marketability survey undertaken as part of the housing site assessment methodology (HSAM) (CD16). It could not therefore be ascertained, with any confidence, that development would take place on the sites. Furthermore, the overall approach of the LDP has been not to allocate sites with a capacity of less than four units, but the proposed sites have an indicative capacity of three units each.

The Bank Glen, Connel Park and Leggate settlements are relatively isolated and it was not considered appropriate to allocate new sites in places not capable of accommodating sustainable growth. This is reflected in the HSAM, which assigns scores of 30/60, 29/60 and 28/60 to BG-X3, BG-X4 and BG-X5 respectively on the "sustainability of location" criteria, which include distance to primary and secondary schools, health centre/GP, town centre, and train station. This approach is underpinned in the LDP2 Spatial Strategy, which seeks to direct development to accessible

locations that reduce the need to travel and promotes compact growth, in line with NPF4 (CD4).

Within Bank Glen, site BG-M1 was preferred due to it being brownfield, and has been allocated for miscellaneous uses with potential for residential development. There are also areas of vacant land within the Bank Glen, Connel Park & Leggate settlement boundaries capable of accommodating further development. Beyond the immediate vicinity, a number of preferred sites have been allocated within the New Cumnock area that provide sufficient capacity for housing, namely NC-H1, NC-H2, NC-H3, NC-M1, BS-H1 and BS-H2 which together provide an indicative capacity in excess of 46 units. There are also large areas of vacant land within settlement boundaries in the New Cumnock area where the principle of residential development would be acceptable.

With the above factors taken into consideration, and with the proposed allocation of many other sites in the New Cumnock area, the Council is of the view that sites BG-X3, BG-X4 and BG-X5 should not be allocated for residential development in LDP2.

### **Reporter's conclusions:**

#### Housing Sites – General

1. The need for additional housing land is addressed through Issue 17 of this examination report. This sets the strategic context for the housing land allocations and also explains the context established through National Planning Framework 4 (NPF4). My assessment of sites below reflects the conclusion as extracted from Issue 17; that there is sufficient land identified to meet the Council's Minimum All-Tenure Housing Land Requirement during the Plan period and that it is not necessary to allocate any additional land for residential development.

#### The non-inclusion of site BG-X3 (109)

2. The site is located at the northwestern edge of the Connel Park and Leggate settlement boundary. There is a residential property immediately to the southeast of the site and buildings associated with South Boig Farm immediately to the east. The site which is currently grassland is relatively flat. There are no landscape features to define the western or northern site boundaries. There is a drainage ditch to the northwest and there are overhead transmission lines on wooden poles which run immediately to the north of the site in an east-west direction.

3. The site is located next to a settlement which is relatively isolated with no shops or facilities. The promoter of the site has referred to the site's proximity to New Cumnock and its facilities. However, based on my observations during my site inspection, I am satisfied that these facilities would not be within safe/ comfortable walking distance of the site and despite the presence of bus stops within the settlement, its rural location would encourage journeys by private vehicles. I am reassured in making this finding, given that the Council's Housing Site Appraisal Methodology (HSAM) (CD16) assigned a score of 30/60 for this site on the 'sustainability of location' criteria which included distance to education establishments, health centres/ GPs, town centres and train stations. I consider that the allocation of this site would run counter to the proposed plan's spatial strategy which, in line with NPF4, directs development to accessible

locations that reduce the need to travel and which promotes compact growth.

4. I am also mindful that the promoter of the site identifies it as being suitable to deliver 3 housing units, whereas the council does not propose to allocate sites with a capacity of less than four units. I agree with the council's approach in this regard and consider that it is not practical for an area-wide document to address matters at this particular level of detail. As referred to above, the site is a greenfield site and I am conscious that there are areas within the settlement that include brownfield sites which are capable of accommodating further development. I am also conscious that the council has identified a number of preferred sites within the New Cumnock settlement to help meet the housing land requirement for the Cumnock Sub-Housing Market Area. These factors and the fact that the council does not allocate sites for less than four units, leads me to conclude that the allocation of the site is not appropriate.

5. No change is recommended to the proposed plan in respect of this site.

The non-inclusion of site BG-X4 (109)

6. The site, which comprises grassland, is located to the north of the B741 road with residential properties immediately to the east and west. There is a footpath along the site's southern boundary and there is a bus stop to the south of the site. The site rises above the housing to the east and west and slopes steeply southwards. The promoter of the site identifies the site as suitable for three residential units with a proposed single shared access onto the B741 road to the south.

7. Whilst the site would connect with an existing footpath and is close to a bus stop on the B741 road, the site is in a relatively isolated location with the settlements of Bank Glen to the west and Connel Park and Leggate to the east having no shops or facilities. The promoter of the site has referred to the site's proximity to New Cumnock and its facilities. However, based on my observations during my site inspection, I am satisfied that these facilities would not be within safe/ comfortable walking distance of the site and despite the presence of a bus stop next to the site, its rural location would encourage journeys by private vehicles. I am reassured in making this finding, given that the Council's HSAM assigned a score of 29/60 for this site on the 'sustainability of location' criteria which included distance to education establishments, health centres/ GPs, town centres and train stations. I therefore consider that the allocation of this site would run counter to the proposed plan's spatial strategy which, in line with NPF4, directs development to accessible locations that reduce the need to travel and which promotes compact growth.

8. As referred to above, the site is a greenfield site. This is suited to grazing and I am conscious that there are areas within the settlements to the east and west that are brownfield in nature, capable of accommodating further development (this includes the BG-M1 site to the west and the BG-X2 site (as referenced in the HSAM), to the east. In addition to the above, the council has identified a number of preferred sites within the New Cumnock settlement to help meet the housing land requirement for the Cumnock Sub-Housing Market Area. These factors and the fact that I have agreed above that it is sensible for the council not to allocate sites for less than four units, leads me further to conclude that the allocation of the site is not appropriate.

9. No change is recommended to the proposed plan in respect of this site.

The non-inclusion of site BG-X5 (109)

10. The site is located to the north of the B741 road with residential properties immediately to the east and west. There is a footpath along the south side of the B741 road and there is a bus stop to the east of the site on the B741. The promoter advises that the site formerly contained dwellings associated with coal mining. However, there is no obvious indication of this and the site today has a greenfield appearance, given over to grassland with several mature trees around its periphery. This is supported by the council's own assessment of the site in its HSAM. The promoter of the site identifies it as being suitable for accommodating three residential units with a single shared access onto the B741 road to the south. The site is elevated above the housing to the east and due to its steeply sloping topography, extensive land excavations/ remodelling would be required in order to accommodate the proposed residential development.

11. Whilst the site would be close to an existing footpath and bus stop on the B741 road, the site is in a relatively isolated location with the settlements of Bank Glen to the west and Connel Park and Leggate to the east having no shops or facilities. The promoter of the site has referred to the site's proximity to New Cumnock and its facilities. However, based on my observations during my site inspection, I am satisfied that these facilities would not be within safe/ comfortable walking distance of the site and despite the presence of a bus stop near to the site, its rural location would encourage journeys by private vehicles. I am reassured in making this finding, given that the Council's HSAM assigned a score of 28/60 for this site on the 'sustainability of location' criteria which included distance to education establishments, health centres/ GPs, town centres and train stations. I therefore consider that the allocation of this site would run counter to the proposed plan's spatial strategy which, in line with NPF4, directs development to accessible locations that reduce the need to travel and which promotes compact growth.

12. As referred to above, the site has a greenfield appearance, suited to grazing, and I am conscious that there are areas within the settlements to the east and west that are brownfield in nature and which are capable of accommodating further development (this includes the BG-M1 site to the west where demolition works have recently taken place and the BG-X2 site to the east (as referenced in the HSAM). In addition to the above, the council has identified a number of preferred sites within the New Cumnock settlement to help meet the housing land requirement for the Cumnock Sub-Housing Market Area. These factors and the fact that I have agreed above that it is sensible for the council not to allocate sites for less than four units, leads me further to conclude that the allocation of the site is not appropriate.

13. No change is recommended to the proposed plan in respect of this site.

**Reporter's recommendations:**

No changes are recommended.



Issue 26	Crosshouse	
Development plan reference:	Residential allocations in Crosshouse: CH-H1, CH-H2, CH-H3 & CH-F1(H) and non-inclusion of CH-X4, CH-X6 & CH-X7; and Gatehead: GH-H1.	Reporter: Stephen Hall
Body or person(s) submitting a representation raising the issue (including reference number):		
Andrew Wilson (26) Aaron McCartney (135) Dawn Homes (142) NatureScot (157) Robert Smith (158) Kimberley White (177)		Aileen King (229) Susan Richardson (241) Frank Smith (278) Fiona Evans (279) Fiona Wilson (297)
Provision of the development plan to which the issue relates:	The inclusion of opportunity sites in Crosshouse: CH-H1, CH-H2, CH-H3, CH-F1(H) and the non-inclusion of CH-X4, CH-X6 & CH-X7; and Gatehead: GH-H1.	
Planning authority's summary of the representation(s):		
<p><b>CH-H1 – Gatehead Road</b></p> <p><u>26</u></p> <p>There is limited school, nursery and primary infrastructure available locally to support the development of additional homes and the local pharmacy is under pressure. They further state that access onto Gatehead Road out with the 30mph zone would require to be considered for safety, access and traffic management.</p> <p><u>CH-H2 – Holm Farm</u></p> <p><u>278 &amp; 279</u></p> <p>There is a reticence within the building industry to develop brownfield sites and that this is demonstrated by the situation at Holmes Farm, Crosshouse. Although planning in principle has been granted for residential development at CH-H2 (ref. 17/1082/PPP), themselves the owners have approached developers and yet only the adjacent undeveloped site CH-H3 is of any interest to house builders. CH-H3 is subject to planning application ref. 21/0262/PP at the time of writing which has not yet been consented.</p> <p>LDP2 should ensure that where a brownfield site is adjacent to an undeveloped site they must be developed together, because careful consideration should be given to any removal of valuable agricultural land from production and that farmland is a carbon store. There is a requirement to determine how much carbon will be lost to the atmosphere when groundworks commence on undeveloped sites, so these carbon</p>		



emissions can be mitigated by either insisting that there is uptake of brownfield areas or by imposing higher developer contributions where an undeveloped site is being developed. These would include funding support flood mitigation and environmental impacts of new developments. It is noted that elsewhere developer contributions exceed the modest rate of £75 per residential unit in EAC.

It is planning policy that brownfield sites should be utilised before undeveloped sites, and that hedges and trees should be retained wherever possible. However, this is not happening and the applicant at CH-H2 has not considered LDP policy sufficiently when developing proposals.

Site CH-H2 was previously adopted into the town boundary to facilitate the transition towards housing for the area. In 2016 a planning application for change of use of site was submitted for CH-H2, (ref. 16/0234/PP) in an attempt to find an alternative business venture that could integrate with the proposed housing allocated beside it. The application was rejected which left the business property with its agricultural identity.

Because site CH-H3 was advertised for sale as a residential opportunity during the preparation of the 2017 LDP, a landscape buffer was requested through the Examination process, between the farm at CH-H2 and any new housing on site CH-H3 (formerly 257H). The Reporter in the 2017 LDP granted this request, requiring wording that stated that 'the developer of site 257H will require to provide an appropriate landscape buffer on that part of the site which adjoins Holm Farm (CD62)'.

The applicant at CH-H3 is not interested in developing site CH-H2 and is instead choosing to ignore the environmental impact of the working farm at CH-H2 on new residents. These impacts include noise, smells and insects. No appropriate landscape buffer or mitigation has been proposed. EAC Environmental Health has lodged an objection (consultation to 21/0262/PP dated 04/05/2022) to the proposed development, raising concerns about noise, odour and insect nuisance.'

In this regard, respondent 278 requests that EAC implement a buffer of 400m around Holmes Farm (Planning Circular 5/1992 introduces a cordon sanitaire of 400 metres around buildings used for intensive livestock accommodation, such as exists on Holm Farm, in order to protect residential property from obnoxious odours). Or, as an alternative, EAC could state that CH-H2 should be decommissioned and developed for housing before the commencement of any works in CH-H3. This would allow EAC to protect the health and wellbeing of future Crosshouse residents and to promote brownfield over greenfield land for development as outlined in the Environmental Report.

CH-H3 will become redundant and unattractive at the gateway to Crosshouse unless developers are required to adhere to LDP policy and adopt a masterplan approach that takes account of the Spatial Strategy and engage in meaningful placemaking with neighbours adjoining the site.

#### 279

Sites CH-H2 & CH-H3 should be considered as one housing site for the following

reasons in addition to those stated by respondent 278. A Freedom of Information request stated that neighbours of Towerhill Farm, Kilmaurs complain of not being able to enjoy their garden or open windows in the summer because of insects, smells and noise. They continue that EAC refused an application (ref. 04/1045/FL) for 'Proposed erection of cubicle shed' at Towerhill Farm because it 'would have a detrimental effect on the amenity of neighbouring residential properties.' The Reporter in that case stated that they 'could not comprehend why some houses had been allowed to encroach so remarkably close to farm operations'. A statement from a resident on the boundary of Towerhill Farm is cited, which sets out various issues with living adjacent to the business.

#### 279

Fertiliser is stored at site CH-H2 in sheds adjoining CH-H3, continuing that Holmes Farm has a shed with a certificate of Lawfulness for Industrial use within approximately 4.6m of site CH-H3 and that this poses additional noise concerns.

**Note:** A statement by a resident of Towerhill Farm is included within representation 279, as is an image of the Holmes Farm midden and cubicle house with underground slurry storage is supplied as an attachment.

#### CH-H3 – Irvine Road

#### 177, 229, 241, 279 & 297

The indicative capacity of 39 dwellings as detailed in Vol 2 would constitute overdevelopment of CH-H3 given the size of the site and that the southernmost part of the site floods and is unusable. 30 houses as allocated in LDP 2017 may also be too many for the size and topography of the site and given surrounding established uses and structural design of neighbouring properties. Site plans submitted to accompany application ref. 21/0262/PP have not met EAC planning requirements. Increasing the permitted allocation of the site will encourage future developers to overdevelop the site, which will be to the detriment of new and existing residents.

#### 177, 229 & 241

There is still an outstanding objection from the EAC Environmental Health department for CH-H3. This objection is in relation to proposed dwellings within close proximity to Holmes Farm, which is situated immediately adjacent to the site. The site should not be allocated in LDP2 given ongoing objections and points relating to an existing proposed development of the site CH-H3, which are currently being assessed by EAC Planning and are still unresolved.

#### 177, 241 & 297

Application ref. 21/0262/PP has received objections, which include road safety issues, poor design of affordable houses, loss of privacy and amenity, loss of light, flood risk, loss of hedgerows and potential structural damage to neighbouring properties. Similarly, 278 states that the developer of site CH-H2 shows disregard for the 2017 LDP.

229 & 241

The applicant of site CH-H3 (ref. 21/0262/PP) must address policy statements and must provide information to the planning service as part of their proposal, including reports that pertain to sewerage and water flooding information.

142

The conclusion in the HSAM is welcomed in so far as CH-H3 is suitable for allocation and that the indicative capacity is defined as 39, stating that the figure has been demonstrated to be achievable through the planning process. However, certain aspects of the HSAM are incorrect and the site may consequently not have been proposed for allocation, noting that the ranking table in p.1 of HSAM Appendix 3 states 'not allocate'.

The finding of the HSAM that there is no significant risk of flooding within the site are correct. The application for the site has included a Flood Risk Assessment and a surface-water management plan. However, the viability and marketability score in the HSAM was 11/30, the lowest to be given to any site in Crosshouse. This is incorrect as a planning application for site CH-H3 has been validated (ref. 21/0262/PP) and none of the other sites under consideration have a live planning application. Holm Farm remains an active farm and yet has received a score of 19/30 and that site CH-X2 has received a score of 13/30, despite being proposed for deallocation. Site CH-H3 performed less well than others in Crosshouse against non-absolute constraints and sustainability of location. It is unclear why CH-H3 performed less well against the HSAM than CH-H2 when the latter is occupied by an active farm and a planning application has been submitted for the former.

CH-X4 – Land at Crosshouse

135

Site CH-X4 (0.4 ha), should be allocated within the Plan. It should have performed better against the Housing Site Appraisal Methodology (HSAM) (CD11) and in this regard performs better than site CH-H1, which is subject to a degree of surface water flooding and the effectiveness of which is therefore questioned.

No formal submission was made at the 2020 Call For Site Information (part of the Call for Sites), therefore site CH-H1 obtained a higher score in the HSAM because interest had been expressed more recently.

The proposed site is immediately adjacent to the settlement boundary, SEPA Flood Maps confirm that the site is free from river or surface water flooding, development would have no effect on an SPA, SAC, SSSI or ancient or native woodland. Site CH-X4 and CH-H1 were assessed by the HSAM as contributing somewhat to the spatial strategy; neither site is programmed in the Housing Land Audit, nor has obtained planning consent. Both sites are newly proposed.

In terms of sustainability of location, CH-X4 and CH-H1 are each given the same score for nine criteria but that they differ in terms of distance to East Ayrshire P-LDP2 town centre/neighbourhood centre in that CH-H1 achieves a score of '2' i.e. 400m to 2km

and CH-X4 achieves a score of '5' i.e. less than 400m. In this, CH-X4 is relatively more accessible.

According to the HSAM, neither CH-X4 nor CH-H1 is subject to land and water contamination and that neither site would adversely affect heritage assets, each scoring '5' in this regard.

In terms of the HSAM assessment of non-absolute constraints CH-X4 performs better than CH-H1 overall, in that it achieves a score of 22/35 compared to 21/35 respectively.

With regard to open space and recreation value, CH-X4 and CH-H1 have each been given an HSAM score of '5' as neither constitutes safeguarded open space.

In terms of visual amenity, the HSAM has given CH-H1 a score of '2', and CH-X4 a score of '5'. Despite the difference in size, it is concluded that CH-X4 performs better than CH-H1 in relation to visual amenity.

The site enjoys a west/south-west aspect and the HSAM indicates a capacity of 11 units; however, it is intended that it would be developed at a lower density.

With respect to marketability of the site, the HSAM gave a marketability score of '2', noting that CH-X4 has never been marketed. However, it should be noted that the current owner is a locally-based small builder and is confident that the site would prove attractive to the market.

With regard to comments from the 2016 Examination Report for LDP2, they note that CH-H1 was given an HSAM score of '1' i.e. 'assessed as not suitable for allocation'. In this respect, they note from comments made by the Council that site CH-H1 is being allocated primarily as an alternative to or replacement of site CH-F1(H), which has not proven to be effective. CH-X4 has never been assessed at Examination. They note that with regard to marketability, CH-X4 has been given a slightly higher HSAM score than CH-H1, making the former more viable and marketable. They consider that the score for CH-X4 could have been higher for reasons set out in their response.

They note that CH-H1 scores '5' against the HSAM, i.e. the 'site lies within a SEPA-identified Little or no fluvial flood risk' but that the Council's summary confirms that 'surface water flooding may affect the centre of the site' and 'may be mitigated'. They consider that this wording suggests a degree of uncertainty but that at CH-X4 a small builder has a clear idea of an approach to the development of the site and expresses certainty.

They note that CH-X4 and CH-H1 each scored '2' against the HSAM in terms of impact on biodiversity but that development of the site(s) would have no significant impact on any designated sites. With regard to Land Capability for Agriculture, they note that CH-X4 and CH-H1 each scored '2' against the HSAM. They state that CH-X4 is used occasionally for grazing of horses but is not in active agricultural use. They continue that the development of CH-X4 would not have negative implications for the operation of a farm unit.

In terms of the HSAM scoring on landscape character and townscape, they note that CH-X4 is scored '1' and that CH-H1 is scored '2', noting that '1' is described as 'could have significant impacts on landscape and townscape quality and cannot be mitigated to an acceptable level'. They considered that this conclusion has been arrived at because of the commentary from the HSAM, which states that 'it was considered that the small site in question would constitute an incongruous extension into the countryside and on a side of the road that has not hitherto experienced residential development'.

In this, they consider that a visit to the site would confirm that the road in question is narrow and does not appear as an obvious barrier between it and the existing housing immediately to the east. They state that the site is flanked by hedgerows and that these would be substantially retained. They note that the site is virtually flat and, if developed, with appropriate landscaping would have insignificant rather than significant impact on landscape. They consider that by comparison the impact of CH-H1 would be significant.

**Note:** A map 'Figure 2' is included in their submission detailing the location of site CH-X4.

They state in terms of coal mining risk assessments that CH-X4 and CH-H1 each scored '1' because they are in a high risk area, but that advice they have received from the Coal Authority suggests that there is currently no risk to development.

With respect to the ENTEC Landscape Study (CD53a-c), they note that CH-X4 scores '1' against the HSAM and that CH-H1 scores '2'. They state that they surmise the former was included as an 'Indicative Area with Limited Potential' in the ENTEC study, noting that the study is now difficult to locate. They ask what there is 'Limited Potential' for and, if it refers to a type of designation, whether the site is then not viewed as a priority for any action.

In summarising the sustainability of the location against the HSAM, they note that CH-X4 scores 35/60, which is higher than CH-H1, which scored 30/60. In respect to overall scoring for HSAM Stage 2, they note that CH-X4 scores 79/135 and CH-H1 scores 74/135.

They ask how, if CH-X4 scored higher than CH-H1, how the conclusion in Stage 3 of the HSAM was reached. They state that whilst they acknowledge that Stage 3 involves a degree of value judgement, that the conclusions are incorrect.

They note the HSAM states that 'it is considered that the small site in question would constitute an incongruous extension into the countryside'. In this regard, they consider that Crosshouse has grown and developed over decades in an unplanned way, making it difficult to describe what the form of the settlement actually is and that in this context, the impact of the small site on this 'pattern' would hardly be noticed.

They consider that there is an attempt in Stage 3 to magnify the impression of the extent of incongruity by referring to the fact that this would represent development on a side of the road that has not hitherto experienced residential development. They consider that the road in question is not a major physical divide and that development

would relate well to that part of Crosshouse, which is immediately adjacent. They deem that the status of roads used as limits to development will often change over time.

They state that the most pertinent issue is that the HSAM states that sufficient capacity would exist at the proposed residential sites in Crosshouse CH-H1, CH-H2 and CH-H3. In this, they consider that the information provided suggests a high degree of uncertainty about the potential effectiveness of sites identified in Crosshouse. CH-H1 is being promoted as a replacement for Kilmaurs Road as the latter has been programmed as non-effective in Housing Land Audit for a considerable period. Nevertheless, they note that CH-H1 is affected by surface water flooding at the centre of the site and that CH-H2 is currently occupied by an operational farm.

To conclude they note that CH-X4 is free from constraints, owned by a small local builder familiar with the local market, who is confident about its marketability and could therefore deliver development in the short term. They state that the site is in single ownership, and would be available for development during the Plan period, and that no deficit funding is required. They continue that that there are no known constraints, no known contamination, that the site is accessible to mains water supply and foul sewage capacity and that their preferred use would be for the site to be developed for housing.

They continue that development of the site would comply with P-LDP2 policies, NE1, NE3, NE5, NE8, NE10, NE12, RES3, RES4, T1, CR1 and DES1.

**Note:** Four photographs of site CH-X4 are included with their submission (RD37).

#### CH-X6 – Holms West (Site 1)

##### 158

158 promotes the residential development of the site, which is not proposed for allocation in P-LDP2, stating that the indicative capacity is 49 dwellings and the area 2.4ha. They continue that the site is a sustainable location close to local facilities and public transport links in a settlement capable of expansion. They state that the level of housing that could be accommodated would deliver a strategic expansion of the settlement, and would compensate for sites considered unlikely to be effective in the plan period elsewhere in the plan area.

They consider that the site could contribute to meeting any subsequent shortfall in the Housing Land Supply (HLS). They consider that a portion of their potential site capacity would be effective in contributing. They state that smaller developments sites may be greater in number but frequently are of a scale where affordable housing provision is non-existent.

They consider that incorporation of Site 1, as 'Future Residential Development Site' will contribute to meeting the Council's Housing Supply Target (HST). They consider that allocation of the site is supported by the following Local Development Plan policies:

RES 1: New Housing Developments, in that the site would contribute to future housing growth, where future housing sites can be identified for the period 2025-2035 and avoid a shortfall to achieve projected the Housing Supply Target. The site is in close



proximity to the area defined in P-LDP2 as CH-H1: Gatehead Road, which is currently subject to an active application for planning permission. They consider that Site 1 forms a natural continuation of this potential development.

RES2: Residential extensions to settlements, in that adjustment of the Crosshouse settlement boundaries to include Site 1 will alleviate development pressure for pockets of residential clusters continuing to increase in number and scale, and avoid leading to an increased sense of suburbanisation within the rural landscape and diminishing the character of the rural area. They consider that the site forms a natural part of the gateway to Crosshouse. They state that Site 1, which has an adjacent watercourse on its western boundary along with possible structural planting, will provide a new defensible edge to the settlement.

RES3: Affordable Housing, in that the Council requires the provision of affordable housing with 25% of houses must be affordable in nature.

#### CH-X7 – Holms West (Site 2)

158 promotes the residential development of the site, which is not proposed for allocation in P-LDP2, stating that the indicative capacity is 21 dwellings and the area 1.4ha. They continue that the site is a sustainable location close to local facilities and public transport links in a settlement capable of expansion. They state that the level of housing that could be accommodated would deliver a strategic expansion of the settlement, and would compensate for sites considered unlikely to be effective in the plan period elsewhere in the plan area.

They consider that the site could contribute to meeting any subsequent shortfall in the Housing Land Supply (HLS). They consider that a portion of their potential site capacity would be effective in contributing in accordance with Scottish Planning Policy and Planning Advice Note 52: Affordable Housing and Land Supply. They state that smaller developments sites may be greater in number but frequently are of a scale where affordable housing provision is non-existent.

They consider that incorporation of Site 2, as 'Future Residential Development Site' will contribute to meeting the Council's Housing Supply Target (HST). They consider that allocation of the site is supported by the following Local Development Plan policies:

RES1: New Housing Developments, in that the site would contribute to future housing growth, where future housing sites can be identified for the period 2025-2035 and avoid a shortfall to achieve projected the Housing Supply Target. The site is in close proximity to the area defined in P-LDP2 as CH-H1: Gatehead Road, which is currently subject to an active application for planning permission. They consider that Site 1 forms a natural continuation of this potential development.

RES2: Residential extensions to settlements, in that adjustment of the Crosshouse settlement boundaries to include Site 1 will alleviate development pressure for pockets of residential clusters continuing to increase in number and scale, and avoid leading to an increased sense of suburbanisation within the rural landscape and diminishing the character of the rural area. They consider that the site forms a natural part of the gateway to Crosshouse. They state that Site 1, which has an adjacent watercourse on



its western boundary along with possible structural planting, will provide a new defensible edge to the settlement.

RES3: Affordable Housing, in that the Council requires the provision of affordable housing with 25% of houses must be affordable in nature.

#### GH-H1: Main Road, Gatehead

##### NatureScot (157)

Development of the site could potentially enhance the landscape setting at the gateway to the village.

Reiterate the comments provided at the MIR stage of the plan preparation process to ensure that any proposals should ensure that a robust, defensible edge is included in the design.

Existing landscape framework of hedgerows on the southern and western edges should be retained.

Development should incorporate multifunctional green and blue infrastructure, in accordance with Policy OS1, that delivers positive effects for biodiversity through enhancement of habitats and nature networks.

#### **Modifications sought by those submitting representations:**

##### **CH-H1 – Gatehead Road**

26 does not state any specific modifications and instead highlights constraints to local services and impact on the road network.

##### **CH-H2 – Holm Farm**

278 requests that EAC implement a buffer of 400m around Holmes Farm (Planning Circular 5/1992 introduces a cordon sanitaire of 400 metres around buildings used for intensive livestock accommodation, such as exists on Holm Farm, in order to protect residential property from obnoxious odours). They suggest that as an alternative, EAC could state that CH-H2 should be decommissioned and developed for housing before the commencement of any works at CH-H3. This, they state, would allow EAC to protect the health and wellbeing of future Crosshouse residents and to promote brownfield over greenfield land for development as outlined in the Environmental Report.

279 requests that sites CH-H2 & CH-H3 should be considered as one housing site.

##### **CH-H3 – Irvine Road**

177, 229, 241, 279 & 297 ask for the indicative capacity of the site to be changed from 39 to 30 dwellings.

142 and 241 do not ask for any modifications to the plan.

279 requests that sites CH-H2 & CH-H3 should be considered as one housing site.

#### **CH-X4 – Land at Crosshouse**

135 asks for site CH-X4 to be allocated as a Housing Opportunity in the Crosshouse section of Vol 2 of LDP2.

#### **CH-X6 – Holms West (Site 1)**

158 wish for the site to be identified as a ‘Future Housing Growth’ area.

#### **CH-X7 – Holms West (Site 2)**

158 wish for the site to be identified as a ‘Future Housing Growth’ area.

#### **GH-H1: Main Road, Gatehead**

157 whilst not explicit in terms of wording, suggests that it should be ensured that a robust, defensible edge is included in the design of the site. The existing landscape framework on the southern and western edges should be retained. Development should incorporate multifunctional green and blue infrastructure that delivers positive effects for biodiversity through enhancement of habitats and nature networks.

### **Summary of responses (including reasons) by planning authority:**

#### **CH-H1 – Gatehead Road**

##### Traffic safety (26)

With regard to the comments by representation 26, it can be confirmed that the developer of the site would be required to undertake a Transport Assessment to accompany any proposal; concerns pertaining to safety, access and traffic management would therefore be addressed. This requirement is set out in volume 2, page (20). A Transport Appraisal commissioned by the Council to support LDP2 (CD19) does not express any particular concerns with respect to Crosshouse; any recommended mitigation set out within the Appraisal applies to locations elsewhere in East Ayrshire.

##### Availability of infrastructure and services (26)

In terms of comments made by 26 in relation to impact on local infrastructure and services, the Council is of the opinion that those in Crosshouse would not be detrimentally affected by the development of CH-H1. The Council would point out that the Council’s Education department, which has been fully involved in the preparation of the Plan, had raised no issues that would indicate that there are capacity issues within the Crosshouse Primary School and Grange Academy. NHS Ayrshire and Arran has also not objected to the development of the site in terms of the provision of their service responsibilities within the settlement. Notwithstanding, P-LDP2 includes within its

provisions Policy INF4: Developer Contributions, which will be implemented where a development will place additional demands on infrastructure, services, facilities and amenities that would necessitate new facilities or exacerbate deficiencies in existing provision. In effect therefore, where infrastructure capacity issues in terms of education and health and social care occur there is a mechanism to address it.

Pharmacies are a commercial concern, however, Crosshouse has been identified as a local town centre in P-LDP2 when this was not the case in the 2017 LDP and will therefore benefit from the suite of town centre policies set out from p.104 to p.109 of Vol 1 of P-LDP2. Therefore, the Council consider that there would not be any adverse pressures on local infrastructure and services within Crosshouse because of this development.

## **CH-H2 – Holm Farm**

### Development of brownfield sites (278, 279)

With regard to the comments by representations 278 & 279 that there is an unwillingness to develop brownfield sites like CH-H2, there is some evidence to the contrary. Indeed, within the 2020 East Ayrshire Housing Land Audit it was reported that some 44% of all development during the 2020/21 to 2024/25 programming window would take place within previously developed land. Therefore, whilst an undeveloped site like CH-H3 may be more attractive to certain house builders as something of a blank slate, the viability of site CH-H2 is not significantly reduced because of its previously developed or built-up nature. That the potential developers of CH-H3 have not indicated an interest in also developing site CH-H2 may be subject to commercial factors, the details of which are not available and therefore cannot be speculated as part of this Issue.

Regarding the comment that for environmental reasons LDP2 should ensure that where a brownfield site is adjacent to an undeveloped site they must be developed together, it is considered that doing so in all cases would not be feasible; ownership and existing uses complicate matters. For example, housing site KK-H7 in Vol 2 of the P-LDP lies immediately adjacent to an active business that operates on previously developed land and simultaneous residential development of each site is not considered a necessity. It would not therefore be appropriate to develop all brownfield sites where they lie adjacent to an undeveloped site.

With regard to a requirement that a determination of how much carbon will be lost to the atmosphere when groundworks commence on undeveloped sites, whilst perhaps desirable in the context of the Climate Emergency this is not currently a requirement of SPP, the NPF4 or PLDP2 and could not therefore reasonably be undertaken. It is considered that to make this a requirement of the Plan would be unduly onerous to developers. Comments pertaining to developer contributions are addressed in Issue 20.

In terms of the statement by 278 that brownfield land should be developed before undeveloped land, whilst there is an encouragement in P-LDP2 Policy SS2: Overarching Policy to 'be efficient in the use of land by reusing vacant buildings and previously used land where possible', there is no requirement that brownfield sites

should be utilised before undeveloped sites. Encouragement does however exist within P-LDP2 Policy SS4: Development of Vacant and Derelict land, which entails a reduction in developer contributions for development on sites identified in the Vacant & Derelict Land Register. In terms of the retention of hedges and trees, policy NE8 of LDP2, which any development would be required to meet, establishes a presumption against the loss of individual trees and hedgerows.

Amenity impacts of a working farm on residents (278), (279)

The representation mentions that an application within CH-H2 for a change of use of part of agricultural buildings to Class 5 (General Industry) and Class 6 (Storage) (ref. 16/0234/PP (CD69)) was refused and that it was an attempt to alter the business to allow it to integrate with residential development within site CH-H3. They note that they had consequently requested the landscaped buffer that applies to site CH-H3 (formerly 257H).

Issues pertaining to the planning application that currently concerns CH-H3 are dealt with separately within this Issue in the undernoted section that applies to that site. The case law example cited by 279 pertaining to a similar case of a farm adjacent to a residential development in Kilmaurs, East Ayrshire and the storage of fertiliser at site CH-H2 close to site CH-H3 are noted.

However, with regard to the objection submitted by EAC Environmental Health on 04/05/2022 to application 21/0262/PP at CH-H3, whilst various comments are made in that objection, there is no suggestion that a buffer of 400m should be drawn around Holmes Farm to protect property from obnoxious odours, as proposed in representation 278. The specifics of this proposal have not been outlined in the representation. However, it is apparent that a buffer of such a scale would encompass not just site CH-H3 but also a significant proportion of the rest of Crosshouse. The feasibility of introducing a buffer is difficult to determine and it is likely that an identical approach would require to be taken to all other similar farm operations in the Local Authority area. It is therefore not considered appropriate to introduce such a requirement as part of LDP2 and that each situation should be addressed individually should it arise, at the planning application stage based on the particular nature of the location and operations.

In terms of the suggestion by 278 that CH-H2 should be decommissioned and developed for housing before the commencement of any works at CH-H3, this suggestion is considered unreasonable and is likely to be problematic from a legal perspective. The Council is therefore of the view that such a proposal is unworkable.

Representation 279 states that that site CH-H3 will become unattractive and redundant unless a masterplan approach is taken that would consider CH-H2 & CH-H3 to constitute one housing site, thereby eliminating the problem of proximity to adjacent dwellings. Whilst the following is not considered a desirable outcome in this instance, the Council would point out that the allocation of a site does not require any developer to build out the entire site, i.e. were CH-H2 and CH-H3 to constitute a single site, the developer could leave the area of CH-H2 undeveloped regardless. The consideration of each site as a single allocation is unlikely therefore to have any bearing on the development of the area of CH-H2. It is furthermore not considered logical for CH-H2

and CH-H3 to constitute a single site because of the separate ownership and planning status of each site.

It is considered that issues associated with readying the site for development and attracting a buyer or developer are matters for the owners of the site. In this regard and given that CH-H2 benefits from planning permission in principle, and because its development, of brownfield land, would be considered to have limited landscape and visual impact, the Council is of the view that the site should be allocated for residential development in LDP2.

### **CH-H3 – Irvine Road**

#### Indicative site capacity (177, 229, 241, 279 & 297)

With regard to the statement in representations 177, 229, 241, 279 & 297 that a capacity of 39 or 30 dwellings would constitute overdevelopment, it should be noted that the capacity for each site presented in Vol 2 of the Proposed Plan is indicative, that is, the developer is not required to build precisely the number of units stated. In the case of CH-H3, a capacity of 39 was selected in accordance with that of the most recent planning application to apply to the site. However, a range of factors, including layout, may result in development of a greater or lesser number of dwellings.

#### Objections to 21/0262/PP (on site CH-H3) 177 (229, 241, 278, 279 & 297)

Various comments from representations include reference to flood risk, design, road safety, overlooking, loss of light, loss of hedgerows, adjacent uses and other matters. These pertain to aspects of the planning application process, specifically in reference to planning application 21/0262/PP. In this regard, the Council affirms that any proposal within site CH-H3 is required to comply with the relevant policies of the LDP.

For clarity and to provide the up-to-date position, application 21/0262/PP was refused by the Council's Planning Committee on 13 January 2023. The Committee Report (CD68) sets out in detail the reasons for refusal, which are largely based on unresolved issues around noise, odour, affordable house, landscape buffer, open space and overlooking.

With regard to the objection submitted by EAC Environmental Health on 04/05/2022 as highlighted in representations 177, 229 & 241, it is noted that in that response they also suggest steps towards mitigating noise, albeit without recommending any steps to address odour or insect nuisance. It is considered that the presence of a working farm adjacent to the site has been addressed as part of the site requirements for CH-H3 as set out on p.20 of Vol2 of the P-LDP2. In this, it is stated that 'the developer of the site will be required to provide an appropriate landscape buffer on that part of the site which adjoins Holm Farm'. Identical wording was included in the site description as part of the Examination of the Proposed East Ayrshire Local Development Plan (2017). It is thereafter, up to the applicant to ensure that the landscape buffer is of an adequate scale to mitigate any impacts from the adjacent farm. It is therefore considered that the buffer as suggested in the site requirements for CH-H3 is sufficient to address any concerns.

#### Housing Site Appraisal Methodology (142)

With respect to those aspects of the representation by 142 that disagree with the findings of the HSAM, the following comments can be made. In terms of the statement that the table in p.1 of HSAM Appendix 3 suggests that site CH-H3 should not be allocated, this constitutes a clerical error and it can be seen within the remainder of the document that the proposal was to allocate the site. As highlighted by 142, an application has been made within the site. This is acknowledged in the HSAM, which states: 'Developer interest...suggests that the site is an effective one and it was considered appropriate to allocate the site in LDP2 on that basis'.

With regard to comments by 142 pertaining to HSAM scoring that has given other sites in the settlement a higher marketability score, it should be noted that scoring is drawn from the HSAM document, within which each criterion employed is explained. Site CH-H3 scored lower against the HSAM in terms of marketability primarily due to the absence of full planning consent, because the site has been allocated during two successive Plans and because no interest in its continued allocation was expressed during the call for sites. Site CH-H2 received a higher score because interest had been expressed at call for sites and because the site was freshly proposed. With regard to non-absolute constraints, a similar pattern applies, by which site CH-H3 was assessed against the criteria of HSAM and found to be subject to greater constraint than its comparators.

The HSAM constituted a tool from which a wider discussion could be informed and was not deemed the final determinant in the site selection process. Indeed, that CH-H3 was subsequently included for allocation in Vol 2 of P-LDP2 despite scoring rather poorly is evidence of an understanding by Council officers of the limits of employing the HSAM in isolation.

With the above factors taken into consideration, the Council is of the view that site CH-H3 should be allocated for residential development in LDP2.

#### **CH-X4 – Land at Crosshouse**

#### Housing Site Appraisal Methodology (153)

Representation 135 seeks the allocation of site CH-X4 in LDP2.

They offer within their representation a summary of those elements of the HSAM to which they offer no objection and to which it is implied they agree. In this respect, only those comments made by the respondent that seek to challenge the findings of the HSAM process or that offer new information will be addressed below.

#### Indicative site capacity (135)

With respect to the 11 dwelling indicative capacity cited in the HSAM, it should be noted that this corresponds to what is assessed to be the maximum density at which detached homes could be developed within the site in accordance with the policies of the Plan. Whilst the respondent states that housing would be developed to a lower density, evidence from other sites allocated in the 2017 LDP, including 279H and

356H, suggests that a more reasonable expectation would be to assume complete build out of a site, as each of the aforementioned sites was built out to a significantly higher capacity than was indicated.

#### Environmental HSAM scoring (135)

The Council concurs with the statements in the representation pertaining to a likely absence of contamination, access to mains water supply and foul sewage capacity. However, in terms of the P-LDP2 policies as set out by the applicant, it cannot be ascertained from the allocation of any site whether development would be in accordance with the policies of the Plan. Any approval would be subject to detail set out in a planning application; its merits or demerits would be established at that time.

#### Marketability HSAM scoring (135)

The HSAM score of '2' for marketability is based on a survey of house builders undertaken in collaboration with Homes for Scotland, that identified that Crosshouse was somewhat marketable, but less so than more northern parts of the Council area. In this respect, it has little to do with whether builders are based locally and is instead to do with general perceptions of the marketability of particular settlements. The respondent's assertion that the site is marketable may have merit, however, for reasons set out elsewhere in this issue with respect to CH-X4, the site is not considered suitable for allocation.

CH-H1 was assessed as not suitable by the 2016 Examination Report and that CH-X4 has not hitherto been assessed. However, with respect to CH-H1 obtaining a lower HSAM score for marketability than CH-X4, whilst this is correct, the methodology in this respect similarly acts to elevate CH-X4 when it has not been subject to the same scrutiny.

#### Biodiversity HSAM scoring (135)

In terms of the respondent's comments on the biodiversity element of the HSAM. The statement that the site is not in agricultural use, nor would the development negatively affect the farm unit are noted. However, for reasons set out elsewhere in this Issue, it was not considered appropriate to allocate CH-X4 at this time.

#### Landscape HSAM scoring (135)

Pertaining to the Entec description of the site as being an area with 'Limited Potential', a statement in that study clarifies that this refers to 'areas of higher landscape sensitivity to development that may also be further constrained by size and topography'. Whilst this does not mean that development cannot happen, it does indicate that other areas of the settlement are preferable in terms of development; site CH-H1 is in contrast described in the study as an area of medium to low landscape sensitivity to development, subject to detailed design plans'.

The 'Limited Potential' description does not therefore preclude development, indeed, the Entec study recommends that site CH-X4 may be suitable for a development of 17 mixed two-storey dwellings with low housing density and that the establishment of a



mature, urban edge to preserve the rural setting and character of Carmel Water/Carmel Bank is recommended. Nevertheless, it is the opinion of the Council that given the availability of other sites in Crosshouse that were considered preferable by the Entec study that site in CH-X4 should not be allocated. Each site proposed for allocation in P-LDP2 either is considered more suitable in landscape terms in the Entec study (CH-H1 and CH-H3) or is a brownfield site whose development would result in no additional landscape impact than the status quo (CH-H2).

The Council therefore maintains that development of site CH-X4 would constitute an incongruous extension into the countryside, and on a side of the road that has never before experienced residential development. The HSAM scoring pertaining to impact on landscape character and townscape has been informed by this opinion in conjunction with the Entec study. The view expressed in the representation that any development of site CH-X4 would not be noticed, is conjecture and it is considered likely that any dwellings completed within the site would be visible within the landscape.

#### Coal mining risk HSAM scoring (135)

In relation to a coal mining risk score of '1' in the HSAM, the representation states that the Coal Authority suggests that there is currently no risk to development within the site. The HSAM does not account for individual site inspections and the Council is therefore of the opinion that should it be demonstrated that if the Coal Authority has no objections to development within a site that development could proceed, subject to assessment against the other policies of the Plan. The absence of coal mining risk within the site does not however outweigh the aforementioned factors that would mitigate against allocation.

#### Residential capacity in Crosshouse (135)

The representation notes that the HSAM states that sufficient capacity would exist at the other proposed residential sites in Crosshouse (CH-H1, CH-H2 and CH-H3) and it is therefore proposed that site CH-X4 not be allocated in LDP2. The Council maintains that this position is correct. Each of the sites proposed for allocation in LDP2 is considered to be effective, indeed, site CH-H1 has been selected because development at CH-F1(H) has not materialised during successive Plan periods.

#### Flooding HSAM scoring (135)

With regard to CH-H1 and the comment by the respondent that 'surface water flooding may affect the centre of the site', it should be noted that SEPA has offered no objection to the allocation of the site and that any prospective developer is asked to consult the flood authority as part of site requirements. Whilst development may be somewhat inhibited within the area subject to flooding, it encompasses only around 1/5 of the area of the site and it is considered that any developer could appropriately mitigate and accommodate any risk. The effectiveness of the site is therefore not significantly affected by the area of surface water flooding. As a precaution, the developer of the site is in the

Working farm within CH-H2 (135)

CH-H2 is currently occupied by a working farm as attested by representations 278 & 279. However, an application for planning permission in principle within the site was previously approved (ref. 17/1082/PPP). In contrast to site CH-X4, the principle of residential development at CH-H2 has been established, subject to conditions. The site is currently occupied by a dwelling and farm structures. However, the NPF4 and the P-LDP2 state that the development of previously developed land is preferable to the development of undeveloped land, as is the case with CH-X4. To encourage a sensitive and sustainable approach to development, the site description for CH-H2 states that ‘the developer of the site is encouraged to consider the potential to retain and incorporate the historic farmstead within the site (Canmore ID 203945) when developing their proposals’.

Site ownership (135)

With regard to the respondent’s comments pertaining to the ownership of site CH-X4 by a small house builder, whilst this may be the case, such proprietorship is considered not to indicate the effectiveness of a site any more than would be the case were the site to be owned by a large house builder. Indeed large house builders are typically familiar with the local housing market and undertake extensive research to inform their proposals.

Conclusion (135)

With the above factors taken into consideration, the Council is of the view that site CH-X4 should not be allocated for residential development in LDP2.

**CH-X6 – Holms West (Site 1)**

Consideration of CH-X6 (158)

Representation 158 seek the identification of site CH-X6 as a Future Housing Growth area in LDP2.

In relation to the representation from 158, it should be highlighted that alongside CH-X7 and unlike the sites detailed in the HSAM, the site in question has not been subject to assessment and discussion within the planning service or internal/external consultees in order to arrive at a view as to its suitability for allocation. The respondent has provided no details to support its identification in terms of determination of environmental constraints or other factors that might establish its suitability.

Assessment against EALDP 2017 housing policies (158)

It should be noted that each of the planning policies cited in the representation, although broadly similar to certain of those presented in LDP2, is a policy detailed in the 2017 LDP. Regardless, none of the policies cited specifically suggests that the site in question would form an acceptable housing site to be identified in LDP2 and any application would be subject to assessment against the policies of the Plan.

With regard to the citation of RES1, it is not evident why site CH-X6, which lies at the opposite side of Irvine Road, would constitute a natural continuation of the development at CH-H3; no rationale is set out by the respondent to arrive at that conclusion. In terms of RES2, the provisions of the policy as set out in the 2017 LDP apply only to sites out with the settlement boundary where there is a shortfall in the supply of effective housing land. Again, this policy applies to the period of the 2017 LDP (2015-2025) and not that of the forthcoming LDP2. Should the site be identified as suggested, this policy, which has not been carried forward to LDP2, would not apply. In terms of RES3, whilst it is acknowledged that a 25% affordable housing contribution would apply in sites of more than 30 units, a similar policy as detailed in P-LDP2 stipulating such a requirement would equally apply to CH-H1 and CH-H3, which have a capacity of 39 and 138 units respectively.

Indeed, whilst the site is in a broadly suitable location in that it is located adjacent to Irvine Road, the location is considered less desirable than that of CH-H1, CH-H2 or CH-H3, as parts of the site would lie further from the town centre and the facilities therein than each of those sites.

#### Comparison against proposed site allocations (158)

The respondent has not stipulated why any other proposed site would be less effective in terms of development than CH-X6. Furthermore, although the development of site CH-X6 would help to meet the Housing Land Requirement (HLR) for East Ayrshire if developed, the respondent has not described why this would any more be the case than sites CH-H1, CH-H2 or CH-H3. The statement made with regard to smaller development sites with regard to affordable housing provision does not refer to any specific small sites and it is therefore difficult to establish what is inferred.

It is implied from the wording of the representation that the party that has proposed the site would prefer the site to be allocated as a Future Housing Growth area to be considered as part of the preparation of LDP3. However, the respondent has not described why the proposed Future Housing Growth area at CH-F1(H), which has previously been allocated and has been subject to an approval of planning permission in principle (ref. 13/0824/PPP), is less suitable. In this regard, it is not considered necessary to allocate site CH-X6 as a Future Housing Growth area or allocated site in LDP2. It should also be noted that, were the site to be identified as a Future Housing Growth area, that the aforementioned statement pertaining to contribution to meeting the HLR would be applicable.

With the above factors taken into consideration, the Council is of the view that site CH-X6 should not be allocated for residential development in LDP2.

#### **CH-X7 – Holms West (Site 2)**

##### Consideration of CH-X7 (158)

Representation 158 seek the identification of site CH-X7 as a Future Housing Growth area in LDP2.

In relation to the representation from 158, it should be highlighted that alongside CH-X6

and unlike the sites detailed in the HSAM the site in question has not been subject to assessment and discussion within the planning service or with internal/external consultees in order to arrive at a view as to its suitability for allocation. The respondent has provided no details to support its identification in terms of determination of environmental constraints or other factors that might establish its suitability.

#### Assessment against EALDP 2017 housing policies (158)

It should be noted that each of the planning policies cited in the representation, although broadly similar to certain of those presented in LDP2, is a policy detailed in the 2017 LDP. Regardless, none of the policies cited specifically suggests that the site in question would form an acceptable housing site to be identified in LDP2 and any application would be subject to assessment against the policies of the Plan.

With regard to RES1, it is not evident why site CH-X7 would constitute a natural continuation of the development at CH-H3; no rationale is set out by the respondent to arrive at that conclusion. In terms of RES2, the provisions of the policy as set out in the 2017 LDP apply only to sites out with the settlement boundary where there is a shortfall in the supply of effective housing land. Again, this policy applies to the period of the 2017 LDP (2015-2025) and not that of the forthcoming LDP2. Should the site be identified as suggested, this policy, which has not been carried forward to LDP2, would not apply. In terms of RES3, whilst it is acknowledged that a 25% affordable housing contribution would apply in sites of more than 30 units, a similar policy as detailed in P-LDP2 stipulating such a requirement would equally apply to CH-H1 and CH-H3, which have a capacity of 39 and 138 units respectively. The respondent has not stipulated why any other proposed site would be less effective in terms of development than CH-X7.

#### Flood risk (158)

In addition, it should be noted that much of site CH-X7 lies predominantly within a SEPA-identified area of medium to high fluvial flood risk. Whilst a narrow access to the site exists between properties at 29 and 31 Irvine Road, the site lies behind this frontage. It is not apparent, nor detailed by the respondent, how road access would be gained, other than potentially through CH-H3. An application for development at CH-H3, recently determined, included no provision for a future link to site CH-X7. In this regard, it is likely that site CH-X7, even if identified, would not prove to be effective and that any proposal would attract objections in terms of flood risk, access and egress.

#### Comparison against proposed site allocations (158)

The respondent has not stipulated why any other proposed site would be less effective in terms of development than CH-X7. Furthermore, although the development of site CH-X7 would help to meet the Housing Land Requirement (HLR) for East Ayrshire if developed, the respondent has not described why this would any more be the case than sites CH-H1, CH-H2 or CH-H3. The statement made with regard to smaller development sites with regard to affordable housing provision does not refer to any specific small sites and it is therefore difficult to establish what is inferred.

It is implied from the wording of the representation that the party that has proposed the

site would prefer the site to be allocated as a Future Housing Growth area to be considered as part of the preparation of LDP3. However, the respondent has not described why the proposed Future Housing Growth area at CH-F1(H), which has previously been allocated and has been subject to an approval of planning permission in principle (ref. 13/0824/PPP), is less suitable. In this regard, it is not considered necessary to allocate site CH-X7 as a Future Housing Growth area or allocated site in LDP2. It should also be noted that, were the site to be identified as a Future Housing Growth area, that the aforementioned statement pertaining to contribution to meeting the HLR would be applicable.

With the above factors taken into consideration, the Council is of the view that site CH-X7 should not be allocated for residential development in LDP2.

#### GH-H1: Main Road, Gatehead

#### Developer requirements (157)

The Council acknowledge the comments provided by the respondent and the reiteration of their feedback at the MIR stage. As outlined within Volume 2 (page 51) of the PLDP2, any subsequent planning application will need to meet the mitigation requirements for the site, which include the mitigation outlined within the Environmental Assessment of the site. The comments provided by NatureScot are set out within the Site proforma assessment for GH-H1 and will need to be taken into consideration by any future applicant. This requirement is set out within Policy SS2: Overarching Policy criterion (vii) which states that proposals will be required to “*implement the relevant enhancement and mitigation measures contained within the Environmental Report where required in Volume 2 of LDP2*”.

As such, the Council consider that the concerns raised by the respondent are adequately addressed by the current content of the PLDP2. With regards to the comments on multi-functional green and blue infrastructure, any subsequent proposal will need to accord with the requirements of OS1, addressing these comments.

#### **Reporter’s conclusions:**

#### **CH-H1 – Gatehead Road**

1. This site consists of two agricultural fields on the south-western edge of Crosshouse. The eastern field in particular represents a good landscape fit, being on lower ground and hidden from the open countryside to the south. The existing settlement boundary here is stark and unlandscaped, and development would provide an opportunity to improve this. I note that such structural planting is included among the proposed developer requirements for the site set out in Volume 2 of the plan. The western field would more obviously extend the built-up area out into open countryside, but this area is also relatively well contained by higher land to the south and mature hedgerows.

2. I consider it to be appropriate for a settlement of the scale of Crosshouse to accommodate a proportion of the overall housing requirement for the council’s area. I also note that Site CH-F1(H): Kilmaurs Road, which was identified in the existing

adopted LDP, is now proposed to be de-allocated, and earmarked instead as a future (i.e. longer term) housing site. That site is of broadly the same scale as CH-H1, and therefore the scale of housing development envisaged for Crosshouse is little changed, for at least the plan period, in comparison with the previous plan.

3. It is the case that additional housing in the town may potentially increase pressure on existing facilities such as schools, nursery places, primary care services and pharmacies. However, there is no detailed or definitive evidence before me to indicate that such pressures are currently critical or incapable of resolution. I note that there have been no objections to additional development in Crosshouse from either the education authority or NHS Ayrshire and Arran. In any event, and as the council notes above, Policy INF4 of the plan provides a mechanism to secure developer contributions towards education and healthcare facilities where it can be demonstrated that insufficient capacity exists to cater for new development. The provision of pharmacies would be a commercial matter.

4. It appeared to me that creating a suitable access to the site from Gatehouse Road would be feasible. This would be well inside the current 30 miles per hour zone. Secondary access points onto the existing residential road network also appear to be available. I note that a transport assessment would be required to accompany any planning application. Overall, I doubt access considerations would be any significant constraint to the development of the site.

5. I note the suggestion that some of this land may be subject to flooding. According to the Environmental Report, the site is not at risk from fluvial flooding but does contain an area of low to high surface water flood risk in the south-west. Under the terms of Policy CR1: Flood Risk Management, and of Policy 22 of NPF4, this may limit the developable area somewhat, and require mitigation. However, I note there is no adverse comment from SEPA regarding this site. Overall, I consider it most likely that the presence of some flood risk may reduce the site capacity to a degree but that the site as a whole remains viable for housing development.

6. For these reasons, I consider that the allocation of site CH-H1 should be maintained, and that no modification is required.

## **CH-H2 – Holm Farm**

7. I note that the site of Holm Farm was incorporated within the Crosshouse settlement boundary in the existing adopted plan. Though not designated as a housing proposal site at that time, the principle of the site's acceptability for housing development was largely established by the policies of that plan. I also note that planning permission for housing development has previously been granted for this land, though this has now lapsed.

8. Representations are not opposed to the allocation of site CH-H2, but are concerned about the site's relationship with the adjacent site CH-H3. I discuss CH-H3 below, including the need for an amenity buffer between that site and Holm Farm, and the potential need for a carbon audit. The point to be addressed here is whether the development of the Holm Farm site should be required to be carried out either ahead of, or in concert with, the development of CH-H3.

9. The suggested reason for co-ordinating the two sites' development in this way would be to avoid any amenity issues that might otherwise arise should CH-H3 be developed while Holm Farm continued as an active agricultural or industrial concern. I note that this matter was a key consideration in the dismissal of a recent appeal (PPA-190-2088) against the refusal of an application for housing development at CH-H3.

10. I consider that there would be some benefits to co-ordinating the development of these two sites. As well as addressing any amenity issues (and potentially obviating any need for a landscape buffer between the sites), this would allow for a more comprehensive masterplanned approach to be taken to the development of this larger area. Planning conditions could potentially be applied preventing the occupation of homes in CH-H3 until the area of CH-H2 was developed (or at least cleared).

11. However, on balance I agree with the council that introducing such a requirement might create new problems that could delay any development happening on either site. Developing the two sites together would either require them to be brought under the same ownership, or require potentially complex negotiations and agreements between the landowners. As a brownfield site, CH-H2 may be attractive to a different set of developers than those who specialise in greenfield sites such as CH-H3. Finding a developer willing to take on the differing challenges of both sites may therefore be more difficult.

12. Despite the recent refusal of an application to develop CH-H3, due (largely) to amenity concerns, I am not satisfied, from the information before me, that different proposals for CH-H3 could not satisfactorily address these concerns, perhaps by the provision of a wider landscape buffer and/ or noise barrier. Therefore, it does not yet appear essential to prevent the development of CH-H3 in isolation. In any event, the refusal of the application to develop CH-H3, would appear to create a strong incentive to prospective developers of that site to resolve those concerns one way or another.

13. For these various reasons I conclude that it is not necessary for the plan to tie the development of CH-H3 to the development of CH-H2, and that no modification is required.

### **CH-H3 – Irvine Road**

14. This site was allocated for housing development in the existing adopted LDP. The principle of its development for this use is therefore established. It would not be in the interests of the long term certainty that the planning system seeks to deliver for this principle to be revisited unless circumstances have clearly changed.

15. Several of the representations made in relation to this site refer to the details of a then-current planning application, rather than to the principle of the use. That planning application has since been refused on appeal. Comments relating to such matters as overshadowing and privacy appear to me not to relate to the principle of developing this land, but to the details of that particular historic proposal.

16. I discuss some of the issues of amenity associated with the currently ongoing agricultural use of Holm Farm (site CH-H2) above. Volume 2 of the proposed plan requires the inclusion of an appropriate landscape buffer on that part of site CH-H3



which adjoins Holm Farm. I understand that the purpose of such a buffer, at least in part, would be to address amenity concerns such as odour and noise. I also note that the adequacy of this buffer was one of the issues in play in the recent appeal.

17. Representations from the residents (who I assume may also be the operators and owners) of Holm Farm argue that this buffer should be extended to 400 metres in width. While such a gap may be appropriate between some rural activities and housing, it would not be reasonable here where such a buffer zone would encompass a large part of western Crosshouse.

18. I do not have the information before me to specify any particular alternative width for any buffer strip. In any event, I expect what is appropriate will depend on the detail of the development, including such factors as the orientation and layout of the houses, and the inclusion or not of features such as acoustic barriers. However, I do consider that the developer requirement for this site could usefully be expanded to explain that a purpose of the buffer is to address amenity issues, and that it would not be required if site CH-H2's development for housing was assured. I recommend such a modification below.

19. The proposed plan states an indicative capacity of 39 houses for this site, which several representations argue is too high. I note the council's evidence that this capacity was based on the contents of the now-refused planning application. However, the appeal decision notice for that case does appear to indicate that a smaller number of units might be easier to accommodate successfully on the site, for instance by allowing for a wider landscape buffer. For this reason, and given that the earlier planning application is now a less significant factor following its refusal, I consider the most prudent course is to revert to the established indicative capacity of 30. In recommending this change I note that this figure is merely indicative, and that it may well be that the ultimate number of houses built here will be more or less than 30.

20. Steep slopes in part of the site, and a possible flooding issue in the southern area closest to the Carmel Water, may limit the developable area somewhat, but I do not consider these constraints are sufficient to render the site as a whole unviable. I note that these matters appear to have been addressed satisfactorily in the recently refused planning application by locating recreational open space in this area.

21. As regards the level of developer contributions, I consider this matter can be adequately addressed in the context of any future planning application through the proper application of Policy INF4. This policy requires developers to meet or contribute to the cost of providing or improving infrastructure, facilities or services required to serve the development. No further modifications are required.

22. As regards the suggested need for a carbon audit to assess the effect of loss of farmland, I have already noted that this site is an established allocation carried forward from the existing adopted plan. The entire plan has been subject to strategic environmental assessment, and the Environmental Report states that the development would not result in the loss of carbon rich soils and peatland. I have no reason to disbelieve this statement. While both the proposed plan and National Planning Framework 4 (NPF4) prioritise the reuse of brownfield land, development on greenfield sites is not precluded, if required. On this basis, I conclude that there is no particular

need for a carbon audit.

23. Dawn Homes dispute the scoring the council has used in its housing site appraisal methodology (HSAM). This document does not form part of the LDP, and it is therefore beyond the scope of this examination to recommend any changes to it. In any event, my consideration of the issues raised in representations pertaining to this site has been based on my own assessment and not on the HSAM. No modification is required.

#### **CH-X4 – Land at Crosshouse**

24. This is a small triangular field of grazing land located on the western edge of Crosshouse. The land is slightly elevated and any development might be visible from locations in the western part of Crosshouse. That said, the northern and eastern boundaries consist of mature hedgerows which could potentially form a reasonably strong landscape edge to the development. The site is more exposed towards the open countryside to the south-west however.

25. The site's allocation would introduce built development to the western side of the minor road running south-westwards out of Crosshouse for the first time. It would therefore encroach somewhat into the green corridor associated with the Carmel Water and increase pressure for the development of land further north in this corridor.

26. Access to the site from the minor road might not be wholly straightforward due to this road's narrowness and geometry, but I suspect these issues are capable of being overcome. Overall, I expect this site is capable of being successfully developed, and while I have identified some landscape issues I would not rule out its potential in the long term.

27. At Issue 17, I found that the proposed plan made adequate provision for housing land, and there is therefore no need to identify additional sites to satisfy the overall housing land requirement. Significant land allocations have already been proposed elsewhere in Crosshouse, all of which I have found to be acceptable and which I am not proposing to remove from the plan. In these circumstances, I find there is no requirement to allocate additional housing land in Crosshouse.

28. I am tasked with recommending modifications to the plan where I find it to be clearly inappropriate or insufficient. While site CH-X4 may have some merits, I do not find its non-allocation by the council to be obviously inappropriate, particularly given its landscape impacts and the availability of other sites. I have already stated that the housing allocation in Crosshouse is sufficient. On this basis, I decline to recommend the inclusion of site CH-X4.

29. I note the criticisms made of other allocated sites in Crosshouse. These matters are largely addressed elsewhere in this report. However, I do note here that: formal pre-application advice has been sought in respect of site CH-H1; planning consent has been granted in the past for housing development at CH-H2 and it is clear from representations that the owners remain eager to secure its development; and site CH-H3 has been subject of a recent planning application. While this last planning application has been refused, it does not appear to me that the issues highlighted are insurmountable. I therefore conclude that the other allocated sites in Crosshouse do

appear to be marketable and effective, and there is no consequent need to identify additional sites.

30. Much of the representation supporting the allocation of this site focusses on its scoring within the council's HSAM exercise. This document does not form part of the LDP, and it is therefore beyond the scope of this examination to recommend any changes to it. In any event, my consideration of the issues raised in representations pertaining to this site has been based on my own assessment and not on the HSAM. It is also not part of my role to carry out a full comparative assessment of all potential housing sites, but only to remove (and potentially identify alternatives to) sites that are clearly inappropriate.

#### **CH-X6 – Holms West (Site 1)**

31. This proposed housing site consists of an agricultural field to the west of Crosshouse. Its development would decisively extend the visual envelope of the village over an intervening ridge into an area of countryside to the west from where the settlement is currently not visible (apart from one house and the Holm Farm steading). The site benefits from a strong mature hedge boundary to Irvine Road, but any development would inevitably be widely visible in the landscape and from the B7081 approach to Crosshouse. Development would therefore have a notably urbanising effect on this area of countryside. This effect would be greater than for either site CH-H2, which is occupied by existing agricultural buildings, or CH-H3, which is much less prominent in the landscape.

32. While I expect access to the site from Irvine Road would be unproblematic, the site is relatively distant from the village centre. I would still consider village centre facilities to be walkable from here, and so potentially compatible with the concept of 20-minute neighbourhoods promoted in NPF4. However, the site is not so well located in this regard as the proposed allocations in the plan.

33. I note that this land was not suggested to the council at earlier stages of plan preparation, and so has not been subject to the same level of assessment and consultation as other sites. It is generally very difficult to introduce new sites into the plan at the examination stage without the benefit of the views of expert consultees or strategic environmental assessment. It can also be considered unreasonable to introduce sites on which the public have not had any opportunity to comment. Paragraph 261 of the Scottish Government's Local Development Planning guidance states that it is not expected that the reporter will recommend the addition of any site into the plan that has not previously been subject to SEA and consultation.

34. In any event, I have already found at Issue 17 that the proposed plan makes adequate provision for housing land, and there is therefore no need to identify additional sites to satisfy the overall housing land requirement. Significant land allocations have already been proposed elsewhere in Crosshouse, all of which I have found to be acceptable and which I am not proposing to remove from the plan. In these circumstances I find there is no requirement to allocate additional housing land in Crosshouse.

35. For these various reasons, I decline to modify the plan in respect of this site.

### **CH-X7 – Holms West (Site 2)**

36. This site also consists of agricultural land to the west of Crosshouse. It is low-lying and consequently has much less presence in the wider landscape than CH-X6. However it is not immediately clear how a suitable access could be achieved because the site has no direct road frontage. It is also adjacent to the Carmel Water and may be prone to flooding. According to the council it lies predominantly within an area identified by SEPA as being of medium to high fluvial flood risk. Without a great deal more information on these topics to demonstrate the viability of development here, I do not consider that this land's allocation is a possibility.

37. Beyond these matters, similar considerations apply to those discussed in respect of site CH-X6 above. The site does not appear to have been subject to the necessary level of consultation and assessment required to support an allocation, and I have no information on neighbours' or the general public's views as to its development. Furthermore, there is no strategic requirement to identify additional housing land in Crosshouse at this time.

38. For these various reasons, I decline to modify the plan in respect of this site.

### **GH-H1: Main Road, Gatehead**

39. This site consists of a small paddock on the north-eastern edge of this small village. Though an existing pair of semi-detached houses does exist to the east of the site, the proposal would effectively extend the village eastwards into open countryside in a rather unfortunate way.

40. I do not consider Gatehead to be a particularly suitable settlement to direct new development to. The village is largely devoid of local facilities, so residents would be required to travel to Kilmarnock or other towns to meet most of their daily needs. Development here is therefore not conducive to the fostering of 20-minute neighbourhoods as sought in NPF4. However, I note that the one representation relating to this site does not object to the principle of the development. I therefore consider that to remove this allocation would go beyond the scope of this examination because I am only tasked with considering issues raised in representations.

41. In terms of the substance of the representation, NatureScot's comments regarding the need for a robust defensible edge to the settlement, and the retention of hedgerows are repeated in the section of the Environmental Report dealing with this site. Policy SS2: Overarching Policy of the plan requires developers to implement the measures set out in the Environmental Report. As such I consider these matters are adequately covered.

42. The additional comment relating to incorporating green and blue infrastructure would appear to be adequately covered by Policy OS1 of the plan. No modifications are required.

**Reporter's recommendations:**

I recommend that:

1. The indicative housing capacity given for site CH-H3: Irvine Road, Crosshouse in Volume 2 of the plan be amended to 30.
2. The developer requirement for site CH-H3: Irvine Road, Crosshouse in Volume 2 of the plan be amended to read as follows:

'The developer of the site will be required to provide an appropriate landscape buffer on that part of the site which adjoins Holm Farm to address any amenity concerns arising from proximity to that site. Should the redevelopment of Holm Farm for housing be assured then the landscape buffer will not be required.'

Issue 27	Darvel	
Development plan reference:	Residential allocations DL-H1, DL-H2, DL-H3, DL-X5, DL-X6 & DL-X7	Reporter: Stephen Hall
Body or person(s) submitting a representation raising the issue (including reference number):		
Julie Haslam (1) Brian Woodburn (2) Angus Mckinnon (4) Gael Lumsden (5) James Mair (6) George Gardner (7) David Boyd (8) Will Holtham (9) Pamela Higton (10) AN Other (14) Amy Yates (18) Elizabeth Hendren (35) Loudoun Valley Trust (47)		AN Other (59) George Hendren (63) George Hendren (64) Craig Robinson (98) Morag Whitelaw (100) Robert Whitelaw (108) Evelyn Baker (122) Shona Blake (154) Robert Blake (156) Andrew Kerr (162) Caroline Pearson (215) Allan McHarg (219) Gerald & Anne Anderson (295)
Provision of the development plan to which the issue relates:	The inclusion of opportunity sites in Darvel: DL-H2, DL-H3, DL-X5, DL-X6 & DL-X7	
Planning authority's summary of the representation(s):		
<p><b>DL-H1 – Burn Road, Darvel</b></p> <p><u>122</u> states that Burn Road description would be more accurately described as 'land immediately to the north of 39 Burn Road' rather than 'land immediately to the north of 37 Burn Road'</p> <p><b>DL-H2 – Crofthead, Priestland</b></p> <p><u>1</u> &amp; <u>295</u> express concern about the potential proximity of homes within the site to their property, which they maintain could result in overlooking.</p> <p><u>1</u> &amp; <u>18</u> express doubt that 27 dwellings could be accommodated within the site or consider that 27 units if completed would constitute overdevelopment of the site.</p> <p><u>4, 7, 8, 14, 18, 63, 100 &amp; 108</u> note that a proposal for 15 dwellings was made in 2007 and overturned or not included in the 2010 Local Plan because of local objections and/or that the site has was not allocated in the 2017 LDP.</p> <p><u>1, 7, 8, 10, 14, 18, 35, 59, 63, 64, 100, 108, 154, 156, 215 &amp; 295</u> state there is no</p>		

mains sewerage system, that there is no mains gas supply, that several properties use oil heating, that internet speeds are slow and otherwise express doubts about how any new properties would be serviced. It is stated that properties in Priestland are currently served by a shared septic system and that associated pipework runs directly across DL-H2; it is maintained that development could not take place atop the pipe. Several responses mention discharge from this system to a nearby river and potential for additional associated odours and environmental impact should development at DL-H2 proceed.

1, 7, 9, 14, 18, 154, 156 & 295 state that flooding originating from site DL-H2 has affected or would affect their property and/or others, and that measures have been taken at an individual property level to mitigate the issue. It is also noted that permission was refused for an extension to a dwelling (Rosebank Cottage - ref. 22/0198/PP) with reference to surface water flooding of the A71 and that the A71 is currently subject to surface water flooding during heavy rainfall. It is also stated that site DL-H2 currently absorbs rainfall.

1, 4, 8, 9, 10, 14, 35, 59, 63, 100, 108, 154, 156 & 215 state that site DL-H2 forms part of the Central Scotland Green Network (CSGN) and/or that development would adversely affect wildlife. Several representations cite specific species that have been seen within the site. Several representations also state that the site is good quality agricultural land that should not be developed, some state that the land currently absorbs carbon emissions and others consider the site to be amenity or recreational open space.

4, 7, 8, 9, 10, 18, 35, 59, 63, 64, 100, 108, 154, 156, 215 & 295 consider that development of site DL-H2 would lead to an increase in traffic and speeding and otherwise affect road safety. Several also state that the footpath to Darvel is not suitable to accommodate further development, that there is no active travel route and that road safety improvement and crossings would be necessary. Others state that additional cars would cause air and noise pollution and that the site's rural location would lead to additional journeys to further afield; several representations mention inadequate public transport. A 'Darvel 2021 Traffic Study' is cited.

4, 5, 7, 8, 9, 14, 59, 98, 100, 108, 154, 156, 215, 219 & 295 consider that the character of Priestland would be adversely affected by any development at DL-H2 and that development would lead to a substantial increase in population within the settlement. Several responses maintain that the settlement is a rural one of special historical or landscape significance and/or that development would bring about coalescence with Darvel.

7, 8, 9, 10, 14, 35, 63, 100, 108, 154, 156, 215 & 295 state that there is a lack of capacity or provision in terms of medical services, school places, play areas and other amenities in Priestland and/or Darvel to support any development at DL-H2.

7, 10, 14, 35, 63, 64, 154, 156, 215, 219 & 295 ask why DL-H2 was selected when sites in Darvel, including previously developed land, are considered more suitable or are a higher priority for development, and in this respect that some sites allocated in the 2017 LDP have yet to be developed.



5, 18, 59, 100 & 108 state that development of site DL-H2 and/or its occupation by residents would produce air and noise pollution.

7, 64, 100, 108, 154, 156 & 295 state that a placemaking exercise was conducted in the Darvel area during 2021/2022, which involved the Darvel & District Community Council and a representative from East Ayrshire Council. They state that there was no inclusion of land in Priestland nor any reference to development opportunities within Priestland. They state that they were content with the version of the placemaking plan presented during the exercise.

14, 35, 63, 64, 154 & 156 state that development should not take place because the site lies within the Rural Protection Area (RPA) and that development within the site would not accord with associated LDP policy.

154 & 156 states that the site did not perform well against the Housing Site Appraisal Methodology (HSAM) and should consequently not be proposed for allocation. In this respect, they consider that the Scottish Government Urban Rural Classification 2020 would place Priestland in Category 5, 'Accessible Rural' and that it should score '2' in that category, that Priestland is a rural settlement and that it should not be treated as part of Darvel and that the findings of the 2005 Entec landscape study are incorrect.

154 & 156 states that the site performed poorly against the criteria of the LDP2 Environmental Report.

14 states that a watercourse adjacent to DL-H2 is eroding land within a portion of the site.

### **DL-H3 - Jamieson Road, Darvel**

162 objects to the allocation of DL-H3 or wishes for DL-X5 to be allocated in addition to that site.

### **DL-X5 – Land West of Gilliland Road, Darvel**

162 objects to the Darvel settlement plan as presented in P-LDP2 and requests that site DL-X5, which is not proposed for allocation in P-LDP2, be allocated as a housing site in LDP2. They state that the allocation of DL-X5 should be either in place of site DL-H3 Jamieson Road or in addition to DL-X5.

They note that their MIR representation (MIR150) highlights that existing housing allocations in Darvel as allocated in the 2017 LDP have not been developed over a sustained period, one such allocation being DL-H3. They note that P-LDP2 has proposed to provide an additional 52% indicative housing capacity above the MATHLR, and support this approach, which they consider has been taken due to the reallocation of a number of legacy sites that have not come forward for development in previous years.

They nevertheless consider that Darvel is a typical example of the issue of reallocation of legacy sites and therefore propose that Darvel should be allocated a medium to large-scale residential site in the form of DL-H5 either in addition to, or in place of, site

DL-H3 Jamieson Road. They consider that if DL-X5 is not allocated that large-scale development will not be forthcoming in Darvel during the LDP2 period. This, they contend, calls into question the effectiveness of LDP2 in relation to SPP para.110, which requires a generous supply of housing land for each housing market area, the provision of good quality housing contributing to sustainable successful places and a sharp focus on the delivery of allocated sites.

They state that their MIR submission referred to their understanding, based on local knowledge, that the DL-H3 Jamieson Road site has vehicular access problems that preclude development. They ask the Reporter to establish that there is sufficient evidence that DL-H2 can deliver housing during the LDP2 period because they consider such evidence to be lacking; that history shows that no progress has been made since the planning permission was granted. In this, they consider that a more robust position for LDP2 would be also to allocate DL-X5 in case DL-H2 is not developed. Should this approach be considered to constitute over-provision, they would request that DL-H3 not be allocated in LDP2.

They consider that DL-X5 is capable of delivering housing during the LDP2 period and contend that their MIR representation confirms that in relation to an analysis of constraints, that no issues would preclude development; no flood risk, coal mining risk or loss of prime quality agricultural land would be incurred and no conservation or natural heritage designations are present. They consider that the site also performed well in the tests of effectiveness within PAN 2/2010.

They object to the findings of the HSAM in relation to DL-X5 and requests amendments to the scoring provided under Stage 2. They consider that the ranking system does not accurately reflect the attributes of DL-X5, which would put the site at a disadvantage and consider that various unspecified categories do not allow for a fair assessment of DL-X5 compared to other sites; that these should be discounted. They consider that the 'Programmed in Housing Land Audit' score of '1' for the DL-X5 site is undeserved because it is not possible for a site that is not allocated to have scored higher. They also consider that scoring for 'Full planning consent for housing' is subject to a similar weakness and that in contrast to DL-X5, DL-H3 scores '5'. They consider a site should only be worth a higher rank if the site is effective, which, they maintain, DL-H3 is not.

They consider aspects of the HSAM scoring to be arbitrary. In this respect, they consider that the score of '2' in the 'Distance to existing primary school' category for DL-X5 is undeserved because the range of '500 to 2km' is unduly wide and that the site is in fact around a 570m walk along a lit, paved road, which has traffic calming. This, they state, is a safe 16-minute return walk (i.e. within a 20-minute neighbourhood). In relation to the score of '2' for 'Distance to health centre or GP', they consider that the site should score '5' because it is immediately adjacent to the Loudon Medical Centre. Their MIR representation maintains a path would be developed along the southern boundary of DL-X5 should any planning consent be granted; in this respect they consider the site should score '5'. They contend that a path through the medical centre site or via Quoiting Green Road also mean that the distance to a bus stop is within 400m of the centre of the site and that the score for 'Distance to bus stop' should therefore change from '2' to '5'.

With regard to landscape, they agree with the statement by NatureScot that 'careful

consideration of siting and design would be required to ensure that any development would reflect the landscape setting as well as being cohesive with existing development'. This they consider to be more reasonable than the Council commentary and the conclusions of the Entec Landscape Study. They maintain that there are only fleeting views of DL-X5 from limited places on West Main Street and West Doddington Street and question the relevance of views from nearby hills. They consider that approximately 40 houses with associated landscaping would not bring significant visual impacts. They maintain that there is no prospect of coalescence with other settlements and setting impacts could be mitigated by means of an appropriate planting scheme.

They consider therefore that if the ranking for the above matters was amended, that the HSAM 'Meets Spatial Strategy' ranking would also improve from '2'. In doing so, they consider that the overall score for the DL-X5 site would be significantly improved, thus fundamentally improving the prospect of allocation when compared to other sites

#### **DL-X6 – Land at Kirkland Road, Darvel**

2 (Brian Woodburn) promotes the development of a 2.0ha site DL-X6 with a stated capacity of 40 to 50 dwellings, which is not proposed for allocation in P-LDP2, stating that the allocation would represent a modest amendment to the settlement boundary. They consider that the development would encourage economic growth, would lead to an increase in the population of the area in line with the ambitions of P-LDP2 and would take place in an attractive setting. They state that any homes developed within the site would have low carbon status.

#### **DL-X7 – Land at Jamieson Road, Darvel**

6 (James Mair) promotes the development of a 2.34ha site DL-X7, which is not proposed for allocation in P-LDP2.

47 seeks the allocation of site DL-X7 because they consider that few sites have been allocated in the Irvine Valley and that additional sites are required, that flooding could affect delivery elsewhere in the Irvine Valley and that development would support local schools and shops and otherwise aid regeneration of the area.

#### **Issues Raised In Relation to Non Planning Related Matters**

4, 5, 10, 14, 18 & 59 state that they moved to Priestland for peace, quiet and rural location or otherwise favour those conditions, or consider that development would cause stress.

4, 7 & 215 expresses disappointment that only neighbours to the site were consulted or that additional consultation should have taken place.

4, 14 & 18 consider that the value of their property would be affected by development and/or express concern that Council houses might be built within DL-H2

35, 64, 63, 154 & 156 state that no resident of Priestland will benefit from the development and/or that it would not create local jobs or amenities.

9 states that development at DL-H2 would be contrary to the National Planning Policy Framework (NPPF) green belt policy.

14 includes a significant number of comments and references that are in addition those mentioned above not relevant to planning.

#### **Modifications sought by those submitting representations:**

##### **DL-H1 – Burn Road, Darvel**

122 would like the description of the site changed to ‘land immediately to the north of 39 Burn Road’

##### **DL-H2 – Crofthead, Priestland**

1, 4, 5, 7, 8, 9, 10, 14, 18, 35, 59, 63, 64, 98, 100, 108, 154, 156, 215, 219 & 295 object to the proposed allocation of the site and wish for it not to be allocated in LDP2.

##### **DL-H3 - Jamieson Road, Darvel**

Depending on the Reporter’s decision, 162 seeks either the allocation of DL-H3 and DL-X5, or DL-X5 not DL-H3 as Housing Opportunity in the Darvel & Priestland section of Vol 2 of LDP2.

##### **DL-X5 – Land West of Gilliland Road, Darvel**

162 asks for site DL-X5 to be allocated as a Housing Opportunity in the Darvel & Priestland section of Vol 2 of LDP2.

##### **DL-X6 – Land at Kirkland Road, Darvel**

2 seeks the allocation of the site as a residential opportunity in LDP2.

##### **DL-X7 – Land at Jamieson Road, Darvel**

6 & 47 seek the allocation of the site as a residential opportunity in LDP2.

#### **Summary of responses (including reasons) by planning authority:**

##### **DL-H1 – Burn Road, Darvel**

The description ‘land to the north of 37 Burn Road’ does not appear in the P-LDP2. It is assumed the respondent (122) is referring to the neighbour notification letter that was sent out. The letter also contained a map of the site, so it is not considered that any confusion was caused by this minor clarification issue.

##### **DL-H2 – Crofthead, Priestland**

Density (1 & 18)

With regard to representations 1 & 18, it should be noted that the capacity for each site presented in Vol 2 of the Proposed Plan is indicative, that is, the developer is not required to build precisely the number of units stated. A range of factors, including layout and development constraints, may result in development of a greater or lesser number of dwellings. However, any proposal would be required to comply with the relevant policies of the LDP. The design and layout of dwellings would be required to comply with LDP policies, in particular P-LDP2 policy RES4: Compact Growth, which requires consideration of the character of the existing area in terms of density.

Planning history (4, 7, 8, 14, 18, 63, 100 & 108)

It is noted by the respondents that a proposal for 15 dwellings was made in 2007 and overturned or not included in the 2010 Local Plan (CD70) or 2017 LDP (CD23). Whilst the plan preparation process requires cognisance of previous proposals for allocation, the exercise must also consider issues and sites afresh and any past proposals must be interpreted in this context. It was considered after assessment during the preparation of the Proposed Plan using the Housing Site Appraisal Methodology (HSAM) (CD14) and the working Environmental Report (CD47a-e) that the site was suitable for residential development, subject to mitigation.

Water/Wastewater Infrastructure (1, 7, 8, 10, 14, 18, 35, 59, 63, 64, 100, 108, 154, 156, 215 & 295)

Comments state that there are constraints to water and wastewater infrastructure. It should be noted that whilst Scottish Water in their submission to the Environmental Report consultation stated a growth project for Darvel & Priestland would be required to provide sufficient capacity, they nevertheless confirmed that there is sufficient water capacity at the water treatment works. Scottish Water has also informed the Council, through its response to the SEA, of the constraint associated with the presence of wastewater infrastructure within the site and has recommended that any developer of the site should contact them to ensure the conflict does not affect economic site viability due to required standoff distances. The Scottish Water position is set out in the Environmental Report (CD 47). However, it is considered that the former factor relating to the growth project could be addressed through cooperation with Scottish Water and that the latter factor, which concerns the presence of a wastewater pipe, may affect site capacity but not in such a way as to entirely preclude development. Environmental impact and odour from the sewerage system are matters regulated by SEPA/Scottish Water.

Gas & Broadband Infrastructure (1, 7, 8, 10, 14, 18, 35, 59, 63, 64, 100, 108, 154, 156, 215 & 295)

state that no mains gas supply is provided to Priestland, that properties use oil heating and that internet speeds are slow. The provision of heating for homes would be addressed as part of the building standards process, in the context of the climate emergency and the need to reduce carbon emissions, whilst the delivery of broadband would be achieved through conformity to P-LDP2 Policy INF2: Installation of Fibre Broadband for New Developments. Neither issue would preclude development of the site.

Flooding (1, 7, 9, 14, 18, 154, 156 & 295)

With respect to concerns about the flooding of DL-H2 and any associated flooding of the A71, it should be noted that SEPA has offered no objection to the allocation of DL-H2 and that any prospective developer is asked to consult the flood authority as part of site requirements. The circumstances that apply to the dwelling associated with application ref. 22/0198/PP as cited in several representations relate to issues that affect that site and not DL-H2, which lies at the opposite side of the A71 and to the rear of several homes. With respect to the comment by 14 that an adjacent stream is eroding the area of DL-H2, the site is located around 130m from the nearest watercourse and it is considered unlikely that the site would be subject to erosion. Indeed, SEPA flood mapping indicates that no part of the site is subject to fluvial flood risk.

CSGN, Open Space and Agricultural land (1, 4, 8, 9, 10, 14, 35, 59, 63, 100, 108, 154, 156 & 215)

Whilst it is acknowledged in relation to representations that the westernmost part of the site falls within a Central Scotland Green Network hotspot (CSGN), it is noted that much of the rest of the built up part of Priestland is subject to the same designation. It is considered that mapping of the CSGN is somewhat opaque in terms of detail and it is not apparent why the part of DL-H2 that falls within the CSGN hotspot differs greatly from the 80% of the site that does not. Notwithstanding, the Environmental Report (CD47a-e) states that 'the development should incorporate natural planting throughout to create a sense of place and also encourage new forms of green infrastructure which will have a positive impact in terms of landscape character and biodiversity, habitat networks to offset any potential loss'. It is therefore considered that impacts on the natural environment could be addressed appropriately.

Several comments maintain that DL-H2 comprises an informal area of open space for residents. However, no area of the site in question forms part of the defined area of Safeguarded Open Space in Darvel & Priestland in the Proposed Plan. It is noted that a review of the open space of all settlements was carried out internally to inform the P-LDP2. Similarly, the site was not identified as such in the 2017 LDP (CD23). LDP policy stipulates that the applicant would be required to provide a requisite area of publically accessible open space within the development, thereby increasing rather than reducing the total area of recognised and safeguarded publically accessible open space in Priestland.

With regard to comments that the site comprises good quality agricultural land, DL-H2 is classed by the James Hutton Institute as 4.1, 'Land capable of producing a narrow range of crops, primarily grassland with short arable breaks of forage crops and cereal'; good quality agricultural land is defined as class 3.2 and prime quality as 3.1. Site DL-H2 does not therefore constitute prime or good quality agricultural land. The P-LDP2 Spatial Strategy and site selection process has sought to make use of previously developed land wherever possible and, whilst the loss of farmland is often undesirable; several greenfield sites have been identified for development, in order to ensure the Plan has an effective range to site to meet the MATHLR.



Traffic Issues (4, 7, 8, 9, 10, 18, 35, 59, 63, 64, 100, 108, 154, 156, 215 & 295)

With regard to the issue of traffic movements as mentioned by respondents the Council would advise the Reporter that the Ayrshire Roads Alliance has not raised any objections to the proposed allocation of DL-H2. A Transport Appraisal commissioned by the Council to support LDP2 (CD19) does not express any particular concerns with respect to Darvel & Priestland; any recommended mitigation set out within the Appraisal applies to locations elsewhere in East Ayrshire. With regard to issues pertaining to speeding, it should be noted that the A71 within Priestland and to which the site access intersects is already subject to a 30mph speed limit. Matters that relate to impact on road traffic, safety, noise and pollution associated with the development of DL-H2 would be addressed through the planning application process in consultation with Ayrshire Roads Alliance.

With respect to the comment by 154 & 156 that an East Ayrshire Council planning officer stated that 'it is expected that journeys will be made by car', it should be noted that the comment was in the context of the site also being less than 400 metres walking distance from a bus stop, making the site preferable to a site that does not have access to a public transport route. Given that Priestland, and indeed much of the Irvine Valley, is set within a rural context and that rural public transport has its limitations, in reality, many journeys are made by car. Whilst several representations mention that the path to Darvel is not suitable, the site nevertheless lies within reasonable walking distance of services in the town centre; maintenance of the path is a matter for the roads authority, however it is noted that there is a continuous footpath with street lighting, alongside the 30mph road linking Darvel and Priestland. This is considered generally adequate. To address any deficiencies associated with walking and cycling to and from Darvel and within Priestland itself, Ayrshire Roads Alliance is currently preparing an Active Travel Strategy (CD39) for East Ayrshire, which linked to the Council's Climate Change Strategy (CD79) will bring about further investment in active travel.

Character & Appearance (4, 5, 7, 8, 9, 14, 59, 98, 100, 108, 154, 156, 215, 219 & 295)

Representations consider that development would adversely affect the character and appearance of Priestland. It should be noted that whilst three listed buildings are located adjacent to the western boundary, the settlement as a whole is not subject to any historic environment or landscape designations and, as noted, the design and layout of dwellings would be required to comply with LDP policies; P-LDP2 seeks a high quality of development irrespective of location. Coalescence between Darvel and Priestland would not take place as site DL-H2 lies around 350m from the edge of the Priestland component of the Darvel & Priestland settlement boundary.

Education, Health and Play Infrastructure (7, 8, 9, 10, 14, 35, 63, 100, 108, 154, 156, 215 & 295)

With respect to comments by the Council is of the opinion that the development of DL-H2 would not detrimentally affect infrastructure and facilities. The Council would point out that the Council's Education department had raised no issues in the preparation of the Local Development Plan that would indicate that there are insurmountable capacity issues within Loudoun Academy or Darvel Primary School. NHS Ayrshire and Arran has also not objected to the development of the site in terms of the provision of their service responsibilities within the settlement. Therefore, the Council consider that there



would not be any adverse pressures on educational and medical provision within Darvel & Priestland because of this development. Notwithstanding, P-LDP2 includes within its provisions Policy INF4: Developer Contributions, which will be implemented where a development will place additional demands on infrastructure, services, facilities and amenities that would necessitate new facilities or exacerbate deficiencies in existing provision. There is therefore a mechanism to address any capacity issues in terms of education and health and social care, should they occur.

With regard to comments pertaining to a lack of play facilities, it should be noted that Schedule 1 of the P-LDP stipulates that a portion of land within developments of more than 10 units must comprise amenity space and recreational space, defined as play areas/parks, public parks and gardens, outdoor sports facilities, sports pitches, allotments, civic spaces etc.

#### Alternative Sites (7, 10, 14, 35, 63, 64, 154, 156, 215, 219 & 295)

It should be noted with regard to comments that maintain that other sites in Darvel & Priestland should be prioritised in terms of development ahead of DL-H2, that an analysis of potential residential sites was undertaken as part of the HSAM process. No alternative sites have been suggested in the above representations and it is considered that no areas of land within the Darvel settlement boundary other than those three that have been proposed for allocation in P-LDP2 are available for residential development. Two of these proposed sites are surrounded by existing development and comprise either brownfield or semi-brownfield land. Nevertheless, neither progressed during the 2017 LDP (CD23) period and whilst each is considered effective or has an extant consent, it is necessary to allocate additional sites in the Irvine Valley including DL-H1 and DL-H2 to provide range and choice.

#### Noise, Air Pollution & Overlooking (1, 5, 18, 59, 100, 108 & 295)

Respondents consider that noise and air pollution and/or problems of overlooking of adjacent properties would arise from development of DL-H2. In this regard, it is considered that the design of the development and planning conditions attached to the development of the site could avoid or mitigate such issues arising.

#### Placemaking (7, 64, 100, 108, 154, 156 & 295)

With regard to the placemaking exercise, it should be noted that an update to the map has been made since the initial phase of consultation took place. This amendment includes those sites depicted on p.37 of Vol 2 of P-LDP2, including DL-H2. The updated Placemaking Plan (CD80) was approved by East Ayrshire Council Cabinet on 5 October 2022 and published for formal public consultation between 14 October 2022 and 25 November 2022.

#### Rural Protection Area (14, 35, 63, 64, 154 & 156)

Representations state that development should not take place at DL-H2 because the site lies within the Rural Protection Area (RPA), however, it should be noted that the proposed amendment of the Darvel & Priestland settlement boundary would encompass DL-H2. The site would therefore not fall within the RPA and the provisions

of P-LDP2 Policy RH1: Housing in the Rural Protection Area would consequently not apply.

#### Assessment of Site (154, 156)

With regard to comments on HSAM scoring made by 154 & 156, for the purposes of the 'Urban/rural classification' criterion, Darvel & Priestland is considered to constitute a single settlement in the P-LDP and the urban/rural classification for Darvel was therefore extended to Priestland. Priestland is virtually contiguous with Darvel and each settlement is separated by a gap in built development of less than 100m. With regard to comments pertaining to the accuracy of the 2005 Entec Landscape Assessment of Potential Development Areas (CD53a-c), the study was commissioned and prepared by external accredited landscape architects. It found that the area of DL-H2 and much of the rest of Priestland was an 'Area Most Suitable for Development'. These were defined as areas of land of lower sensitivity, where development (complaint with good design standards and associated landscape provision) could be seen as a positive contribution to the settlement in terms of regeneration (repair of urban landscapes and townscape character), strengthening of settlement identity and sense of place.

With respect to comments by 154, 156 it is recognised that any new site is likely to have some negative environmental impacts associated with its development. Because of this, a Strategic Environmental Assessment (SEA) was carried out and the outcome of this used in conjunction with the HSAM to come to a decision on which sites were suitable for development. The findings of the SEA for DL-H2 and associated mitigation measures are included within an Environmental Report (CD47d) (Appendix 11.10), which was published alongside the Proposed Local Development Plan. The SEA on its own does not tell us whether a site is suitable for development or not. However, the assessments can help to highlight possible mitigation measures, which could be carried out on particular sites in order to make what might otherwise be considered unsuitable development acceptable. Where negative impacts are identified, the Environmental Report (CD47a-e) highlights mitigation to reduce those impacts. This mitigation must, upon approval of a planning application, be undertaken by any party that wishes to develop the site. Policy SS2 criterion vii of the P-LDP2 ensures that the measures set out in the Environmental Report will be considered in the determination of relevant planning applications

With the above factors taken into consideration, the Council is of the view that site DL-H2 should be allocated for residential development in LDP2.

#### **DL-H3 - Jamieson Road, Darvel**

#### Effectiveness of Site (162)

With regard to the comment by 162 that DL-H3 is not an effective site, and that the deallocation of sites that have not progressed should take place, DL-H3 benefits from an existing consent (ref. 10/0296/AMCPPP) (CD81) and it is therefore considered imprudent not to allocate the site in LDP2. Whilst development has not progressed during the 2017 LDP period, this may reflect a lack of disposition on the part of the landowner or developer to commence during that time, rather than the suitability of the site itself. Nevertheless, in a representation to the MIR consultation (ref. 67MIR) dated

24/07/2020 the owner of the site expressed a desire to retain the site as an allocated one and intimated that discussions had taken place with a number of developers. It is therefore appropriate to bring the allocation forward into LDP2.

#### Vehicular Access (162)

162 maintains that the site is subject to vehicular access problems that preclude development, however, the representation does not specify what these are and it is apparent from examination of the site, and that consent was granted, that these would not in themselves prevent development.

#### Assessment of Site (162)

Irrespective of the consent status of the site, whilst the site was not programmed in the 2021 Housing Land Audit, the site's location is considered preferable to others that would require an extension to the settlement boundary, for example, DL-X5 as promoted by representation 162. The site lies to the rear of existing properties and it would incur no additional adverse landscape impact than existing development in Darvel. The site lies within closer walking distance of Darvel Primary School than DL-X5 and includes an area of previously developed land.

With the above factors taken into consideration, the Council is of the view that site DL-H3 should be allocated for residential development in LDP2.

### **DL-X5 – Land West of Gilliland Road, Darvel**

#### Housing Land Supply (162)

162 questions the effectiveness of LDP2 in relation to SPP requirements to provide a generous supply of housing land. However, it is considered that they offer a contradictory conclusion, in that they appear to support the 52% addition to the MATHLR that has been provided to account for potential non-delivery of sites, and those legacy sites that have been carried forward. In addition, whilst they consider that if DL-X5 were not allocated that no large-scale development in Darvel would be forthcoming, no evidence has been provided to suggest that there is any greater developer interest in DL-X5, or likelihood of delivery during the Plan period, than other proposed sites, which themselves form part of that generosity.

#### HSAM Findings (162)

Comments made by representation 162 that seek to challenge the findings of the HSAM process (CD14) that specifically relate to site DL-X5 will be addressed below. In relation to a request for amendments to the HSAM scoring, it is not considered appropriate to undertake such changes at this stage of the Plan preparation process. Each site should be assessed separately, on its own merits and whilst the Council accepts that the HSAM process is open to a degree of interpretation, it has proved a worthwhile way objectively assess and compare potential sites.

In relation to the 'Programmed in Housing Land Audit' score, a lower score was applied to those sites that were not considered effective, allocated in the 2017 LDP or

otherwise, in order to elevate those sites that by that very effectiveness were considered appropriate for allocation in LDP2. The same considerations applied to those sites that benefitted from planning consent; these sites are evidently more suitable for allocation than those sites that have not received consent. This elevation in scoring did not rule out sites that did not perform well against those criteria, as evidenced by the inclusion of DL-H1 and DL-H2. Indeed DL-H1 was promoted alongside DL-X5 and by the same party. Rather, the sites performed less well against other criteria of the HSAM.

With respect to HSAM scoring pertaining to distance to primary schools and medical centres, it should be noted that although the representation considers that access from the southernmost part of site DL-X5 would be possible should the site be developed, it was not possible to anticipate the layout and form that development might eventually take during site assessment. A fence currently runs along the southern boundary of the site, however, it cannot be speculated whether the creation of an opening would be agreeable to adjoining landowners. For this reason, it was considered that access to the site would be gained via Gilliland Road, the site description made in representation 162.

In terms of statements by 162 pertaining to the suitability of the site in landscape terms, it should be noted that although NatureScot has provided some recommendations as to how development might be accommodated, this does not confirm that there would be no adverse landscape impact. Indeed, the Entec study states that DL-X5 comprises an 'area not suitable for development that may be required to preserve the setting of settlements and prevent coalescence'. Whilst no coalescence would take place, the Council maintains that although some mitigation could be introduced within site DL-X5 to remedy landscape impact, other sites proposed in P-LDP2 would have only negligible impact, requiring less mitigation, and in this respect allocation of DL-X5 is imprudent.

The Council is therefore of the view that with regard to the proposed substitution of or addition to DL-H3 of DL-X5, it is considered that DL-H3 should be allocated and DL-X6 should not be allocated for residential development in LDP2. No substitution or addition is therefore required.

### **DL-X6 – Land at Kirkland Road, Darvel**

#### **Consideration of site DL-X6 (2)**

In relation to the representation from 2, it should be highlighted that alongside DL-X7 and unlike the sites detailed in the HSAM (CD14), the site in question has not been subject to assessment and discussion within the planning service or with internal and external consultees in order to arrive at a view as to its suitability for allocation. The respondent has provided no details to support its identification in terms of determination of environmental constraints or other factors that might establish its suitability.

Whilst a detailed assessment of the characteristics of the site is not possible at this stage, a number of comments may briefly be made. The site lies further from the centre of Darvel and public transport routes than those proposed for allocation in P-LDP2. A

significant number of trees can currently be found within the site, a significant proportion of which are identified as falling within Native Woodland, the felling of which not be desirable. A substantial proportion of the site is also subject to fluvial flood risk from an adjacent watercourse.

With the above factors taken into consideration, and with the proposed allocation of four other sites in Darvel & Priestland that are not subject to such constraints, the Council is of the view that site DL-X6 should not be allocated for residential development in LDP2.

### **DL-X7 – Land at Jamieson Road, Darvel**

#### Consideration of site DL-X7 (6 & 147)

In relation to the representations from 6 & 47, it should be highlighted that alongside DL-X6 and unlike the sites detailed in the HSAM (CD14), the site in question has not been subject to assessment and discussion within the planning service or with internal and external consultees in order to arrive at a view as to its suitability for allocation. The respondent has provided no details to support its identification in terms of determination of environmental constraints or other factors that might establish its suitability.

Whilst a detailed assessment of the characteristics of the site is not possible at this stage, a number of comments may briefly be made. The site appears to be free from constraints and is well located, adjacent to Darvel Primary School and close to the town centre. Nevertheless, those other sites in Darvel & Priestland that are proposed for allocation in P-LDP2 are considered sufficient to meet housing land requirements during the Plan period, are subject to extant planning consent or are otherwise more suitable in terms of landscape impact. Should any of those sites be built out during the LDP2 period, the suitability of DL-X7 for allocation will again be considered as part of the preparation of LDP3.

With the above factors taken into consideration, the Council is of the view that site DL-X7 should not be allocated for residential development in LDP2.

#### **Reporter's conclusions:**

1. At Issue 17 I established that the proposed plan allocates land with the capacity to build significantly more houses than the minimum all-tenure housing requirement set for East Ayrshire in NPF4, and that it is not necessary to allocate additional sites. I also found that the plan's spatial strategy for housing was broadly appropriate. There is therefore no pressing need to redistribute the housing allocation between the various settlements of the plan area, and consequently no need to identify additional sites in Darvel.

### **DL-H1 – Burn Road, Darvel**

2. Site DL-H1 is described as 'Burn Road' in both Schedule 3 of Volume 1 of the proposed plan, and in volume 2. Nowhere in the plan is it described as 'north of 37 Burn Road', though the council explains above that this terminology may have been

used in the neighbour notification letter. No modification is required.

### **DL-H2 – Crofthead, Priestland**

3. Priestland is a small village with a suburban character located to the east of Darvel. It is mainly characterised by frontage development along the A71, but a short existing cul-de-sac of modern homes exists at Crofthead. Site DL-H2 lies to the west of Crofthead, and behind and to the north of properties fronting the A71. I assume access would be taken from Crofthead.

4. The site consists of part of an agricultural field that appeared to be under active management for grazing or a grass crop at the time of my site inspection. The land sits at a higher level than most of the rest of the village but is contained on three sides by existing development or private gardens. I do not consider that development would be particularly intrusive in the wider landscape due to this close relationship with the existing village and the existence of higher land to the north. The site is only fleetingly visible from the main A71 road due to intervening property and mature garden planting. In terms of settlement pattern, development would be a departure from the largely linear character of the existing village, but a precedent for such 'backland' development has already been created by the Crofthead cul-de-sac (albeit at a smaller scale). Overall, I am satisfied that the site represents a reasonably good landscape fit.

5. Of more concern is the absence of meaningful services and facilities in Priestland. Most day-to-day services that would be required by future residents are situated in Darvel, at a distance of at least 1.5 kilometres walk from the assumed site access point at Crofthead. The primary school would be over 2 kilometres away. The walk from the site into Darvel would involve using a relatively narrow footpath alongside the busy A71, albeit this road is lit and subject to speed restrictions at this point.

6. On the face of it, such a separation between new housing and most neighbourhood services does not sit particularly well with National Planning Framework 4's (NPF4's) call to support local living, including 20-minute neighbourhoods within settlements. However, NPF4 also states that the intent is to 'create connected and compact neighbourhoods where people can meet the majority of their daily needs within a reasonable distance of their home, preferably by walking, wheeling or cycling or using sustainable transport options'. In terms of sustainable transport, I note that Priestland is served by a regular bus service into Darvel and on to Kilmarnock. I therefore conclude, on balance, that while the site is not ideally located to foster local living, the availability of public transport renders it more acceptable in these terms.

7. According to the Environmental Report, Scottish Water has commented that a 'growth project' will be required to provide sufficient waste water capacity, but there is no indication that this is an insurmountable constraint, or that development would result in polluted discharges into local watercourses. It does appear that an effluent pipe crosses the land, which could impact on the developable area or influence the site layout. However, I do not consider the overall effectiveness of the site would be likely to be affected. The availability of mains gas is not a requirement for new development. Policy INF2 of the plan would require any developer to incorporate appropriate digital infrastructure.



8. Overall, in terms of the infrastructure necessary to serve development, I consider this would largely be a matter for any prospective developer to address in due course. Policy INF4 of the plan provides for developers to meet or contribute to the cost of providing or improving any necessary infrastructure, facilities or services.
9. In terms of road access, development would inevitably increase traffic levels to a degree in Priestland as a whole, and in Crofthead in particular. However, the A71 at this point appears to be designed to a high standard, and it seems unlikely that a development of the scale proposed would have any appreciable impact on traffic conditions through the village.
10. It appears that 8 properties currently take access from Crofthead. This would increase to 35 should a development of 27 homes proceed and be accessed from this cul-de-sac, representing a significant and noticeable proportional increase in the use of this road. However, Crofthead has been designed to a reasonable standard with a carriageway width of around six metres and reasonably good visibility at its junction with the A71. I also note there is no adverse comment from the Ayrshire Roads Alliance. I therefore conclude that it is likely that Crofthead can acceptably accommodate the scale of development proposed.
11. Regarding flooding, I have no reason to doubt the council's statement that SEPA's flood mapping indicates that no part of the site is subject to fluvial flood risk, and indeed this would seem unlikely given the local topography. As regards surface flooding, or the risk of greater run-off causing river erosion, I consider this is largely a matter than could be addressed at the detailed planning stage. Any planning application would have to meet the tests set out in Policy CR1 of the plan: Flood risk management. I also note that no objection to the allocation was received from SEPA.
12. As a greenfield site, I accept the land will be of some value to wildlife. However, as an apparently actively managed agricultural field, I expect this will be limited. The site is not subject to any biodiversity designations. Overall, I am satisfied that the site has no particular nature conservation importance beyond what is typical for any edge-of-settlement greenfield site.
13. As a grass field on a settlement edge, the site may be subject to some informal use for public access by local people, but I do not consider that this land has any special value in this regard that would set it apart from other fields in the vicinity. I also note that the majority of this field is excluded from the allocation, and so will presumably continue to be managed as before. The site is not prime quality agricultural land, and does not appear to me to have any particular cultural or local importance for farming such as to rule out its development under the terms of NPF4 Policy 5.
14. The potential for new homes to have direct effects on existing property through factors such as overlooking and overshadowing can only be considered and addressed at the time of a detailed proposal. In this context, Policy SS2 of the plan requires new development to be fully compatible with surrounding established uses. I do not consider it likely that a relatively small suburban development such as that proposed would be likely to give rise to significant or unacceptable levels of air or noise pollution.
15. The capacity of 27 dwellings given in the plan is explicitly stated to be indicative. It



is effectively the council's 'best guess' as to how many homes may be forthcoming. But ultimately the content of any planning application is the responsibility of the potential developer. If the site should prove to be more constrained than anticipated, then the plan would not prevent the development of a lower number of homes.

16. I note the comments made regarding previous assessments of this site, and of the suitability of Priestland more generally to accommodate further development. However, I am required to consider the case for this allocation on its own current merits based on the information presented to this examination. Similarly, I consider the allocated and proposed sites in Darvel on their own merits.

17. I have based my conclusions regarding this site on my own assessment based on my site inspection and the submitted evidence. I have not relied on the council's Housing Site Appraisal Methodology, and it is no part of my role to critique this document.

18. In summary, I am satisfied that Site DL-H2 is a practical allocation that appears capable of delivering homes in the plan period. I have not identified any insurmountable constraints, and any impacts on neighbouring properties would appear to be manageable or not significant. My main concern is with the site's distance from the facilities and services of Darvel, but ultimately I am satisfied that the proximity of the site to a good bus service means that Darvel is reasonably accessible from the site, and the allocation need not be removed from the plan on these grounds. I therefore conclude that no modification to the plan is required.

### **DL-H3 - Jamieson Road, Darvel**

19. This land consists of an apparently unused grass field containing some areas of regenerating scrub. The site is reasonably centrally located within Darvel, and is surrounded by development on all sides. It performs little obvious open space function, being largely hidden from public view and with no evidence of significant public use visible on my site inspection. Access to the site appears possible from Anderson Drive in the south-west and Paton Drive in the north. While the land rises notably from south to north, this slope does not appear to be so great as to significantly constrain the site's development potential. For these various reasons, a residential allocation here appears eminently sensible.

20. I note the concerns expressed about the effectiveness of the site, including that it was allocated in previous iterations of the plan but has not come forward for development. That planning permission was granted for housing development in 2011 is an indication that the site is capable of development, but the fact that this permission has not been taken up may point to some lack of demand, or other non-physical constraint.

21. However, the council has provided evidence above of ongoing landowner interest in securing the development of the site, and of ongoing discussions with housebuilders. It seems to me that this site has the potential to form an attractive development and is in at least as marketable location as other proposed sites in and around the town.

22. NPF4 expects LDPs to allocate deliverable land, and to consider de-allocating

sites that are no longer deliverable. In this case, for the reasons stated above, I consider site DL-H3 remains deliverable and that the allocation should be maintained. No modification is therefore required.

#### **DL-X5 – Land West of Gilliland Road, Darvel**

23. This site is located on agricultural grazing land on the western edge of Darvel. The land rises quite steeply from south to north, will be widely visible in views from the southern slopes of the Irvine Valley. Development here would therefore have a greater landscape impact than sites (such as DL-H3) wholly contained within the existing settlement envelope. That said, the site is bounded by existing built development on two sides, and I consider any development would be ‘read’ in these views as a natural extension to the town, and not one that disrupts the existing settlement pattern. Peripheral planting could further mitigate any impact and could serve to strengthen the settlement boundary at this point.

24. The most practical access to the site would appear to be from Gilliland Road, to the east. This road has been designed to a reasonably good standard, and so seems capable of performing this function, though there may be a limit to the number of houses that could ultimately be served via Gilliland Road’s single access onto Burn Road. It may be possible to create a secondary or pedestrian access from the south, but this would appear more challenging due to the topography and existing development in this area.

25. The site’s location is reasonably close to most services and facilities in the town such as the primary school and the shopping area along Main Street. I therefore consider any development would fit quite well with the concepts of local living and 20-minute neighbourhoods promoted in NPF4. The sloping nature of the site might create some challenges to development, but I expect these would be capable of being overcome. I am not aware of any other significant constraints affecting the site.

26. I have based my conclusions regarding this site on my own assessment based on my site inspection and the submitted evidence. I have not relied on the council’s Housing Site Appraisal Methodology, and it is no part of my role to critique this document.

27. In conclusion, I consider the site is likely to be capable of development, and could be a reasonable candidate site were there a need to identify additional land for development. However, as I have noted above, there is no such requirement for additional land releases at this time. I have also concluded that site DL-H3 remains deliverable, and there is no current need to substitute an alternative allocation for that site. No modification is required.

#### **DL-X6 – Land at Kirkland Road, Darvel**

28. This site, set in a river valley on the north-eastern periphery of Darvel, currently comprises rough grassland and woodland. It is relatively secluded, being set on lower land behind high hedgerows, and is not prominent in longer distance views. It is, however, highly attractive in its own right, and informal footpaths throughout the site are indicative of its enjoyment by local people. While I have not been furnished with

any professional assessment on biodiversity matters, I am in no doubt that the mosaic of habitats here and riverside setting must lend the site a measure of value to wildlife.

29. I consider the current semi-natural condition of the land to be worthy of protection. I also note that, compared to other sites under consideration at this examination, this land is further from the main services and facilities of the town, such as the primary school and main shopping area. As noted above, there is no current requirement to identify additional land for housing development in Darvel. For these various reasons, I do not consider this land to be suitable for development.

30. In any event, I note that this site was not proposed at the 'call for sites' stage or included in the main issues report. It has not therefore been subject to the same full assessment and public consultation as other proposals. It is difficult to introduce new allocations at the examination stage in these circumstances. Paragraph 261 of the Scottish Government's Local Development Planning Guidance states that it is not expected that the reporter will recommend the addition of any site into the plan that has not previously been subject to SEA and consultation. No modification to the plan is required.

#### **DL-X7 – Land at Jamieson Road, Darvel**

31. This site comprises an overgrown field with some regenerating scrub on the northern edge of Darvel. The land rises from south to north and any development would be quite prominent in views from the southern side of the Irvine Valley. That said, the site is bounded by existing built development to the west and south, there are trees in the northern part of the site, and a mature hedge to the east. I therefore consider that the site is quite well contained, and that any development here could fit quite naturally into the established landscape and settlement pattern.

32. The site is reasonably centrally located and close to most of the facilities and services of the town. The primary school sits immediately to the south, and the shopping area on Main Street is around 400 metres away via Jamieson Road (though the steepness of this road could deter walking to an extent). Overall, I am satisfied that the location of the site responds well to the concepts of local living and 20-minute neighbourhoods promoted in NPF4.

33. Access to the site may be possible through gaps between existing houses facing Jamieson Road, though the gradient of this road could present a challenge in the design and construction of a suitable junction. However, I have no detailed evidence on this matter.

34. I note that this site was not proposed at the 'call for sites' stage or included in the main issues report. It has not therefore been subject to the same full assessment and public consultation as other proposals. It is difficult to introduce new allocations at the examination stage in these circumstances. Paragraph 261 of the Scottish Government's Local Development Planning Guidance states that it is not expected that the reporter will recommend the addition of any site into the plan that has not previously been subject to SEA and consultation. As noted above, there is also no current requirement to identify additional land for housing development in Darvel.

35. Overall, I consider that this site may have some future potential as a development site, subject to public consultation and full professional assessment. However, because this proposal has been introduced at such a late stage in the plan-making process, and there is no need to allocate additional land at the current time, no modification is required.

**Reporter's recommendations:**

No modifications.

Issue 28	Drongan	
Development plan reference:	Residential allocations DG-H1 and SG-H2 and future growth area SG-F1(H)	Reporter: Andrew Fleming
Body or person(s) submitting a representation raising the issue (including reference number):		
Debbie Miller (16) Marion Clark (21) Anne Rodgers (28) William Clark (43) Liz Hamilton (61) John Hamilton (62) Lauren Cochrane (66) Irene Naderi (76) Yasmin Naderi (77) Carolynn Badger (90) Andrew Badger (91) Margaret McQueen (126)		NatureScot (157) Arlene Murdoch (159) James Strain (180) Pierce Millar (183) Herman Verton (184) Country Life Trading LP (212) Julie-Anne Baines (299) Jonathan Baines (301) David Baines (302) Matthew Baines (303) Matt Woods (307)
Provision of the development plan to which the issue relates:	The inclusion of opportunity sites in Drongan: DG-H1, DG-H2 & DG-F1(H) and the wording of the associated site requirements	
Planning authority's summary of the representation(s):		
<p><b>DG-H1 – Martnaham Way</b></p> <p><u>16, 21, 43, 61, 62, 66, 159, 180, 183, 184 &amp; 307</u> state that the site at Lomond View/Crescent/Wynd, now built out, was justified in 2004 for the sole reason that funds could be released to finance the restoration of the Hannahston Open Cast Coal Site. In this respect, they consider that there would be no justification for further proposed development at site DG-H1.</p> <p><u>16, 21, 43, 61, 62, 66, 90, 91, 126, 159, 180, 183, 184 &amp; 307</u> state that DG-H1 has an indicative capacity of 88 units which is a similar density to that of application 06/0415/FUL which was recommended for refusal. They ask why a similar number of units would now be acceptable within a site with the same dimensions. The respondents consider that any proposed future development would not be in keeping with the existing housing estate in terms of house types and layout.</p> <p><u>16, 21, 28, 43, 61, 62, 66, 76, 77, 90, 91, 159, 180, 183, 184 &amp; 307</u> state that an application made in 2006 (06/0415/FUL) for planning permission for housing development was recommended for refusal by the East Ayrshire planning service and subsequently withdrawn. The respondents have set out the stated reasons for refusal in their response.</p>		

16, 21, 28, 43, 61, 62, 66, 76, 77, 126, 159, 180, 183, 184 & 307 state that a 10m landscape strip/open space exists around the original development, which was approved as part of the original application and is maintained on behalf of the Lomond Residents Association, and that it appears to partially be incorporated within the DG-H1 site boundary. They consider that development within the strip would result in a loss of amenity and result in a failure to meet open space standards as set out in the current LDP. Representations state that some of the landscaping/planting was not implemented following construction of the original development and that constitutes a failure by EAC to enforce the landscaping condition of the consent. Several respondents also express discontent that residents of any further development might benefit from the use of existing open space areas for which the current residents are solely responsible.

**Note:** A title plan showing public open space and other documents are supplied as an attachment (RD4).

16, 21, 43, 61, 62, 66, 76, 77, 126, 159, 180, 183, 184, 299, 301, 302, 303 & 307 state that the allocation of the site will put pressure on local amenities, including sports facilities, health services, transport and infrastructure. Several state that amenities have already been lost in the village with the library and games hall having been demolished and housing now being built on those sites.

16, 21, 43, 61, 62, 66, 90, 91, 126, 159, 180, 183, 184, 299, 301, 302, 303 & 307 express concerns over safety at the junction with the B730, consider that DH-H1 is distant from public transport and that the nearest bus stop can only be reached via a dangerous pathway. Several representations maintain that residents would not wish to walk or cycle, as services at the nearest town are some distance away via dangerous roads and state that there are no active travel links to Drongan.

16, 21, 43, 61, 62, 66, 159, 180, 183, 184 & 307 state that development of DG-H1 would result in encroachment on Hannahston Woodland Walk, which was created for the local surrounding area to enjoy flora and fauna, and recently purchased by a local group. They state that the original adjacent development was agreed with a condition to release funds towards the project, but that that development still maintained a distance from the entrance to the woodland. They mention that various protected and non-protected species can be found at the woodland. They note that P-LDP2 states that any potential developer requires to provide parking/access and that the access requires to be landscaped. They state that this requirement raises a number of legal issues, including ownership and access/right of way for Hannahston Farm and the Community Woodland.

16, 21, 28, 43, 61, 62, 66, 76, 77, 90, 91, 126, 159, 180, 183, 184 & 307 express concern that any new residential development directly behind original dwellings would cause overlooking and the blocking of light from properties. Other impacts on environmental health cited are noise, smells, air and light pollution. 90, 91 & 126 cite conflict with P-LDP2 Policies NE12: Water, air, light and noise pollution, RES4: Compact Growth, RES3: Residential Amenity, SS1: Climate Change and SS2: Overarching Policy in respect to the potential development of the site.

16, 21, 28, 43, 61, 62, 66, 76, 77, 90, 91, 126, 159, 180, 183, 184, 299, 301, 302, 303



& 307 note that the LDP2 Proposed Environmental Report states, that Drongan is classed as being open space deficient and that the removal of the land encompassed by DG-H1, which several describe as a community resource, would exacerbate these issues. Several respondents state that there would be no play facilities for children and that those in the centre of the village would not be sufficient to support any additional children.

16, 21, 43, 61, 62, 66, 90, 91, 159, 180, 183, 184, 299 & 307 state that they understand that some undermining issues may have been identified at the nearby Watson Terrace site and would comment that similar such issues exist in the area of DG-H1. Other respondents mention the potential presence of gases from coal workings and mention is made of potential land contamination.

16, 21, 43, 61, 62, 66, 159, 180, 183, 184 & 307 state that the indicative capacity within allocated sites has exceeded requirements. A Housing Land Requirement of 4050 dwellings has been set for the LDP period, 2095 additional dwellings have been allocated above the HLR (Housing Land Requirement). They consider that, achieving a total indicative capacity of 6145 homes substantially exceeds the HLR and that consequently there is no specific need for DG-H1 to be allocated.

16, 21, 28, 43, 61, 66, 76, 77, 159, 180, 183, 184, 299, 301, 302, 303 & 307 state that the site performed poorly against the criteria of the LDP2 Environmental Report. Several state that NatureScot have commented that development would have adverse landscape and visual impacts and that flooding affects properties in the existing development. They continue that mitigating actions presented in the report do not suffice to alleviate concerns, with an absence of assurances to residents of the adjacent existing development that stated negative impacts will not come to fruition.

90, 91 & 126 state that the land encompassed by DG-H1 acts as a green corridor for wildlife and biodiversity and is a logical extension of the green open space network that allows movement of wildlife from Hannahston Wood. The wood is said to be a community asset and popular with dog walkers, wildlife watchers and local schools. They state that if development were undertaken the area surrounding the woods and the flora and fauna therein would be destroyed, and that it is uncommon for a piece of land such as DG-H1 to be left to naturalise. In support of their objection to the development of site DG-H1, the respondents cite conflict with P-LDP2 policies RES4: Compact Growth, SS1: Climate Change, SS2: Overarching Policy, SS3: Central Scotland Green Network, OS1: Green and Blue Infrastructure and OS2: Safeguarded Open Space. They also cite all P-LDP2 Natural Environment policies with the exception of Policy NE3: Local Landscape Area. They also cite LDP2 Schedule 2: Coalfield Communities Landscape Partnership (CCLP) List of Projects.

90 & 91 ask that LDP2 Overarching Policy SS2 should be reviewed to ensure the relevance and contribution of site DG-H1. They furthermore consider that the development contradicts the 2017 LDP Vision which states that 'East Ayrshire is a place with strong, safe and vibrant communities where everyone has a good quality of life an access to opportunities, choices and high quality services which are sustainable, accessible and meet people's needs'. 126 in addition considers that it contradicts the P-LDP2 Spatial Strategy.



## **DG-H2 – Mill O’Shield Road**

157 states that the site is a relatively large and prominent one located at the western edge of the settlement. They suggest that the developer requirements mirror those given for site DG-H1, and include provision of active travel links: “The developer will be required to provide an effective landscape framework, including structural planting to effectively define a clear, defensible western boundary to the settlement. The developer should create active travel links to the settlement.”

## **DG-F1(H) – Watson Terrace**

16, 21, 43, 61, 62, 66, 159, 180, 183, 184 & 307 ask why DG-F1(H) is now being shown as a ‘Future Housing Growth’ area and what the reasons for removing it as an allocated site were. They express a preference that the site should be allocated in LDP2 instead of DG-H1.

212 states that the site is allocated for residential development in the current Adopted LDP (Ref. 289H) and that it should not be identified as a site for ‘future growth’ in LDP2. They state that it should instead be included within the housing supply as a designated site to be developed during the lifetime of the Plan. In this regard, the respondent states that the site owner is in legal discussions with Viga Developments Ltd, a developer with a record of recent successful housing developments in Cumnock and Auchinleck. They state that the developer is preparing a submission for a planning application for the site, which would be assessed against the current Adopted LDP.

They state that connections to public water supply from the site are available as are surface water and foul drainage and continue that the site is not identified as being subject to flooding in SEPA flood maps. They state that vehicular access is available to Farrell Crescent and that the site is within walking distance of the bus network. They also note that the site lies adjacent to existing residential development, that the proposed use would be compatible with those uses and that it lies close to the centre of Drongan, shops and community facilities. They note that the site would not utilise vacant land but that the criteria only states ‘wherever possible’. They state that the Coal Authority response for the site is that it is at ‘low risk’ and that the site does not comprise good quality agricultural land.

They continue that that the Reporter in considering the Adopted East Ayrshire LDP was not supportive of identifying ‘future growth’ areas and instead considered that the potential effectiveness of sites in meeting housing supply was the preferred strategy.

**Note:** There are further details within representation 212 of steps the applicant would take to comply with Plan policy and the Environmental Report as part of any development of site DG-F1(H) were it to be allocated in LDP2.

## **Issues Raised In Relation to Non-Planning Related Matters**

16, 21, 28, 43, 61, 76, 77, 90, 91, 159, 180, 183, 184, 299, 301, 302, 303 & 307

Development at DG-H1 could have negative impacts on property values in the area.

Development at DG-H1 could result in loss of views from properties.

That within Drongan there are cracked and broken pavements which cause a trip hazard for the community

That within Drongan there is limited local employment which would give rise to travel and resultant pollution

That the existing estate adjacent to DG-H1 was advertised at the time of build/purchase as 'an exclusive development' with 'space to live and breathe' and/or was marketed and sold in such a way as to imply no further development would take place within site DG-H1, and/or that any further development would comprise '4 large houses' and 'paddocks'.

### **Modifications sought by those submitting representations:**

#### **Site DG-H1: Martnaham Way, Drongan**

16, 21, 28, 43, 61, 62, 66, 76, 77, 90, 91, 126, 159, 180, 183, 299, 301, 302, 303 & 307 object to the development of the site and otherwise wish for it not to be allocated in LDP2.

#### **Site DG-F1(H): Watson Terrace, Drongan**

16, 21, 43, 61, 62, 66, 159, 180, 183, 184 & 307 seek the allocation of DG-F1(H) in place of DG-H1.

#### **Site DG-H2: Mill O'Shield Road, Drongan**

157 seeks the following wording to be included within the DG-H2 site requirements: "The developer will be required to provide an effective landscape framework, including structural planting to effectively define a clear, defensible western boundary to the settlement. The developer should create active travel links to the settlement."

### **Summary of responses (including reasons) by planning authority:**

#### **DG-H1 – Martnaham Way**

Reasons for approval of the original development in 2004 (16, 21, 43, 61, 62, 66, 159, 180, 183, 184 & 307)

Whilst the conditions surrounding the approval of the initial development were pertinent at that time, the process undertaken to determine the suitability for a site to be allocated in the PLDP differs from assessment against the Local Development Plan 2017 (CD23). It was considered after assessment during the preparation of the Proposed Plan using the Housing Site Appraisal Methodology (HSAM) (CD17) and the working Environmental Report that the site was suitable for residential development, subject to mitigation.

Indicative site capacity/density (16, 21, 43, 61, 62, 66, 90, 91, 126, 159, 180, 183, 184 & 307)

It should be noted that the capacity for each site presented in Vol 2 of the Proposed Plan is indicative, that is, the developer is not required to build precisely the number of units stated. A range of factors, including layout, may result in development of a greater or lesser number of dwellings, however, any proposal would require to comply with the relevant policies of the LDP. The design and layout of dwellings would be required to comply with LDP policies, in particular policy RES4: Compact Growth, which requires consideration of the character of the existing area in terms of density.

An application at the site was refused in 2006 (16, 21, 28, 43, 61, 62, 66, 76, 77, 90, 91, 159, 180, 183, 184 & 307)

An application made in 2006 (06/0415/FUL) was recommended for refusal. It should be noted however that the purpose of site selection is not in itself to ensure conformity with the policies of the Plan. Whilst the plan preparation process requires cognisance of development that has taken place during the preceding period, the exercise must also consider issues and sites afresh and any past allocations must be interpreted in this context. Issues pertaining to application 06/0415/FUL primarily relate to the situation of the site outwith the settlement boundary at the time the application was considered, as at that time the site was not allocated within the Development Plan. This would not arise in the instance of any application being made at DH-H1, as the site would be allocated with the principle of residential development established, and would fall within the Drongan settlement boundary. Other matters, some of which relate to layout and design, impact on road traffic and other development issues would be addressed through the application process.

Area of amenity space (16, 21, 28, 43, 61, 62, 66, 76, 77, 126, 159, 180, 183, 184 & 307)

An area of land within site DG-H1 is defined as amenity space and is subject to maintenance by the Lomond Residents Association, which acts on behalf of the residents of the existing development. The Council understands the concerns expressed by residents within the existing development with regard to the area of defined open space and any development that may potentially take place within that space should it be encompassed by DG-H1. The Council would therefore have no objection if the Reporter were agreeable to a minor amendment to the boundary of DG-H1 to exclude those areas of public open space detailed in the site plan as presented by the respondents, thereby regularising this matter. This is shown on RD10 – Plan Pertaining to Hannahston Park – Issue 28.

Infrastructure capacity (16, 21, 43, 61, 62, 66, 76, 77, 126, 159, 180, 183, 184, 299, 301, 302, 303 & 307)

The Council is of the opinion that the development of DG-H1 will not detrimentally affect infrastructure and facilities within Drongan. The Council would point out that the Council's Education department had raised no issues in the preparation of the Local Development Plan that would indicate that there are capacity issues within the Drongan Primary School and Robert Burns Academy. NHS Ayrshire and Arran has also not

objected to the development of the site in terms of the provision of their service responsibilities within the settlement. Therefore, the Council consider that there would not be any adverse pressures on educational and medical provision within Drongan because of this development. Notwithstanding, P-LDP2 includes within its provisions Policy INF4: Developer Contributions, which will be implemented where a development will place additional demands on infrastructure, services, facilities and amenities that would necessitate new facilities or exacerbate deficiencies in existing provision.

Traffic generation (16, 21, 43, 61, 62, 66, 90, 91, 126, 159, 180, 183, 184, 299, 301, 302, 303 & 307)

The Council would advise the Reporter that the Ayrshire Roads Alliance has not raised any objections. A Transport Appraisal (CD19) commissioned by the Council to support LDP2 does not express any particular concerns with respect to Drongan; any recommended mitigation set out within the Appraisal applies to locations elsewhere in East Ayrshire. The site information for DG-H1 in p.33 of Vol 2 of the P-LDP stipulates that a Transport Assessment must be submitted as part of any detailed proposals for the site, to identify and address the transport effects of the development. The site lies within walking distance of the centre of Drongan and would connect to a path that leads south from the existing development towards Craufurd Drive. It is acknowledged that cycle infrastructure in more rural parts of East Ayrshire requires to be improved. To address this deficiency, Ayrshire Roads Alliance is preparing an Active Travel Strategy, which linked to the Council's Climate Change Strategy will bring about further investment in active travel.

Hannahston Woodland (4, 16, 21, 43, 61, 62, 66, 159, 180, 183, 184 & 307)

The site itself does not spatially infringe on the area of the Hannahston Woodland to the north and issues raised regarding impact on wildlife can be addressed through the planning application process. The site description for DG-H1 states that 'the developer should create active travel links to the settlement as well as to the woodlands to the north of the site.' There is no mention that parking should be provided nor that the access in question requires to be landscaped. With regard to legal arrangements, any access to the woodland would require to be detailed as part of a planning application in line with site requirements and the design statement. This may separately be subject to a legal agreement between the party developing the site and any adjacent landowners, however, these potential arrangements do not preclude the development of the site.

Privacy and overlooking of adjacent residents (16, 21, 28, 43, 61, 62, 66, 76, 77, 90, 91, 126, 159, 180, 183, 184 & 307)

These detailed matters would be dealt with at planning application stage. Several representations consider that the following environmental health impacts would arise from development: noise, smells, air and light pollution and several cite P-LDP2 policies that address these themes. In this regard, it is considered that the design of the development and planning conditions attached to the development of the site could avoid or mitigate such issues arising.

Informal area of open space for residents (16, 21, 28, 43, 61, 62, 66, 76, 77, 90, 91, 126, 159, 180, 183, 184, 299, 301, 302, 303 & 307)

Respondents consider that the area of undeveloped land encompassed by DG-H1 forms an informal area of open space for residents. However, no area of the site in question forms part of the defined area of Safeguarded Open Space in Drongan in the Proposed Plan, which was reviewed across all settlements as part of the overall plan preparation. Indeed, it was not identified as such in the 2017 LDP (CD23). LDP policy (OS1) stipulates that the applicant would be required to provide a requisite area of publically accessible open space within the development, thereby increasing rather than reducing the total area of publically accessible open space in Drongan. With regard to a cited potential deficiency of play space, Schedule 1 of the P-LDP stipulates that a portion of land within developments of more than 10 units must comprise amenity space and recreational space, defined as play areas/parks, public parks and gardens, outdoor sports facilities, sports pitches, allotments, civic spaces etc.

Coal mining risk (16, 21, 43, 61, 62, 66, 90, 91, 159, 180, 183, 184, 299 & 307)

Respondents express concern about undermining issues that may affect the site and that the site may be subject to contamination. There are recorded historic mine shafts within the easternmost part of the site. However, the safety of the site and any requisite remediation, including to contaminated land, is a matter for the landowner and would be addressed as part of any detailed planning application.

Allocation above Housing Land Requirement (16, 21, 43, 61, 62, 66, 159, 180, 183, 184 & 307)

Respondents note that a Housing Land Requirement of 4050 dwellings has been set for the LDP period and that land for 2095 additional dwellings has been allocated above the HLR, thereby constituting a range of sites whose allocation is not required. However, it should be noted that the HLR represents a **Minimum** All-Tenure Housing Land Requirement, that is, additional land may be allocated above the HLR. In the case of the Cumnock Sub-Housing Market Area within which DG-H1 is located, this comprises a surplus of 48% or 301 units. This surplus has been provided for each area of East Ayrshire to ensure the availability of a generous supply of residential sites as required by SPP (CD26) and the NPF4 (CD4). It should be noted that the allocated housing land supply set out in the LDP2 Proposed Plan is lower than that allocated in the 2017 LDP (CD23).

Environmental impacts (16, 21, 28, 43, 61, 66, 76, 77, 159, 180, 183, 184, 299, 301, 302, 303 & 307)

It is recognised that any new site is likely to have some negative environmental impacts associated with its development. Because of this, the aforementioned Strategic Environmental Assessment (SEA) was carried out and the outcome of this used in conjunction with the HSAM, to come to a decision on which sites were suitable for development. The findings of the SEA for DG-H1 and associated mitigation measures are included within an Environmental Report (Appendix 11.11) (CD47d), which was published alongside the Proposed Local Development Plan. The SEA on its own does not tell us whether a site is suitable for development or not. However, the assessments can help to highlight possible mitigation measures, which could be carried out on particular sites in order to make what might otherwise be considered unsuitable development acceptable. Where negative impacts are identified, the Environmental

Report (CD47d) highlights mitigation to reduce those impacts. This mitigation must, upon approval of a planning application be undertaken by any party that wishes to develop the site.

#### Impact on natural features (90, 91 & 126)

Regarding the impact of development on natural features within the area of undeveloped space encompassed by DG-H1, it should be noted that the Environmental Report states the following. That 'development of the site should try to ensure that as many of the trees as possible are kept, especially those that act as natural screening' and also states that 'an appropriate level of planting and screening should be incorporated in to the design and layout of the proposal'. In addition to the aforementioned requirement to provide amenity and recreational open space within the site as part of any development, these requirements are considered sufficient to mitigate any loss of undeveloped open space that would incur upon development. Notwithstanding, should any proposal within DG-H1 not comply with any of the policies cited in the representations, it is likely that development would not be in accordance with the LDP.

#### Review of LDP2 Overarching Policy SS2 (90&91)

With respect to the request that LDP2 Overarching Policy SS2 should be reviewed to ensure the relevance and contribution of site DG-H1, it should be noted that the policy pertains to any new development that may take place in East Ayrshire and not to the selection of sites for allocation in the Plan. Any development proposed on site DG-H1 will be required to meet the provisions of policy SS2. It is the Council's view that the principle of development of DG-H1 would be compliant with SS2, but full compliance would be dependent on the detail contained within a planning application.

#### Contradiction of EALDP 2017 Vision (90&91)

With respect to the statement that any development within site DG-H1 would contradict the 2017 LDP vision, the Council considers that development would accord both with the principles of that vision and those of the P-LDP2 vision. In respect to representation 126, the allocation of the site is furthermore considered to accord with the P-LDP2 Spatial Strategy. The P-LDP2 vision states that 'East Ayrshire is a place with strong, safe and vibrant communities where everyone has a good quality of life and access to opportunities, choices and high quality services which are sustainable, accessible and meet people's needs'. Site DG-H1 is located within 500m of a bus stop, it is within walking distance of shops in Drongan, it would comprise an extension of an adjacent development to make use of some existing infrastructure and any development therein would require to accord with each of the pertinent policies of LDP2.

With the above factors taken into consideration, the Council is of the view that site DG-H1 should be allocated for residential development in LDP2.

#### **DG-H2 – Mill O'Shield Road**

The requirements set out by NatureScot (157) were not applied to DG-H2 because the site had already obtained planning consent (CD66) at the time of site assessment, and



is anticipated to be under development soon after LDP2 is adopted.

For the avoidance of doubt, the Council is of the view that site DG-H2 should be allocated for residential development in LDP2.

### **DG-F1(H) – Watson Terrace**

Allocation of DG-H1 over DG-F1(H) (16, 21, 43, 61, 62, 66, 159, 180, 183, 184, 212 & 307)

Representations made express a preference that DG-F1(H) should be allocated during the Plan period instead of DG-H1 and ask why it was not reallocated in the Proposed Plan.

Representation 212 states that the landowner of DG-F1(H) is in discussions with Viga Homes Ltd. in terms of a forthcoming application to undertake the development of 111 homes on site.

As a reflection of the preferential site characteristics cited by representation 212, site DG-F1(H) performed well against the criteria of the HSAM (CD17) and the site is considered to constitute a logical area of expansion for Drongan over the coming years.

Nevertheless, the site was allocated in both the 2010 Local Plan (CD75) and 2017 Local Development Plan (CD23). Despite some interest in development being intimated as part of the Main Issues Report consultation, no application for development had been approved by the time of the site assessment process in 2021. An application for development of 126 homes was made in 2006, the most recent to apply to the site, but was subsequently withdrawn. Seventeen years since that application was made will have elapsed by the time LDP2 is adopted in 2023. The effectiveness of allocated sites is a principal consideration of the LDP preparation process and it is considered appropriate to substitute certain sites that have not progressed during the course of several Plan periods. It is therefore considered prudent not to allocate the site for residential development in LDP2 but to await the completion of sites DG-H1 and DG-H2, which has obtained consent, and then consider the potential to allocate the site in LDP3.

In cognisance of the infrastructure first principles of NPF4 (CD4), site DG-H1 benefits from existing access arrangements, some road infrastructure within the site and likely a degree of existing servicing associated with the adjacent completed development. Indeed, it is apparent from the arrangement of dwellings at 2 and 2a Lomond View that further expansion of the grouping has been enabled. The site is favourably located in terms of access and egress from Drongan towards Ayr and other settlements. It is considered that the allocation of the site would better integrate the existing Lomond Way development with the rest of the built form of the town and in doing so improve the overall coherence of Drongan, clearly defining its northern boundary. The site furthermore includes an area of previously developed land in contrast to the entirely undeveloped site at DG-F1(H). Given site DG-H1's particular characteristics, it is consequently considered preferable to complete development in that area before land elsewhere in the settlement is newly developed.



With regard to the statement in representation 216 that the 2016 Examination (CD62) Reporter's preference was to not identify 'future growth' areas as part of the Local Development Plan but instead focus on effectiveness of sites, it should be noted para.120 of Scottish Planning Policy (CD26) states the following. That 'beyond year 10 and up to year 20, the local development plan should provide an indication of the possible scale and location of the housing land requirement'. Such areas were therefore a feature of the 2017 LDP (CD23) and were evidently considered appropriate inclusions during its Examination.

With the above factors taken into consideration, the Council is of the view that site DG-F1(H) should be identified as a 'Future Housing Growth' area in LDP2.

### **Reporter's conclusions:**

#### Housing Sites – General

1. The need for additional housing land is addressed through Issue 17 of this examination report. This sets the strategic context for the housing land allocations and also explains the context established through National Planning Framework 4 (NPF4). My assessment of sites below reflects the conclusion as extracted from Issue 17; that there is sufficient land identified to meet the Council's Minimum All-Tenure Housing Land Requirement during the Plan period and that it is not necessary to allocate any additional land for residential development.

#### **DG-H1 – Martnaham Way**

Reasons for approval of the original development in 2004 (16, 21, 43, 61, 62, 66, 159, 180, 183, 184 & 307)

2. Respondee advise that the site at Lomond View/ Crescent/ Wynd was justified in 2004 in order that funding could be released to finance the restoration of the Hannahston open cast coal site. They consider that there is no justification for further development in this location. Whilst the council did not include the DG-H1 site in the 2017 local development plan, this does not mean that the council can never look to this area to accommodate further development. The site is not covered by any national policy designation in terms of landscape quality or environmental importance and there is some merit in the argument that the existing housing and road layout results in an awkward boundary to the northern part of the settlement which could be rounded off more logically whilst introducing enhancements.

3. The council commissioned landscape study did not identify the site as part of an area unsuitable for development, required to preserve the setting of the settlement. Following the assessment work completed as part of the preparation of this proposed plan, including the HSAM (CD17) and the SEA (CD47), the council considered the site suitable for residential development. Given its surrounding context and lack of landscape constraints, given the developer requirements in the proposed plan aimed at creating a landscape framework to enhance the gateway to the settlement, and to create active travel links to the settlement as well as to the woods to the north, I consider that there is logic to the site being included as an allocation in the proposed plan.

Indicative site capacity/density (16, 21, 43, 61, 62, 66, 90, 91, 126, 159, 180, 183, 184 & 307)

4. Concern has been expressed about the capacity/density of development on this site. Volume 2 of the proposed plan (settlement maps) identifies an indicative capacity of 88 housing units for this site. It is important to note that all housing sites contained within Volume 2 of the proposed plan show indicative capacities. I consider that this is a logical approach as it gives all parties an indication of what might be achievable on the site. The fact that the capacity is indicative does not hold the developer to this particular number but is a guide as to what the council consider might be appropriate based on a range of factors including the typical density of the surrounding development. It would be during the detailed design stage and as part of any planning application process/ consideration that site capacity would be confirmed and whilst it might increase, there is also the possibility that it would decrease. The council confirms that any proposal would be required to comply with relevant local development plan policies. Proposed policy RES4: 'Compact growth' is particularly relevant as it seeks that residential development proposals are of an appropriate density, having regard at all times to the character of the surrounding area.

An application at the site was refused in 2006 (16, 21, 28, 43, 61, 62, 66, 76, 77, 90, 91, 159, 180, 183, 184 & 307)

5. An application for residential development (ref:06/0415/FUL) on this site was submitted in 2006 and was recommended for refusal by officers of the council. It was subsequently withdrawn before being determined by the council. Respondee are concerned that with a likely refusal of development on this site then, that the council should now be considering it suitable for development. Planning context is important in this regard. This application was for development which at the time of its submission was outwith the settlement boundary and therefore not in accordance with the Development Plan.

6. The council has looked afresh at this and other sites and issues and considers that the site is appropriate for residential allocation. The council is perfectly entitled to arrive at this view regardless of what the council view was back in 2006. The fact that the site is identified in the proposed plan as a housing allocation site and within the settlement boundary provides a different planning policy context. The consideration of a planning application against an established adopted development plan is a wholly different exercise to the identification of suitable sites to include in a review of the local development plan. The development plan system aims to provide certainty. In this context, it is normally appropriate to refuse an application that does not comply with the local development plan, and instead use the local development plan preparation process as the proper mechanism for identifying new sites. Detailed design matters would be considered during the detailed application process which may or may not lead to an application being supported by both officials and members of the council.

Area of amenity space (16, 21, 28, 43, 61, 62, 66, 76, 77, 126, 159, 180, 183, 184 & 307)

7. Respondee have referred to inaccuracies relating to the boundary of the site DG-H1 housing allocation as shown in Volume 2 (settlement maps) of the

proposed plan (page 40). There are two small areas within this allocation which are defined as amenity space and are subject to maintenance by the Lomond Residents Association, acting on behalf of the residents of the existing village. I therefore consider that it is prudent to amend the boundary of site DG-H1 to exclude these areas from this allocation site and therefore to rectify this error. I note that the council is comfortable with this amendment.

8. I make a recommendation below for a minor amendment to be made to the DG-H1 site allocation boundary in order to rectify this error.

Infrastructure capacity (16, 21, 43, 61, 62, 66, 76, 77, 126, 159, 180, 183, 184, 299, 301, 302, 303 & 307)

9. The council has confirmed that neither the council's Education Department or NHS Ayrshire and Arran have objected to the allocation of this site and that there would not be adverse impacts on education or health services as a result of development of this site for housing. I am satisfied that issues regarding infrastructure and services capacity have been taken into account in the identification of this site as a housing allocation. This notwithstanding, proposed local development plan policy INF4: 'Developer contributions' sets out that where a development would place additional demands on infrastructure, services, facilities and amenities that would necessitate new facilities or exacerbate deficiencies in existing provision, the council would require the developer to meet or contribute to the cost of providing or improving such infrastructure, facilities or services.

Traffic generation (16, 21, 43, 61, 62, 66, 90, 91, 126, 159, 180, 183, 184, 299, 301, 302, 303 & 307)

10. Despite concerns raised by respondents regarding the potential traffic generation resulting from residential allocation of the site, I am conscious that the Ayrshire Roads Alliance has not objected to the allocation of this site. The council commissioned Transport Appraisal (CD19) did not explicitly recommend any mitigation measures for this site or the wider settlement. I observed during my site inspection that the site already enjoys direct access onto the B730 road to the east. and this access is served with adequate visibility splays, both to the north and south, for traffic wishing to exit the site.

11. The above notwithstanding, Volume 2 (settlements maps) of the proposed plan includes a requirement that a Transport Statement must be submitted as part of any detailed proposals for the site. Key elements of this work would be to identify and address the transport effects of the development.

12. In the context of the above, it is important to highlight that the site lies within walking distance of the centre of the settlement and the site would be able to physically connect with the path that leads south from the existing development towards Craufurd Drive. There are bus services operating along the B730 road to the east and bus stops in proximity to the site. These measures have the potential to reduce reliance on travel by private motor vehicle. I am satisfied that the site is capable of being adequately accessed, and that the local road network is adequate to cater for the additional traffic generated.

Hannahston Woodland (4, 16, 21, 43, 61, 62, 66, 159, 180, 183, 184 & 307)

13. Concerns have been expressed about the potential impact of development on the Hannahston community woodland to the north and also on the wildlife that has been identified within it. The site allocation includes the access track along its northern boundary however, it would not impinge on the woodland area to the north of this track and importantly, the developer requirements for this site, as identified in Volume 2 of the proposed plan include the creation of active travel links to these woodlands. I am not persuaded that development of this site would have any significant impact on the woodland or its wildlife value.

14. The council has confirmed that access to the woodland would require to be detailed as part of any planning application and this may involve a legal agreement between the developer of the site and any adjacent landowners. I concur with the council that this would not preclude development of the site.

Privacy and overlooking of adjacent residents (16, 21, 28, 43, 61, 62, 66, 76, 77, 90, 91, 126, 159, 180, 183, 184 & 307)

15. Concerns have been expressed by respondents who live immediately next to the site regarding the impact of development of this site on their privacy and the potential for overlooking. There is no detailed proposal or planning application before me for this site and therefore I am unable to comment on such matters. In any event, such matters are appropriately addressed at the detailed planning application stage.

Informal area of open space for residents (16, 21, 28, 43, 61, 62, 66, 76, 77, 90, 91, 126, 159, 180, 183, 184, 299, 301, 302, 303 & 307)

16. Whilst I observed a large, relatively flat grassed area along the northern part of the site between the backs of the existing houses and the woodland, this area is in fact given over to grazing land and enclosures for alpacas. It is currently fenced off and direct access is discouraged. The area to the west of this comprises former access tracks and made ground associated with the former use of the site. This also is fenced off in order to discourage public access. I am therefore satisfied that the site does not currently offer an informal area of open space for residents. No area of the site is recognised as safeguarded open space for the settlement. No area of the site was similarly identified in the 2017 local development plan as safeguarded open space.

17. The developer of this site would be responsible for providing a requisite area of publicly accessible open space within the development. Therefore, this would result in an increase in the amount of publicly accessible open space within the settlement. This would also involve provision of play space which would also result in an increase in the amount of such provision for the settlement.

Coal mining risk (16, 21, 43, 61, 62, 66, 90, 91, 159, 180, 183, 184, 299 & 307)

18. Concerns have been raised by respondents about past coal mining and undermining issues which may affect the site and also that it may be subject to contamination. The council has referred to historic mine shafts within the easternmost part of the site. It is the responsibility of the landowner to ensure that the site is safe

and it is also the landowner's responsibility to undertake any necessary remediation works including remediation of contamination on the site before any development could take place. Such matters are most appropriately addressed during the planning application process. I have not seen any definitive or convincing evidence that the possible presence of historic mine shafts represents a severe constraint that cannot be mitigated or would threaten the overall ability to develop the wider site.

19. Through proposed policy SS2, the developer of this site must provide the mitigation and/ or enhancement measures contained with the Environment Report in relation to this site. This includes the requirement for consultation with the Coal Authority which should ensure that the development proposed adopts the most appropriate design and layout in order to reduce development risk.

Allocation above Housing Land Requirement (16, 21, 43, 61, 62, 66, 159, 180, 183, 184 & 307)

20. There is criticism of the council's approach to the housing land requirement which is 4050 dwellings for the plan period, augmented with a further 2095 units. This 'surplus' which has been accommodated across each part of the council area is intended to ensure that housing land supply is sufficiently generous to allow for any unforeseen problems in the delivery of sites. This approach, which is addressed in more detail under Issue 17, is not in conflict with NPF 4.

Environmental impacts (16, 21, 28, 43, 61, 66, 76, 77, 159, 180, 183, 184, 299, 301, 302, 303 & 307)

21. Criticisms have been made of the allocation of the site despite some of the identified impacts on environmental receptors in the SEA (CD47). The SEA sits alongside but does not form part of the local development plan. It, on its own, does not identify or recommend which sites should be included as allocations in the local development plan.

22. The SEA and assessment carried out as part of the HSAM help to identify possible mitigation measures which could make sites which would otherwise be unsuitable, suitable for allocation. The SEA has identified a series of mitigation measures in relation to this site in order to reduce its environmental impacts. These mitigation measures must be addressed as part of any development proposal in order to comply with local development plan policy SS2: 'Overarching policy'. All development sites are likely to have some environmental impacts but this does not necessarily make them unsuitable for development. I am satisfied that, with the identified mitigation measures, the impacts identified for this site are not so severe as to preclude development.

Impact on natural features (90, 91 & 126)

23. As referred to above, the SEA identifies mitigation measures that can make sites acceptable for allocation. The SEA advises in relation to this site that development of it should try to ensure that as many trees as possible are kept, especially those that act as natural screening and that an appropriate level of planting and screening should be incorporated into the design and layout of the proposal. Given my observations on site,

these measures would mitigate against the loss of key natural features on the site. I am also conscious that there are various environmental policies within the proposed plan that would assist in protecting natural features on site where possible including around the periphery of the site.

#### Review of LDP2 Overarching Policy SS2 (90&91)

24. My reporter colleague has found Overarching policy SS2 robust and worthy of retention within the plan, subject only to a relatively minor modification. Importantly, this policy is applicable to new development across the council area and is not intended to be used as a tool to select sites for allocation in the plan. Development of the site would be required to meet the provisions of policy SS2. The respondees should be reassured that compliance or not with this policy would depend on the content of any subsequent planning application for development of the site.

#### Contradiction of EALDP 2017 Vision (90&91)

25. The 'vision' contained within the proposed plan states: 'East Ayrshire is a place with strong, safe and vibrant communities where everyone has a good quality of life and access to opportunities, choices and high quality services which are sustainable, accessible and meet people's needs'.

26. As has already been referenced above, the site is within walking distance of shops within the settlement, it is located close to public transport services and there are bus stops within comfortable walking distance of the site. It benefits from existing infrastructure associated with adjacent residential development. The requirement that any future development of the site should provide an effective landscape framework presents an opportunity to enhance the gateway to the settlement from the north. Given that development would have to comply with a raft of policies including those dealing with design and environmental matters, I consider that the allocation of this site is in accordance with the council's vision and spatial strategy.

#### Overall conclusion on site DG-H1

27. I have considered all the various matters and whilst there are some impacts, I am satisfied that these are not so severe as to prevent the allocation of the site. I am therefore not recommending any modifications in respect of this site, other than a minor amendment to the site boundary to rectify an error.

#### **DG-H2 – Mill O'Shield Road**

28. The council has advised that the suggestions made by Naturescot (CD157) in its consultation response on the proposed plan in respect of this site were not taken on board by the council at the time that the site was assessed for inclusion in the proposed plan. This was due to the fact that planning consent (ref: 07/0075/FL) (CD66) already existed for residential development on this site and any additional developer requirements would have been unenforceable. The council has also advised that the proposal is anticipated to be under development shortly after the local development plan is adopted.



29. In light of the above planning context, I am unable to accommodate the respondent's suggestions. I am satisfied that the site should continue to be allocated as a housing site.

30. No change is recommended to the proposed plan in respect of this site.

### **DG-F1(H) – Watson Terrace**

#### Allocation of DG-H1 over DG-F1(H) (16, 21, 43, 61, 62, 66, 159, 180, 183, 184, 212 & 307)

31. Respondees expressed a preference for site DG-F1(H) to be allocated during the plan period instead of site DG-H1.

32. I acknowledge that the site performed well in the housing site assessment (HSAM) and based on my observations during my site inspection, I consider that the site could be considered as a logical extension of the settlement with site access achieved via Craufurd Drive, immediately to the east of the site. I also observed established residential development to the east, south and southwest boundaries of the site and that residential allocation would be compatible with this surrounding land use context.

33. However, I am keenly aware that the site has been identified for residential development in both the 2010 Local Plan (CD57) and the 2017 Local Development Plan (CD23). The council advised that no application for development had been approved by the time the site assessment process for the proposed plan was carried out in 2021. The council has not advised of any subsequent planning application submission during this examination process. I note that an application for housing on the site was made in 2006 but that this application was withdrawn before it could be determined. Nearly 18 years will have passed since that application, by the time that the local development plan could be expected to be adopted. The effectiveness of sites is one of the key considerations that the council must take into account when preparing the local development plan. Therefore, whilst I can see certain merits in the site as a housing allocation now, I concur with the council that there is logic to substituting certain sites that have not been built out over several plan cycles with sites more likely to come forward with development.

34. As referred to above, site DG-H2 has planning permission for housing and there is a strong possibility that it will be developed during the lifetime of this plan. Its allocation is therefore logical. There are certain factors which favour the allocation of site DG-H1 as a residential site and these are discussed above.

35. In line with the NPF4 infrastructure first principle, the DG-H1 site already has an established site access onto the B730 to the east with road infrastructure already present within the site. The fact that there is adjacent development at Lomond View means that there is likely to be servicing in proximity, associated with the established housing.

36. The existing Lomond View site creates an irregular settlement boundary to the north of the settlement and I consider that the allocation of the DG-H1 site has the



potential to result in a more natural completion of housing to this northern edge of the settlement. The requirement identified in the SEA that any future development of the site should provide an effective landscape framework presents an opportunity to enhance the gateway to the settlement from the north.

37. Reference has been made to the approach of a previous reporter, in considering the adopted East Ayrshire Local Development Plan, whose preference was not to identify 'future growth' areas. Despite that previous approach, I am conscious that NPF4 expects that deliverable land should be allocated to meet the 10 year Local Housing Land Requirement and that areas that may be suitable for new homes beyond 10 years should also be identified.

38. In light of the above, I am satisfied that no change should be made to the plan in respect of allocating site DG-F1(H) instead of DG-H1.

**Reporter's recommendations:**

I recommend that the boundary of site DG-H1 be amended to exclude those areas of public open space as detailed in the site plan (RD10) submitted in representations.

Issue 29	Dalmellington, Dalrymple and Patna – Allocation and non-allocation of sites	
Development plan reference:	Residential allocation DA-H1, PA-H2, business and industry allocation PA-B1(O) and unallocated sites DR-X3 and PA-X1.	Reporter: Steve Field
Body or person(s) submitting a representation raising the issue (including reference number):		
KCS Developments Ltd (72) Mark Gibson (92) Ideal Developments (118)		NatureScot (157) Kevin Galbraith (175) Geoffrey Ellis (224)
Provision of the development plan to which the issue relates:	The inclusion of residential allocations DA-H2, DA-F1(H), DR-H1, PA-H1, PA-H2, PA-H2, PA-H4 and PA-B1(O) and the non-inclusion of sites DR-X3, DA-X1 and PA-X1.	
Planning authority's summary of the representation(s):		
<b><u>GENERAL COMMENTS</u></b>		
<u>Kevin Galbraith (175)</u>		
<p>A housing supply of 40 dwellings over a 10-year plan period in the Doon Valley (only 4 per annum) lacks ambition. Smaller builders and developers in Ayrshire rely on this part of Ayrshire for prospective development land.</p> <p>The Council's strategy is imbalanced and has allocated a considerable volume of land in the northern housing market area which is unfair to communities, which experience significant pressures whilst denying other communities.</p> <p>Requests that additional land is provided and fairly distributed around the Local Authority area, which will have significant advantages.</p>		
<b><u>DALRYMPLE</u></b>		
<b>DR-X3 [New site]: Land to north of Barbieston Road (B7034)</b>		
<u>Kevin Galbraith (175)</u>		
<p>Objects to the PLDP2 in its current form as site DR-X3 is not allocated.</p> <p>Site DR-H1 is not deemed to be effective and is considered unlikely to become effective due to technical factors. <u>(175)</u> provides a series of comments critiquing this site in relation to landownership, requirements in relation to national roads guidelines</p>		

and complications of an intermediate pressure gas pipeline.

Provides comments in relation to the marketability and planning history of DR-X3.

Provides supporting information in relation to site DR-X3 relating to description of land, access, drainage and utilities.

The outcomes of the SEA for site DR-H1, including mitigation, could also be applied to site DR-X3.

**Note:** (175) has provided supporting information in relation to DR-X3, including a site plan, Ayrshire Roads Alliance and Scottish Water comments on a previous planning application and Scottish Gas Record Intermediate Gas Pipeline (Representee Supporting Documents RD65, RD66, RD67, RD68 and RD69).

## **DALMELLINGTON**

### **DA-X1 [New Site]: Ayr Road, Dalmellington**

Mark Gibson (92)

Supports the inclusion of site DA-H1 but suggests that it be enlarged to include the adjoining land between the rear of Bellsbank Crescent and Ayr Road and the Muck Water as well as the site of the former Horn Factory. The extents are illustrated as DA-X1 (See Map 'Issue 29 – Ayr Road, Dalmellington – DA-H1').

Suggests that this is a good site in terms of amenity and could provide good quality low density housing.

**Note:** (92) has provided supporting information in the form of a map to outline the suggested extents (RD11).

### **DA-H2: Gateside Road, Dalmellington**

Kevin Galbraith (175)

(175) makes a series of comments in relation to general site allocations, housing land audit and the programmed deliverability of DA-H2. It is argued that out of the eight sites allocated within Schedule 3 only one (DA-H2: Land at Gateside Road, Dalmellington) is effective in the 2021 housing land audit. (175) argues that if development in accordance with consent (20/0390/PP) commences as programmed then it is likely that the only effective site will be taken up before the final adoption of the PLDP2.

### **DA-F1(H): Saw Mill, Dalmellington**

Ideal Developments (118)

Consider that the site currently merits allocation as a housing development opportunity site, not a future growth site. (118) provides justification for this given its former allocations as a housing development opportunity site (224H) (CD23, Volume 2, page

31), brownfield nature and previous planning consent in 2012/13.  
The market for small rural secondary towns is more difficult than the larger urban areas of East Ayrshire.

The site should be allocated for zero carbon housing with a housing style that will appeal to the smaller housing market sector.

There has been recent interest in the site.

Provides further comments in relation to the Housing Site Appraisal Methodology (CD8) which they wish to be considered.

### **Dalmellington settlement boundary**

#### Ideal Developments (118)

The previous settlement boundary works and should be retained as it provides a stronger definitive boundary.

### **PATNA**

#### **PA-H1: Ayr Road, Patna**

##### KCS Developments Ltd (72)

Makes reference to the Council's Action Programme (March 2022) which states that "*developer has indicated that progress is not imminent*" and that the "*development of other sites preferable*". (72) utilise this to query whether PA-H1 is deliverable.

#### **PA-H2: Carskeoch Caravan Site, Patna**

##### NatureScot (157)

Recommend that the site includes natural flood management and an attractive landscape setting with the existing woodland and water tributaries leading to the Water Doon.

Highlight that development should incorporate multifunctional green and blue infrastructure, in accordance with PLDP2 Policy OS1 in order to deliver positive effects for biodiversity.

It is therefore recommended that the developer site requirements (Volume 2, page 91) be amended to include the provision of a landscape framework that retains and enhances existing features of the site, along with active travel provision to create links into the settlement.

##### KCS Developments Ltd (72)

Highlight that despite the planning history dating back to 2009 (09/0148/OL, 14/0473/PP, and 17/0640/AMCPP) no development has commenced on site. (72)

utilise contents of the Council Action Programme (March 2022) (CD98) to question whether PA-H2 is deliverable.

**PA-H3: Cemetery Road, Patna**

KCS Developments Ltd (72)

Utilise the contents of the Council Action Programme (March 2022) (CD98) to question whether PA-H3 is deliverable.

**PA-H4: Main Street, Patna**

KCS Developments Ltd (72)

Argue that no update is provided within the Councils Action Programme (March 2022) (CD98) and utilise this to question whether PA-H4 is deliverable, given there is no evidence of commencement of the development despite consent being granted in 2007 (07/0891/FL).

**PA-B1(O): Ayr Road Industrial Site (Opportunity), Patna**

Geoffrey Ellis (224)

Raises concerns that no Transport Statement is requested/outlined within the developer requirements. Ayr Road (B713) is a very busy road, which will get busier when certain wind farms are in full operation. Site PA-B1(O) is opposite a "T" junction. (224) has concerns around residential amenity, the unsuitability of factory traffic and road and pedestrian safety with navigating traffic.

**PA-X1 [New Site]: Land to west of Ayr Road, Patna**

KCS Developments Ltd (72)

Requests that a new site be considered for inclusion in LDP2 (PA-X1) for phased residential development to the north of Patna at land west of Ayr Road, outside of but adjacent to the settlement boundary due to its suitability, availability and deliverability and comparable performance to sites PA-H1 to PA-H4. The extents can be viewed in map 'Issue 29 - Land to west of Ayr Road, Patna - PA-X1'.

The site performs favourably compared to the other allocated sites which have been reallocated with limited prospect for delivery in the short or medium-term. (72) expresses concerns around the delivery of housing sites PA-H1, PA-H2, PA-H3 and PA-H4, which is reflected within the housing land requirement, which has been reduced by 51 units from the EALDP (2017) allocations.

The allocation of PA-H1, PA-H2, PA-H3 and PA-H4 illustrate that Patna is a suitable location for future development. Sites PA-H1 and PA-H3, PA-H4 have small indicative capacities and are unlikely to deliver affordable housing within the settlement, nor contribute meaningfully to the housing land supply.

(72) highlights that an element of affordable housing can be delivered through the allocation of site PA-X1 and the land owner is actively interested in the development of this site.

Further detail provided in respect to the characteristics of the site, natural boundaries and constraints (RD147).

**Modifications sought by those submitting representations:**

**DALRYMPLE**

**New Site DR-X3: Land to north of Barbieston Road (B7034)**

Kevin Galbraith (175)

Modify Volume 2, Dalrymple settlement map and associated table (pages 33-34) to – Expand site DR-H1 to include and incorporate DR-X3 and in turn modify the settlement boundary to incorporate DR-X3.

Modify Volume 2, Schedule 3 (page 182-185) to – include DR-X3 as a housing development opportunity with a capacity of 95 dwellings.

Modify the Plan to allocate additional land with a fair distribution across the authority area. Beyond allocation of DR-X3 (as above) no further information provided in terms of which additional sites should be allocated.

**DALMELLINGTON**

**DA-X1 [New Site]: Ayr Road, Dalmellington**

Mark Gibson (92)

Modify site DA-H1 to extend its boundaries to incorporate DA-X1 as illustrated in RD11.

**DA-F1(H): Saw Mill, Dalmellington**

Ideal Developments (118)

Modify Volume 2, Dalmellington Settlement Map (page 31) to allocate DA-F1 (H) as a housing development opportunity site instead of a future housing growth area.

**Dalmellington settlement boundary**

Ideal Developments (118)

Although not explicitly requested, it is presumed that (118) wish for the settlement boundary of Dalmellington to reflect the boundary of Dalmellington as outlined within the EALDP (2017).

**PATNA**

**PA-H2: Carskeock Caravan Site, Patna**

NatureScot (157)

Modify the developer site requirements (Volume 2, page 91) for PA-H2 to include the provision of a landscape framework that retains and enhances existing features of the site, along with active travel provision to create links into the settlement.

Although not explicitly stated, it is presumed that (157) wish for the developer site requirements (Volume 2, page 91) for PA-H2 to be modified to include natural flood management and an attractive landscape setting with the existing woodland and water tributaries leading to the Water Doon.

**PA-B1(O): Ayr Road Industrial Site (Opportunity) , Patna**

Geoffrey Ellis (224)

Preference is to see the removal of site PA-B1(O) as a Business/Industry Development Opportunity Site within Volume 2 settlement Maps.

Alternatively to the removal of PA-B1(O), modify the site requirements within Volume 2 (page 90) to – include a requirement for a Transport Statement to address the concerns laid out within (224) representation.

**PA-X1: Land to west of Ayr Road, Patna**

KCS Developments Ltd (72)

Modify Volume 2 Patna Settlement Map and associated developer requirements section to include site PA-X1 as a residential development opportunity site.

**Summary of responses (including reasons) by planning authority:**

**GENERAL COMMENTS**

Housing Land Supply lacks ambition and is not balanced - (175)

Although the Plan sets out the Council's vision, aims and development aspirations for the period of 2022-2032, the LDP3 will be reviewed and prepared within 5 years of the adoption of PLDP2. The allocation of housing sites is in accordance with the NPF4, which sets out a Minimum All-Tenure Housing Land Requirement (MATHLR) of 4050 dwellings for East Ayrshire, which has been supplemented by an additional 50% generosity. The plan has a housing supply of a housing supply of 187 units in total within the Doon Valley Housing Market Area ranging from the short to long term. While the Council acknowledge the respondent's comments which state that this lacks ambition and is imbalanced, the Council consider that the PLDP2 allocates sufficient land in appropriate locations in order to meet the housing land requirements over the Plan period. The Housing land supply, as set out within the PLDP2, goes above and beyond the MATHLR requirements. The MATHLR represents the Council's ambition to grow the population of East Ayrshire as set out in the MIR (para. 2.5) and Proposed LDP2 Aim 3 (Vol 1, para. 2.2). The Council has provided this additional buffer /



generosity allowance in all parts of East Ayrshire. The 10 year housing land requirement for Doon Valley Sub-Housing Market Area is 90 units; an added surplus of 108% (an additional 97 units) has been allocated within the Plan, resulting in an allocated capacity of 187 units in total. This is to ensure that sufficient land has been made available for development.

Each site proposed for allocation in PLDP2 is considered suitable for development and either sustainable or capable of being made sustainable through appropriate developer contributions and/or environmental mitigation. This applies across East Ayrshire regardless of the location. As such, the Council consider the current housing land allocations within Doon Valley to be generous and more than sufficient. As such, the Council disagree that the housing land supply lacks ambition and is not balanced. It is reflective of need, demand and sustainability and exceeds the MATHLR requirements.

Impact on smaller builders and developers and the request for additional land to be released for development – (175)

The Council acknowledge the comments made by the respondent with regards to smaller house builders and developers relying on Doon Valley for prospective development land. (175) also request that additional land is provided and fairly distributed around the local authority area. In response the Council wish to highlight that prospective developers in the Doon Valley have 9 sites of different sizes (ranging from an indicative capacity of 55 to 4 units) to choose from. Doon Valley sub-housing market area has an allocated capacity of 187 units, 97 units in excess of the MATHLR minimum all-tenure Housing Land Requirement. This is a 108% addition. This is to ensure that sufficient land has been made available for development and gives choice and flexibility to developers. As such, the Council consider that developers have ample opportunity to develop in the Doon Valley Sub HMA should they wish to. In general terms, the Council has taken a proportionate approach to the land allocation, with sites, of differing sizes and characteristics allocated throughout the authority area.

**DALRYMPLE**

**New Site DR-X3: Land to north of Barbieston Road (B7034)**

Allocated DR-X3 as Housing site, and associated settlement boundary amendments - (175)

The site in question was not submitted as part of the Call for Priorities, Issues and Proposal consultation (2017), or at the Main Issues Report consultation stage (Summer 2020). Nor was a submission made to the post MIR Call for Site consultation (Autumn 2020). As such, site DR-X3 was not submitted to the Council for consideration prior to the consultation on the Proposed Plan. The extents of this site can be viewed in map 'Issue 29 - Land to north of Barbieston Road, Dalrymple - DR-X3'. It has not undergone the rigorous assessment process that sites DR-H1, DR-X1 and DR-X2 have undergone. (DR-X1 and DR-X2 were considered earlier in the plan making process, included for allocation with the Proposed Plan). The assessment process included assessing the sites using the housing site methodology process. The outcomes are outlined within the Housing Site Assessment Methodology for Doon Valley (CD17). (175) argues that the allocation of site DR-X3 would alleviate some of the

developmental constraints for site DR-H1 increasing the likelihood of delivery within the Plan period. (175) supports the allocation of DR-H1 if extended to incorporate their proposed new site.

In overall terms, the Council disagrees that site DR-X3 should be incorporated into PLDP2 site DR-H1 and allocated within the PLDP2 as a development opportunity site for housing and that the settlement boundary (Volume 2, page 34) of Dalrymple and Schedule 3 (Volume 1, page 183) be amended to include the site. To ensure that sufficient land has been made available for development, the Council has exceeded the 10 year housing land requirement for Doon Valley Sub-Housing Market Area by 108% (allocating a capacity for 97 additional units).

#### Marketability and planning history of DR-X3 – (175)

The Council acknowledge the comments provided in relation to the marketability of site DR-X3 and DR-H1, such as access, drainage and utilities. Site DR-X3 does have a planning history (04/0136/OL and 07/0360/FL), however, neither application was ever determined by the Planning Authority as they were withdrawn. No further interest in the site has been illustrated, as no further planning applications have been submitted to the Council. As outlined above, this site was not submitted for consideration at the various opportunities for submission during the plan preparation process. The Council do not consider it appropriate to allocate a site which has not undergone the appropriate assessment to determine its merits and constraints. The Council also wish to highlight that the allocation of PLDP2 sites is in accordance with the NPF4 (CD4), which sets out a Minimum All-Tenure Housing Land Requirement (MATHLR) of 4050 dwellings for East Ayrshire, which has been supplemented by an additional 50% generosity. As such, ample housing land has been allocated within the Plan and the additional units that DR-X3 would provide are not necessary to meet the Housing Land Requirement.

#### Environmental Report outcomes for DR-H1 – (175)

The Council acknowledgement the comments raised by the respondent in relation to the outcomes of the Environmental Report of DR-H1 also being applicable to the DR-X3 site. However, DR-X3 has not be subject to a robust Strategic Environmental Assessment given the stage it has been submitted in the Plan preparation process. It will be subject to its own constraints which require thorough assessment and may potentially require mitigation. This would need to be assessed separately. The outcomes of DR-H1 cannot simply be applied to DR-X3.

#### Infrastructure constraints of DR-H1: Burnton Road – (175)

As outlined within the Housing Site Appraisal Methodology (CD8), interest was expressed in the retention of the site at the Call for Sites stage where the owner indicated that the site was under offer from a developer. DR-H1 is considered to be relatively free from constraints and landscape impacts. The respondent states that site DR-H1 is not deemed to be effective and is considered unlikely to become effective due to technical factors. (175) provide a series of comments critiquing this site in relation to landownership, requirements in relation to national roads guidelines and complications of an intermediate pressure gas pipeline for which they claim that the inclusion of DR-X3 will assist with. The supporting information submitted illustrates that

the intermediate pressure mains found within site DR-H1 also extend into site DR-X3. A buffer is required, however, despite this the Council do not consider this to be significant enough to prevent the site from being effective or deliverable. This constraint can be mediated at the design stage, in consultation with the necessary parties where applicable and possible.

Whilst development has not yet occurred on the site, it is evident that the site is capable of being developed; any lack of activity is therefore a consequence of matters outwith the scope of the LDP. That there is competition between such sites throughout central Scotland is considered typical of market forces. The Council maintains its view that the residential allocation of DR-H1 should be retained in its current form.

**Note:** (175) has provided supporting information in relation to DR-X3, including a site plan, Ayrshire Roads Alliance and Scottish Water comments on a previous planning application and Scottish Gas Record Intermediate Gas Pipeline (Representation Supporting Documents RD65, RD66, RD67, RD68 and RD69).

## **DALMELLINGTON**

### **DA-X1 [New Site]: Ayr Road**

#### **Extend boundary of DA-H1 - (92)**

The Council considers the current extents of DA-H1 to be appropriate. The larger site, promoted by 92 (as shown in RD11), was submitted to the Council for consideration during the call for sites (289MIR). This has been assessed through the Housing Site Appraisal Methodology (CD8; CD17) and was considered to be less favourable than other sites. As such, the Council have not pursued its allocation. The Council wish to highlight that the allocation of sites within the PLDP2 is in accordance with the Draft NPF4, which sets out a Minimum All-Tenure Housing Land Requirement (MATHLR) of 4050 dwellings for East Ayrshire, which has been supplemented by an additional 50% generosity. In general terms, the Council has taken a proportionate approach to the land allocation, with sites, of differing sizes and characteristics allocated throughout the authority area and considers the current allocations within Dalmellington to be appropriate.

### **DA-H2: Gateside Road, Dalmellington**

#### **Site DA-H2 taken up before final adoption of PLDP2 - (175)**

(175) makes a series of comments in relation to general site allocations, housing land audit and the programmed deliverability of DA-H2. Arguing that out of the eight sites allocated within Schedule 3 only one (DA-H2: Land at Gateside Road, Dalmellington) is effective in the 2021 housing land audit. (175) argues that if development in accordance with consent (20/0390/PP) commences as programmed then it is likely that the only effective site will be taken up before the final adoption of the PLDP2 (CD99). While the Council acknowledges these comments, whether a site which is allocated is built out is outwith the control of the Council. In specific reference to DA-H2, in the context of Dalmellington and surrounding small settlements, an site with an indicative capacity of 36 houses, is very unlikely to be developed out by the time the Plan is

adopted, given that at the time of writing work has not commenced on site.

**DA-F1(H): Saw Mill**

Allocation of DA-F1(H) as Housing site, and associated settlement boundary amendments - (118)

The respondent considers that the site currently merits allocation as a housing development opportunity site, not a future growth site. The Council acknowledge that the site was formerly allocated as a housing development opportunity site (224H) within the EALDP (2017). There is a planning history on the site (1/0398/PP, 99/0380/OL and 06/0375/FL), however, there has been no interest in the site during the Adopted EALDP (2017) period (2017-2022). For this reason, the Council has allocated the site as a future growth area, rather than housing development opportunity site. The Council disagrees that the site should be allocated as a development opportunity. Within Dalmellington the Council has allocated three sites: DA-H1 (indicative capacity 24), DA-H2 (indicative capacity 36) and DA-H3 (indicative capacity 4). These have been assessed through the Housing Site Appraisal Methodology (CD8; CD17). In general terms, the Council has taken a proportionate approach to the land allocation, with sites, of differing sizes and characteristics allocated throughout the authority area and considers the current allocations within Dalmellington to be appropriate.

The respondent considers that the settlement boundary, as identified within the EALDP (2017) is stronger, more definitive and that it should remain towards the north of the site that they propose for allocation. The Council strongly disagree with the respondent that the settlement boundary should be amended to match the EALDP (2017), as per the comments provided above. The settlement boundary reflects the PLDP2 site allocations and as such, should not be amended.

Marketability and Interest – (118)

The Council acknowledge that there has been recent interest in the site. The Council acknowledge the comments made by the respondent in relation to the market for small rural secondary towns comparative to larger urban areas. The allocation of sites is in accordance with the NPF4 (CD4), which sets out a Minimum All-Tenure Housing Land Requirement (MATHLR) of 4050 dwellings for East Ayrshire, which has been supplemented by an additional 50% generosity. The Council has allocated a number of suitable sites for residential development within the South of the authority, where demand is lower and the market for housing development smaller than the northern settlements in East Ayrshire. The Housing Site Appraisal Methodology (CD8) considers and assesses marketability and site viability of sites allocated and those submitted for consideration at earlier stages in the plan preparation process. The Council consider that the sites which have been allocated within the Plan are the most appropriate.

Allocation for zero carbon housing – (118)

The Council acknowledge the comments provided by the respondent in terms of the house type that should be implemented on site. However, the Council wish to reiterate the points made above and highlight that the sites which have been allocated within the Plan are the most appropriate. In relation to the comments provided on zero carbon housing, the PLDP2 contains Policy RE3: Low and Zero Carbon Buildings (Volume 1,

page 145) which sets a requirement for all new buildings to incorporate low and zero carbon generating technologies into proposals in order to reduce greenhouse gas emissions. As such, this comment would be achieved and covered by the current policy framework of the PLDP2.

#### Housing Site Appraisal Methodology – (118)

The respondent makes further comments on DA-X6 in relation to the Housing Site Appraisal Methodology (CD8; CD17) which they wish to be considered. It is not considered appropriate or necessary to change HSAM scoring at this stage of the Plan preparation process as doing so would have no outcome on the determination made by the Council on the suitability of sites. Whilst the Council acknowledge that the HSAM process is to some extent open to interpretation, it has nevertheless proved a valuable tool to objectively assess and compare sites on a consistent basis. It is also important to note that the allocation of housing sites also took on board internal and external consultation as well as professional judgement. The HSAM score was not therefore considered in isolation. Comment may however be made on comment pertaining to the marketability criterion. In this respect, it should be noted that the HSAM employs the findings of a survey of house builders to determine marketability and regular Housing Land Audit research.

#### **PATNA**

**PA-H1: Ayr Road, PA-H2: Carskeock Caravan Site, PA-H3: Cemetery Road and PA-H4: Main Street (72)**

#### Deliverability of sites PA-H1, PA-H2, PA-H3 and PA-H4 – (72)

The respondent utilises the content of the Councils Action Programme (dated March 2022) (CD98) to query whether sites PA-H1, PA-H2 and PA-H3 are deliverable.

With regards to PA-H1, there has been relatively recent interest in the site (2018). As outlined within the Housing Site Assessment Methodology (CD8), the site is suitably located in terms of access to local services. This is a modestly scaled site with an indicative capacity of 17 units. While the Council acknowledge the short-term delivery of the site is unlikely, the Council still consider the site to be appropriate for residential development and have thus allocated it as a development opportunity.

With regards to PA-H2, conversely, the Council counter-argue that with a planning history dating back to 2009, there is clear interest in the delivery of this site. Although this may not be completed in the short term, the Council believe this to be achievable in the medium term. The Council still consider the site to be appropriate for residential development and have thus allocated it as a development opportunity.

With regards to PA-H3, the Council acknowledge the imminent delivery of the site is unlikely. However, the site is brownfield in nature, located within the settlement boundary and remains suitable for small-scale residential development. The Council still consider the site to be appropriate for residential development and have thus allocated it as a development opportunity.



The respondent argues that the fact that there is no update for PA-H4 suggests that may not be deliverable given that there is no evidence of the commencement of works on site. The application in question (07/0891/FL) was approved in 2008 and the consent has subsequently lapsed. The Council still consider this to be a viable site. It is brownfield in nature and sustainably located within the settlement boundary of Patna. As outlined within the Housing Site Assessment Methodology (CD8), the site is within reasonable walking distance of services in the centre of Patna. As such, the Council consider its allocation for small-scale residential development (indicative capacity 5 units) to be justified.

The allocated sites (PA-H1, PA-H2, PA-H3 and PA-H4) have been environmentally assessment through a Strategic Environmental Assessment (SEA) (CD47, Appendix 11.24: Patna) and the outcome of this used in conjunction with the Housing Site Appraisal Methodology (CD8, CD17), to come to a decision on which sites were suitable for development.

The respondent expresses concerns around the delivery of housing of PA-H1, PA-H2, PA-H3 and PA-H4 which they argue is reflected within the housing land requirement which has been reduced by 51 units from the EALDP (2017) allocations (CD23). In response to this, the Council wish to highlight that the allocation of sites within the PLDP2 is in accordance with the NPF4 (CD4), which sets out a Minimum All-Tenure Housing Land Requirement (MATHLR) of 4050 dwellings for East Ayrshire, which has been supplemented by an additional 50% generosity. In general terms, the Council has taken a proportionate approach to the land allocation, with sites, of differing sizes and characteristics allocated throughout the authority area and considers the current allocations within Patna to be appropriate. The allocations are modestly scaled, located within the established built form of the town and make use of previously developed sites.

## **PA-H2: Carskeoch Caravan Site, Patna**

### Developer Requirements: Suggested modifications (157)

The respondent suggests modification of the developer requirements for site PA-H2 to include the provision of a landscape framework that retains and enhances existing features of the site, along with active travel provision to create links into the settlement. As outlined within the developer requirements (general) for PA-H2 (Volume 2, page 91), any subsequent application will need to address the mitigation measures as outlined within the Strategic Environmental Assessment for the site, this is also a requirement of Policy SS2 criterion (vii). The Council suggest updating the “Mitigating Impacts on Natural Features” section of the SEA site proforma for PA-H2 to incorporate these comments. This should adequately address the points raised by (157).

Although not explicitly stated, it is presumed that (157) wish for the Developer Requirements (Volume 2, page 91) for PA-H2 to be modified to include - natural flood management and an attractive landscape setting with the existing woodland and water tributaries leading to the Water Doon. The PLDP2 contains a robust and effective policy framework which will ensure that these comments are integrated into the site, most notably policies SS1, DES1, OS1, OS2, NE1 and CR1. For example, Policy OS1 requires development proposals to incorporate multi-functional green space which

provides water management, access network, habitat enhancements and open space functions. Policy DES1 requires development proposals to demonstrate the Six Qualities of Successful, including as outlined within 1.2 reflecting ***“the characteristics of the site and its context, safeguarding and enhancing features that contribute to the heritage, character, local distinctiveness and amenity, including the natural and built environment, vistas, landscape and streetscape”***.

#### Accordance with Policy OS1 (157)

The respondent highlights that the development should incorporate multifunctional green and blue infrastructure, in accordance with PLDP2 Policy OS1 (page 64) in order to deliver positive effects for biodiversity. Any subsequent proposal which is submitted in relation to PA-H2 will be assessed against the requirements of policy OS1.

#### **PA-B1(O): Ayr Road Industrial Site (Opportunity) , Patna (224)**

##### Removal of the allocation (224)

The Council notes the preference of 224 to remove the site allocation entirely from the Plan. In response, the Council is of the view that it is important to retain the site as one of only a few sites with opportunity for business and industrial development within the Doon Valley. The review of business and industrial land in East Ayrshire (CD50) was commissioned to inform LDP2 scored the site as 16 within its assessment, classed as being *‘a good strategic fit, providing an opportunity for local employment/industry with some businesses already established on many of the sites.’* It is considered important to retain this opportunity site, which sits adjacent to an existing industrial occupier to provide space for new business/industrial investment.

##### Setting the PA-B1(O) – (224)

The respondent provides a series of comments in relation to the surrounding area and setting of PA-B1(O) in relation to the road network. The Council acknowledge these comments. The Council would advise the Reporter that the Ayrshire Roads Alliance has not raised any objections to PA-B1(O) in Patna. Any constraints regarding the existing road network, traffic and pedestrian safety would be addressed through any subsequent application submitted for consideration to the Council. Ayrshire Roads Alliance would be consulted on the application and would raise any concerns that they may have regarding the proposal at that time. Any application would be assessed on a case-by-case basis and on its individual merits.

##### Pedestrian safety – (224)

The Council would advise the Reporter that the Ayrshire Roads Alliance has not raised any objections to PA-B1(O) in Patna and note that the site is an existing allocation within the adopted LDP (2017). Any constraints regarding the existing road network, traffic and pedestrian safety would be addressed through any subsequent application submitted for consideration to the Council. Ayrshire Roads Alliance would be consulted on the application and would raise any concerns that they may have regarding the proposal at that this time. Any application would be assessed on a case-by-case basis and on its individual merits.



### Residential amenity – (224)

The respondent raises concerns around residential amenity. Policy RES3 of the PDP2 seeks to protect and enhance residential amenity. Criterion (i) sets a presumption against ***“the establishment of non-residential uses within, or in close proximity to, residential areas which are likely to have detrimental effects on local amenity and cause unacceptable disturbance to local residents”***. As such, the Council consider the current wording of the PLDP2 to address the concerns raised by respondent (224) with regards to residential amenity. Should development come forward, the nature, scale and design would need to be appropriate to meet this requirement of policy RES3.

### Developer Requirements: Transport Assessment (224)

The respondent suggests that the need for a Transport Assessment be added to the Developer Requirements (Volume 2, page 90). Policy T1 (page 135) requires developers to meet a series of criteria, including ensuring “their proposals meet with all the requisite standards of the Ayrshire Roads Alliance and align with National Transport Strategy 2, in particular the sustainable travel hierarchy, and the emerging Regional and Local Transport Strategies as well as taking into consideration draft NPF4 national planning policy”. The Policy also outlines that “where a proposed new development or change of use is likely to generate a significant increase in trip numbers, a Transport Assessment will be required”. Within the current content of PLDP2 Volume 2 PA-B1(O) developer requirements (general) (page 90), the Council outline that “TA: The development must submit a Transport Assessment in respect of any detailed development proposal for the site”. As such, the Council considers that the comments provided by the respondent will be appropriately addressed through the currently policy framework and general developer requirements for the site.

### **PA-X1: Land to west of Ayr Road, Patna (72)**

#### Promotion of new site for residential development opportunity (PA-X1) – (72)

(72) promotes the development of a 20ha site (PA-X1), with no stated or suggested capacity, located to the west of Ayr Road and bordering the norther extents of the settlement of Patna. This site is not proposed for allocation within the PLDP2. (72) state that this site is suitable, available and deliverable in the short to medium term. The landowner is actively interested in the development of this site.

The Council agree with the respondent (72) that the allocation of four residential sites within Patna illustrates that the settlement is suitable for future development. The allocated sites (PA-H1, PA-H2, PA-H3 and PA-H4) have been environmentally assessment through A Strategic Environmental Assessment (SEA) (CD47) was carried out and the outcome of this used in conjunction with the Housing Site Appraisal Methodology (CD8, CD17), to come to a decision on which sites were suitable for development. In addition, the sites are small in scale, make use of previously developed land and therefore respect the size and built form of the settlement.

The respondent expresses concerns around the delivery of housing of PA-H1, PA-H2,

PA-H3 and PA-H4 which they argue is reflected within the housing land requirement which has been reduced by 51 units from the EALDP (2017) allocations (CD23). In response to this, the Council wish to highlight that the allocation of sites within the PLDP2 is in accordance with the NPF4 (CD4), which sets out a Minimum All-Tenure Housing Land Requirement (MATHLR) of 4050 dwellings for East Ayrshire, which has been supplemented by an additional 50% generosity. In general terms, the Council has taken a proportionate approach to the land allocation, with sites, of differing sizes and characteristics allocated throughout the authority area and considers the current allocations within Patna to be appropriate.

(72) argue that the site performs favourably compared to the other allocated sites, which have been reallocated with limited prospect for delivery in the short or medium-term. It should be highlighted that unlike the sites detailed in the Housing Site Assessment Methodology (CD8), the site in question has not been subject to assessment and discussion within the planning service or with internal and external consultees in order to arrive at a view as to its suitability for allocation. The respondent has provided no details to support its identification in terms of determination of environmental constraints or other factors that might establish its suitability, apart from the detail that the site is flat and a small area is subject to flood risk from the River Doon.

Whilst the Council acknowledges that the scale of PA-X1 (20ha) would be able to facilitate and deliver affordable housing on site. Policy RES2 only requires proposals to incorporate affordable housing on sites of 30 or more dwellings within the Kilmarnock and Loudoun sub-housing market area. The affordable contribution was determined according to a method set out in the LDP2 Housing Technical Paper (CD34). The Council believes that the affordable proportion presented is reasonable given where housing need and demand is most heavily concentrated within East Ayrshire i.e. the Kilmarnock and Loudoun sub-housing market area. As such, the Council are not concerned that PA-H1, PA-H2, PA-H3 and PA-H4 are not required by the Plan to deliver affordable housing.

Whilst a detailed assessment of the characteristics of the site is not possible at this stage, a number of comments may briefly be made. Although no indicative capacity is provided, given the scale of the site (20ha) it can be determined that the proposed site would result in a significant extension to the scale of the settlement of Patna. Sites PA-H1, PA-H2, PA-H3 and PA-H4 are all contained within the settlement boundary of Patna and respect the existing built form of the town. Although it is acknowledged that PA-H1 and PA-H2 edge the settlement boundary, PA-H3 and PA-H4 do not. The extents of PA-X1, if developed, would result in near coalescence between the settlement of Patna and Polnessan. The site is contained within the CSGN neutral grassland network, wetland network and woodland network. The site is also found within the Local Landscape Area, as identified within the PLDP2. The site is subject to low-high fluvial flood risk immediately adjacent to the River Doon.

With the above factors taken into consideration, the Council is of the view that site PA-X1 should not be allocated for residential development.

**Reporter's conclusions:**

**GENERAL COMMENTS**

Housing land supply lacks ambition and is not balanced – (175)

1. At Issue 17 my colleague found that the housing land allocation made in the plan was more than sufficient to meet the minimum all tenure housing land requirement, and that there was no need to allocate additional sites. He also found that the distribution of the housing allocation between the three sub-housing market areas appears to have been based on a robust approach, and is broadly in line with existing population levels and evidence of need and market demand. Issues in relation to individual sites in Dalmellington, Dalrymple and Patna are addressed below. I conclude that a modification to the proposed plan is not required to address this representation.

Impact on smaller builders and developers and the request for additional land to be released for development – (175)

2. The proposed plan allocates nine sites with capacities ranging from four to 55 houses across the Doon Valley. This provides more than double the numbers required by the minimum all-tenure housing land requirement (MATHLR). These sites are distributed between three communities. Some are greenfield in nature and some brownfield. I am satisfied that this provides an appropriate level of choice and opportunity for smaller house builders. I consider that a modification to the plan is not required to address this matter.

**DALRYMPLE**

**New site DR-X3: land to north of Barbieston Road (B7034)**

Allocate DR-X3 as housing site, and associated settlement boundary amendments – (175)

3. In terms of residential land supply, I refer to my general conclusions above which apply in Dalrymple, as elsewhere in the Doon Valley. I also note from the council's housing site appraisal that recent developer interest has been reported in the allocated site at Burnton Road (DR-H1) and that the representation describes Dalrymple as a 'proven marketable location' and 'an attractive and appealing village, located close to the larger town of Ayr'.

4. It is suggested that extension of the allocated site to include the proposed Barbieston Road site (DR-X3) would make the allocated site more attractive to developers by making it more efficient to provide site access and sustainable urban drainage as well as addressing the constraint created by the presence of a gas pipeline. However, the site appraisal of the allocated site does not reveal any insurmountable infrastructure constraints. Detailed consideration of these issues can only be achieved through the planning application process.

5. Due to the timing of the Barbieston Road proposal, the site has not been assessed through the council's site appraisal process. Although some conclusions may well be

common to both sites, I do not accept that one can reliably read over outcomes for the allocated site to the proposed site.

6. I conclude that:

- sufficient land has been allocated for housing land in Dalrymple;
- the allocated site at Burnton Road is, in principle, capable of development;
- detailed site layout issues are a matter to be considered through an application for planning permission; and
- in the absence of a formal site appraisal consistent with that carried out for the allocated and other proposed sites in the village, it is not appropriate to draw firm conclusions about the suitability of the Barbieston Road site.

7. I conclude overall that a modification to the plan is not required to address this issue.

## **DALMELLINGTON**

### **DA-X1 [new site]: Ayr Road**

#### **Extend boundary of DA-H1 – (92)**

8. The proposed site extension (DA-X1) shares some of the characteristics of the adjacent allocated site at Ayr Road (DA-H1). It is located within the settlement boundary, is well located in relation to local facilities, it is partially brownfield and vehicular access can be taken from Ayr Road. The proposed site also has a similar risk of flooding as the allocated site.

9. However, as I have concluded above (under ‘General Comments’) in relation to a representation on housing land allocations in Dalrymple, I find that the housing land allocation in the Doon Valley complies with the housing land requirement set out in NPF4. In Dalmellington, this comprises the allocation of a 1.0 hectare site at Ayr Road (24 units), a 0.8 hectare mixed use site in Croft Street (19 units – my estimate), a 3.9 hectare site at Gateside Road (36 units) and a 0.1 hectare site in High Street (four units). I am satisfied that this provides a reasonable range of opportunities for developers.

10. Nonetheless, I consider that the small part of the proposed extension site, described as the site of the Horn factory, which fronts onto Ayr Road and is located between the allocated site and the filling station would be best developed as part of the allocated DA-H1 site rather than developed in isolation. This would make a marginal difference to the amount of housing land available in Dalmellington but would remove a brownfield site and, by unifying this small area with the allocated site would provide an opportunity to create a design and layout more befitting this prominent main road location through the town than if it that part of the proposed extension site was to be developed at a later date.

11. I conclude that a modification is required to allocate the isolated, north-western part of the proposed DA-X1 site. I have made a recommendation below to address this.

## **DA-H2: Gateside Road, Dalmellington**

### Site DA-H2 taken up before final adoption of PLDP2 – (175)

12. It is stated that the site has planning permission for 60 houses (compared with the indicative capacity in the proposed plan of 36 houses) with 26 completions anticipated in the 2021 housing land audit during the period March 2022 to March 2023. At the time of my site inspection in June 2023, there was no evidence of development having begun. I do not have evidence detailing recent completion rates in the town but consider it unlikely the site will be taken up by the time the proposed plan is adopted. Once started, with the build rate suggested in the housing land audit, the site would take more than two years to complete.

13. I conclude that it is not necessary to modify the proposed plan to address this matter.

## **DA-F1(H): Saw Mill**

### Allocation of DA-F1(H) as housing site, and associated settlement boundary amendments – (118)

14. I have concluded above (under the heading 'General Comments') that the housing land allocation in the Doon Valley complies with the housing land requirement set out in NPF4. Apart from the adjacent, allocated Gateside Road site, other allocated sites in Dalmellington provide capacity for around 47 new houses. It is stated in the representation that, although now improving, the housing market in communities in the Doon Valley has proved more difficult for developers than in the main urban parts of East Ayrshire.

15. I conclude from this that there is no need for the proposed plan to allocate additional housing sites. Given the sawmill site was included in the 2017 local development plan without development commencing, I consider that identification as a future housing growth site strikes a reasonable balance between its evident suitability for house building and the desire to see progress made on the council's preferred sites before making an additional land allocation.

16. I accept the council's advice that proposed plan Policy RE3: Low and Zero Carbon Buildings provides scope to ensure that any new housing on the site would be of sustainable design and construction and that a specific allocation would not be required to achieve this.

17. I do not consider it appropriate for me to revisit the housing site appraisal. This would potentially introduce a degree of inconsistency to the appraisal process and would not enable consultees to contribute.

18. I conclude that it would not be appropriate to modify the proposed plan to include the proposed site.

### **Dalmellington settlement boundary**

19. Having concluded that it is not necessary to modify the proposed plan to include the sawmill site (DA-F1(H)), I also conclude, for the same reasons, that it is not necessary to modify the plan to show the settlement boundary drawn along the northern edge of the site.

### **PATNA**

#### **PA-H1: Ayr Road, PA-H2: Carskeock Caravan Site, PA-H3: Cemetery Road and PA-H4: Main Street**

#### **Deliverability of sites PA-H1, PA-H2, PA-H3 and PA-H4**

20. I have noted above the reporter's conclusions at Issue 16 of this report, which deals with general housing issues, that the proposed plan complies with the housing land requirement set out in NPF4 and that no modification to the plan is required to increase the housing land supply. This applies to Patna, along with the other communities in the Doon Valley Sub-housing Market Area.

21. The proposed Ayr Road site (PA-H1) is partly brownfield in nature, development would not extend the northern extent of the village along Ayr Road, the main road location provides good accessibility to the wider village and the council advises that any flood risk from the River Doon could be dealt with through the planning application process. Although development has not started on site, there has been a relatively recent planning permission for the site (2018).

22. The proposed Carskeock Caravan Site (PA-H2) is partially brownfield in character, is well located for access to local facilities and the council reports recent discussions (2023) with a developer or landowner seeking approval for matters specified under a planning permission in principle. I consider that the reduction in indicative capacity from 160 houses stated in the adopted plan to 40 houses in the proposed plan is an appropriate reflection of the undulating nature of the site and the presence of some significant areas of woodland.

23. The proposed Cemetery Road site (PA-H3) is a small brownfield site within the existing village which is well situated for local facilities. The unkempt nature of the site detracts from the setting of the cross on the Main Street frontage and the approach to the cemetery. Planning permission was granted in 2017 for six houses.

24. Notwithstanding the comments in the council's Action Programme that development of other sites would be preferable to the development of these sites, for the reasons I have outlined above, I consider that the conclusion made in the housing site appraisal methodology that the sites should be remain allocated in the proposed plan is reasonable.

25. The proposed Main Street site (PA-H4) is a small brownfield site within the existing village which is well situated for local facilities. The scruffy nature of the site detracts from the visual amenity of both the Main Street and Whitehill Drive. Planning permission granted for six houses in 2008 has lapsed. It is suggested that the lack of



an update in the council's Action Programme indicates that there is no prospect of early development of the site. However, for the reasons I have outlined, I consider it appropriate to allocate the site in the proposed plan.

26. None of these sites is required to make a contribution to affordable housing provision. However, proposed plan Policy RES2: Affordable Housing only requires provision of affordable housing in the Kilmarnock and Loudon sub-housing market area, where evidence of need is identified in the council's Housing Technical Paper. In the absence of a demonstration of such need in Patna, I am satisfied that there is no requirement on developers of sites in the village to provide affordable housing.

27. I conclude that it is not necessary to modify the proposed plan to reflect concern about the deliverability of the sites allocated in Patna.

## **PA-H2: Carskeoch Caravan Site, Patna**

### Developer requirements: suggested modifications (157)

28. Section (vii) of proposed plan Policy SS2: Overarching Policy requires developers to implement the relevant enhancement and mitigation measures contained within the Environmental Report where required in volume 2 of the proposed plan.

29. The developer requirements (general) set out for the site in volume 2 include advice that the site is subject to risk of flooding, so developers should make early contact with the Scottish Environment Protection Agency and the Ayrshire Roads Alliance flooding officer, and a requirement on the developer to provide the mitigation and/or enhancement measures in the Environmental Report.

30. Section 1.3 of proposed plan Policy DES1: Development Design requires that new landscaping and green infrastructure must integrate with and expand any existing green infrastructure in a cohesive manner, maximising the extent to which green infrastructure elements are connected to one another and to the wider green and blue network. Design Supplementary Guidance expands on this requirement.

31. Proposed plan Policy OS1: Green and Blue Infrastructure sets out policy requirements for the design of green and blue infrastructure in relation to water management, habitat enhancement, contribution to the access network, open space and management and maintenance.

32. I consider that read together, these policies, along with others highlighted by the council (Policies SS1, OS2, NE1 and CR1), will enable the council to ensure that development of the site protects and enhances the existing landscape setting, includes natural flood management, has a positive impact on biodiversity and provides active travel links to the village. Reiteration of these policy requirements as site specific developer requirements would be duplicative and make the plan less concise.

33. The council suggests updating the 'Mitigating Impacts on Natural Resources' section of the strategic environmental assessment (SEA) site proforma for PA-H2 within the environment report to incorporate NatureScot's comments. Recommending modification of the SEA is not within the scope of this examination but I accept that this



would provide useful guidance for anyone with an interest in the site. Policy SS2(vii) of the plan requires developers to implement the relevant enhancement and mitigation measures contained in the environmental report.

34. I conclude that it is not necessary to modify the proposed plan to provide detailed developer requirements for site PA-H2.

### **PA-B1(O); Ayr Road Industrial Site Opportunity, Patna (224)**

#### Removal of the allocation (224)

35. The site was assessed in a review of business and industrial land supply commissioned by the council in 2021. Using a scoring system where the highest rated site scored 25 and the lowest rated site scored 11, the Ayr Road site scored 16, placing it in a middle range of sites scoring between 15 and 19. The consultants describe the sites in this grouping as being 'a good strategic fit, providing an opportunity for local employment/industry with some businesses already established on many of the sites'. An existing business premises adjoins the Patna site to the south-east. As the only employment site allocated in the Doon Valley, I consider it is in the interests of sustainable planning to allocate the site for employment use.

36. The general developer requirements for the site identified in volume 2 of the proposed plan include the need for a transport assessment. This is a more thorough assessment of the transport implications of development than a transport statement which would be used to assess proposals anticipated to have moderate levels of trips and when no major transport impacts are expected. This is in line with proposed plan Policy T1: Transport Requirements in New Development which states that 'where a proposed new development or change of use is likely to generate a significant increase in trip numbers, a transport assessment will be required'.

37. I consider that this would enable the council to address satisfactorily concerns about potential impact of development on the road network, including concerns relating to pedestrian safety. I also note that the Ayrshire Roads Alliance, the council's professional advisor on transport matters, has not objected to the proposed allocation. The Ayrshire Roads Alliance would also be consulted on any planning application, including the accompanying transport assessment.

38. The proposed site is flanked by housing to the north-east of Hillside and to the south-west of Stewart Place so protection of residential amenity will potentially be an issue in the evaluation of any detailed proposals. Section (i) of proposed plan Policy RES3: Residential Amenity sets out a general presumption against the establishment of non-residential uses in close proximity to residential areas where this would be likely to have detrimental effects on local amenity and cause unacceptable disturbance to local residents. Based on the definition in The Town and Country Planning (Use Classes) (Scotland) Order 1997, business uses are capable of being carried on in a residential area without detriment to amenity. I consider Policy RES3 provides a suitable policy framework for dealing with any proposals for industrial development.

39. I conclude that it is not necessary to modify the proposed plan either to remove the allocation of the Ayr Road employment site or to change the developer

requirements.

Promotion of new site for residential development opportunity (PA-X1) – (72)

40. Having concluded above that it is not necessary to modify the plan to increase the housing land supply generally or to delete proposed sites in Patna, it is not necessary to consider in detail the potential allocation of the site to the west of Ayr Road (PA-X1). In any case, I note that the proposed site has not been assessed on the same basis as the allocated sites and has not been subject to the same community and technical consultations, meaning that an even-handed comparison would not be possible. Paragraph 260 of the Scottish Government's Local Development Planning Guidance states that it is not expected that the reporter will recommend the addition of any site into the plan that has not previously been subject to SEA and consultation.

41. In particular, the council has raised potential issues in relation to the scale of the proposed extension in relative to the size of the settlement, potential coalescence, biodiversity and landscape impact and flood risk. All these matters would require to be the subject of more information, consultation and analysis before the proposed site could be considered for development.

42. I conclude that it is not appropriate to modify the plan to allocate a new site for development at Ayr Road, to the north of Patna.

**Reporter's recommendations:**

I recommend that the DA-H1: Ayr Road site, shown on the Dalmellington and Burnton settlement map, be extended to include that part of the proposed DA-X1 site which immediately adjoins the allocated site to the south-east. I also recommend that the site area and indicative housing capacity shown in the proposed plan is adjusted accordingly.

For the avoidance of doubt, this recommendation does not include the larger part of the proposed DA-X1 site situated between the houses fronting onto Ayr Road/Bellsbank Crescent and the Muck Water.

Issue 30	Dunlop	
Development plan reference:	Residential allocation DU-H1	Reporter: Stephen Hall
Body or person(s) submitting a representation raising the issue (including reference number):		
<div><div>Helen Stuart (13) Margaret Graham (17) Alasdair Sampson (23) Anne Sampson (24) Ross Mitchell (30) Jacqueline Gillon (48) David Gillon (49) Amy Mitchell (50) Margaret Galt (52) Grant Blackwood (53) Robyn Mitchell (54) Robert Mitchell (57) Euan Mitchell (58) Lesley Noel Campbell (67)</div><div>Anthony Brannan (68) Fallon McNulty (83) Elsie Cook (84) Dannii Hamilton (85) Marsha Burke (87) A. Taylor (104) Agnes Monk (130) David Thomson (136) Katrina Harris (139) David Graham (148) C Glen (182) Dunlop and Lugton Community Council (240) Joan Wilson (280) Stephanie Craig (315)</div></div>		
Provision of the development plan to which the issue relates:	The inclusion of opportunity site in Dunlop: DU-H1 and the wording of the associated site requirements (Volume 2, Page 41-42).	
Planning authority's summary of the representation(s):		
<p><b>DU-H1 – West View Terrace, Dunlop</b></p> <p><u>Heritage and potential effects on Conservation Area and Listed Building(s) - (104), (130), (136), (182), (240)</u></p> <p>Dunlop is primarily a conservation village with many listed buildings.</p> <p>(240) argues that the site has the same boundary as an A listed building (Kirkland House - one of the oldest unfortified houses in Scotland).</p> <p>(130), (136) Kirkland House is an important part of Dunlop's heritage.</p> <p>(136) The adjoining field (which encompasses DU-H1) should be rigorously protected from development.</p> <p>(136) proximity of the site to the conservation area renders the site inappropriate.</p> <p>(130) Westview Terrace is a key view towards Kirkland House which the development of</p>		

DU-H1 would impinge on, having adverse impacts on the setting of the listed building.

(104) and (182) suggest that there are alternative sites more suitably located away from the historic features of Dunlop.

Negative impact on wellbeing – (139), (182), (222)

DU-H1 will have a negative impact on the wellbeing and lives of existing residents in Dunlop.

Constraints: Lack of facilities, services and infrastructure – (52), (104), (148), (182), (207), (240), (280), (315)

(52) states that the school is at capacity.

(104) and (182) highlight that there is a lack of facilities within Dunlop, including medical and dentist surgeries.

(104) and (182) outline that the nearest town, Stewarton, has experienced significant growth but not in terms of service provision which in turn impacts surrounding communities.

(148) concern that development at DU-H1 will have detrimental impacts on capacity at the local schools.

(240) argue that the statement from the Housing Site Appraisal Methodology “*any development in Dunlop will be closely associated with constraints experienced by infrastructure, in the settlement itself and in nearby Stewarton*” should preclude any site within Dunlop from allocation.

(207) Development of sites in Stewarton will have a knock on impact on Dunlop residents, children in Dunlop will not be able to attend Stewarton Academy as students from Stewarton will be given priority.

(207) Dunlop parents do not wish their kids to be bused to Kilmarnock to attend school, it is their entitlement get an education within Stewarton.

(280) There are no sporting facilities locally. (280) provides examples, including swimming pool, cycle tracks, pavements to encourage people to cycle to nearest facilities.

(280) Lack of amenities and facilities to meet the needs of vulnerable or disabled persons, with Kilmarnock being listed as the closest facility.

(280) residents deserve more facilities.

(315) Local services and amenities are already struggling, development of DU-H1 would worsen existing problems.

Waste & Wastewater Capacity – (315)

Current wastewater capacity is limited and additional development would place further strain on this.

Parking, road network and road safety – (104), (130), (136), (148), (182), (315)

(104), (182), (130) highlights that lack of parking is an issue in the village.

(104) highlights that public transport is unreliable.

(104), (148) states that the road network cannot accommodate existing traffic.

(315) states that road access for the site is not suitable to withstand additional traffic.

(130), (139), (222) Development of DU-H1 would have significant impact on road traffic.

(130) Development of DU-H1 will result in additional on-street parking being required

(130) expresses concerns over road and pedestrian safety.

(136) expresses concerns that the development of DU-H1 will result in increased speeding.

(182) expresses concerns over single file traffic and potential damage to listed buildings.

Pollution – (104), (136), (139), (182), (222)

(104), (136), (182), (222) express concerns over air and noise pollution.

Prioritise old and dangerous buildings – (182)

The Council should prioritise old and dangerous buildings ahead of new sites to improve the urban environment.

Agricultural land – (136), (315)

(315) argues that this land was only ever intended for agricultural land and that it is a historic piece of agricultural land.

(136) argues that the land should remain only for agricultural purposes and animal grazing.

Nature Conservation, Biodiversity and loss of natural features – (52), (87), (136), (139), (148), (182), (222), (315)

(87), (136), (139), (148), (182), (222) - Raise concerns that the development of DU-H1 will have adverse impacts on wildlife, most notably birds. (148) highlights particular species, including migratory birds as well as Redwing, Fieldfare and Blackbirds. (222) also highlights particular species including tawny owls. (315) highlights an extensive list

of species, including bats.

(52) and (315) highlight that this proposal will result in the loss of natural features.

(139), (222) highlight that wildlife is plentiful in the surrounding area.

(136) landscape value of site is significant in terms of wildlife (birds, mammals and insects).

(182) impact on trees which are 100 plus years old.

#### Landscape and character – (87), (130), (136)

(136) Development of DU-H1 would result in the irreversible loss of landscape.

(87), (130) Development and allocation of DU-H1, and associated settlement boundary adjustments, is detrimental to the appearance of the character of the village.

(315) Development of DU-H1 would negatively change the character of the local village without offering positive changes.

#### Protection of Urban Landscapes – (315)

(315) suggests that LDP2 is failing to meet the European Landscape Convention 2000 which promotes the protection of urban landscapes.

#### Greenspace – (139), (222), (315)

(139) and (222) highlight how important green space is for all.

(315) states that the site is recognised within LDP2 as greenspace.

#### Housing Site Methodology – (240)

(240) criticises the Housing Site Methodology outcomes in relation to heritage assets and landscape character and townscape.

#### Housing Land Requirement – (240)

(240) highlights that the DU-H1 site makes minimal contributions to the housing land supply and is insignificant in terms of meeting it.

(240) highlights that there are ongoing small-scale applications for residential development that will deliver on the scale of DU-H1.

#### Supported housing/assisted living – (280)

(280) asks where is the supported housing/assisted living accommodation in the new housing projections.

Deliverability – (240)

(240) – Utilises NatureScot comments to argue that development of site DU-H1 will be challenging with implications on delivery.

(240) – Argues that site specific requirements for DU-H1 make the site difficult to deliver and therefore unattractive to develop.

Precedent for future development – (130), (136), (240)

(136), (240) Development of DU-H1 would set a precedent for future development westwards.

(130) The existing EALDP (2017) settlement boundary follows clearly defined features, however, the PLDP2 boundary does not and (130) has concerns that this will lead to future applicants seeking to develop the remnants of the field.

Loss of amenity to existing residents – (30), (87), (136)

(136) Development of DU-H1 will result in a loss of amenity.

(87), (136) Site utilised for amenity purposes including walking and horse-riding.

(30) Reduction of walking opportunities has an adverse impact on the amenity, health and safety.

Active travel networks – (13), (17), (23), (24), (30), (48), (49), (50), (53), (57), (58), (60), (67), (68), (83), (84) and (85)

LDP2 does not accurately reflect existing rights of way and other existing paths around Dunlop resulting in a reduction of the active travel network.

LDP2 proposes no improvements to active travel networks in relation to Dunlop.

There is no footpath connectivity between Stewarton, Dunlop, Fenwick and Kilmaurs.

Recommend that further walkable routes be identified and signposts erected.

Recommend making compulsory path orders to reinstate old paths.

Recommend broadening the verge on the road from Stewarton to Dunlop.

(13), (17), (23), (24), (53), (60), (67), (68), (83), (84) and (85) argue that identified proposed cycle paths and core walking routes only match existing B class road network.

(13), (17), (23), (24), (30), (53), (53), (57), (58), (60), (67), (83), (84) and (85) LDP2 focuses exclusively on local paths and ignores all other walking and cycling opportunities.



(13), (17), (23), (24), (53), (60), (68), (83), (84) and (85) highlight that the circular walk from Dunlop to Dunlop House, High Gallowberry and Commoncraig and associated rights of way are absent from the Plan.

(13), (17), (23), (24), (53), (60), (68), (83), (84) and (85) LDP2 does not identify the walking route from Stewarton to Dunlop along the A13, an identified Core Path.

(13), (17), (23), (24), (53), (60), (68), (83), (84) and (85) LDP2 identifies the Stewarton Academy Cycle Route A4, however, there are other minor roads suitable for cycling. (60) provides details relating to suggestions on this matter.

(67) recommends that further walkable routes be identified.

### **Issues Raised in Relation to Non-Planning Related Matters**

#### Loss of views - (87), (104), (136), (148), (240)

Development at DU-H1 will result in loss of views from properties.

#### Property Value - (148)

Development at DU-H1 could have a negative impact on property values in the area.

#### Enforcing Rights of Way– (13), (17), (23), (24), (30), (48), (49), (50), (53), (57), (58), (60), (67), (68), (83), (84), (85) and (136)

East Ayrshire Council has not utilised its rights to enforce Rights of Way which has reduced walking opportunities.

**Note:** There are further details within representation (139) that include photographs of: the hedge at Westview which should be the limit line for development, Kirkland House in winter, an Oak tree and the view from Westview Terrace towards Kirkland House (See supporting document RD39). The representation (139) also contains petition with 137 signatures (See supporting document RD38)

### **Modifications sought by those submitting representations:**

#### **DU-H1 – West View Terrace, Dunlop**

(52), (87), (104), (130), (136), (139), (148), (182), (222), (240) and (315) object to the development of the site and otherwise wish for it not to be allocated in LDP2.

Although not explicitly stated, it is presumed that respondents (23), (24), (30), (48), (49), (50), (53), (57), (58), (60), (67) and (68) wish for Figure 10 to be modified to incorporate more core paths and rights of way, including but not limited to: the circular walk from Dunlop to Dunlop House, High Gallowberry and Commoncraig as well as the walking route from Stewarton to Dunlop along the A13.

**Summary of responses (including reasons) by planning authority:**

**DU-H1 – West View Terrace, Dunlop**

Heritage and potential effects on Conservation Area and Listed Building(s) - (104), (130), (136), (182), (240)

The Council recognises that Dunlop has a Conservation Area with a number of 'B' and 'C' category listed buildings, as well as a single 'A' category listed building (Kirkland Coach House). Respondents (130), (136) and (240) raise concerns over the impact that the development of DU-H1 would have on the setting of Kirkland House. The Council acknowledge the heritage value of this building in its own right and in relation to the whole village. However, the Council disagrees that the designation and subsequent development of DU-H1 will have adverse impacts on this asset. DU-H1 has an indicative capacity of 6 units and is a very modestly scaled site (only 0.2 ha).

Volume 2 of the PLDP2 (page 41) sets out site-specific requirements for developers to ensure that development proposals ***“should demonstrate cohesion with the existing built environment to the north and east”***. It also requires that the ***“semi-natural woodland that bounds the site to the south and east contributes to the landscape framework and should be enhanced...”*** Policy SS2: Overarching Policy (Volume 1, page 20), criterion (vii) provides a policy hook within which development proposals need to make considerations and provisions in relation to the contents of the Proposed Plan Environmental Report, stating development proposals are required to ***“implement the relevant enhancement and mitigation measures contained within the Environment Report where required in Volume 2 of the LDP2”***. In relation to DU-H1, the Environment Report, environmental impacts are categorised as being “significant negative”.

The Council disagrees that proximity to the Conservation Area or listed building makes the principle of development of the site inappropriate. Other policies in the Plan will allow any proposal to be assessed in terms of impacts on the listed building and conservation area – for example policy HE1: Listed Buildings allows for consideration of the setting of the building, and policy HE2: Conservation Areas allows consideration of how development affects the setting of a conservation area.

The Council is content to add set mitigation requirements in relation to this site within the Environment Report to reduce any potentially adverse impacts on the conservation area and listed buildings which should in turn address the concerns raised by respondents (136) and (240).

The Council disagrees that the agricultural field (current use) which DU-H1 is now classed as should be rigorously protected from development, in opposition to respondent (136). There is no precedent or outstanding reason for this. The neighbouring Conservation Area has been designated as it is deemed to be important, however, the neighbouring field has capacity for sensitive development. Given the scale of DU-H1 the Council do not consider that it will have a significant adverse impact on the conservation area.

A number of alternative sites were submitted to the Council for consideration. These can be viewed in the Housing Site Appraisal Methodology (CD9) and are: DU-X1 Former

Howies Grain Mill (1.6ha, indicative capacity 44), DU-X2 Land at Stewarton Road (3.6ha, indicative capacity 100), DU-X3 Land East of Stewarton Road (8.0ha, indicative capacity 222 units) and DU-X5 West View Terrace (OP B) (2.4ha, indicative capacity 9). A Strategic Environmental Assessment (SEA) was carried out and the outcome of this used in conjunction with the Housing Site Appraisal Methodology (CD9), to come to a decision on which sites were suitable for development. These alternative sites (DU-X2, DU-X3 and DU-X5) were excluded from allocation due to their potential impacts. Site DU-H1, as allocated within the PLDP2, despite being located next to historic features, was considered to be the most appropriate in terms of scale and anticipated impacts. The findings of the SEA are included within an Environmental Report (CD47), which was published alongside the Proposed Local Development Plan. The SEA on its own does not tell us whether a site is suitable for development or not. However, the assessments can help to highlight possible mitigation measures, which could be carried out on particular sites in order to make what might otherwise be considered unsuitable development acceptable. Where negative impacts are identified, the Environmental Report highlights mitigation to reduce those impacts (CD47). As mentioned, this mitigation must, upon approval of a planning application be undertaken by any party that wishes to develop the site.

In general terms, the Council has taken a proportionate approach to the land allocation, with sites of differing sizes and characteristics allocated throughout the authority area.

Negative impact on wellbeing – (139), (182), (222)

The Council strongly disagrees that the development of DU-H1 would have a negative impact on the wellbeing and lives of existing residents in Dunlop. Respondents (139), (182) and (222) provide no further detail in relation to wellbeing to support this statement. The site is modestly scaled (only 0.2 ha), with an indicative capacity of 6 units. The Kilmarnock and Loudoun Housing Market area has a Housing Land Requirement of 3,330 units and an allocated capacity of 5,027 (as outlined on page 92, Volume1), comparative to the land allocations of other settlements, Dunlop only has a single development opportunity site for residential development which is modestly scaled and in-keeping with the historic nature and capacity for development within the settlement. As such, the Council disagrees that DU-H1 should not be allocated within the plan on the basis of the comments provided by respondents (139), (182) and (222).

Constraints: Lack of facilities, services and infrastructure including Education – (52), (104), (148), (182), (207), (240), (280), (315)

With respect to pressure on educational and medical services, PLDP2 includes within its provisions Policy INF4: Developer Contributions (Volume 1, page 131), which will be implemented where a development will place additional demands on infrastructure, services, facilities and amenities that would necessitate new facilities or exacerbate deficiencies in existing provision. There is therefore a mechanism to address any capacity issues in terms of education and health and social care, should they occur.

(240) utilises the Housing Site Appraisal Methodology (CD8) to argue that DU-H1 should be precluded from allocation on the basis of constraints and infrastructure capacity of nearby Stewarton which in turn impacts Dunlop. This is reiterated by respondent (104), who outlines that Stewarton has experienced no significant growth in terms of service

provision and (182) who states that Stewarton has overgrown its infrastructure. As stated above, the allocation proposed in Dunlop in LDP2 is modest (indicative 6 units) and it is anticipated that any pressure added to services and amenities would in turn be modest and capable of being accommodated. The proposed allocated residential supply in Dunlop accounts for less than 0.1% of all supply set out in PLDP2.

The Council acknowledge respondent (280) comments concerning that lack of amenities and facilities to meet the needs of vulnerable and/or disabled persons, as well as general sporting facilities. Dunlop is a small settlement within East Ayrshire. The services and amenities found within the settlement are proportionate to its scale.

With regards to the comments provided on education capacity, the Council wish to highlight that in preparing the Proposed Plan considerable detailed research and analysis was undertaken to inform long term planning of educational infrastructure and identify educational needs of current and future residents. A number of the Council's schools have high occupancy levels. Local authorities, as the education authority, have a duty to provide adequate and efficient school education and early year's provision in their area. The Education Service continually monitors and reviews demand and availability to plan for sufficient pupil places for its population and education colleagues have been closely involved in the preparation of the Plan and had no objections or concerns regarding the allocation of DU-H1.

#### Waste & Wastewater Capacity - (315)

Scottish Water has been consulted on all sites proposed for allocation in PLDP2. Scottish Water provided no comments with regards to capacity issues for DU-H1.

#### Parking, road network and road safety – (104), (130), (136), (148), (182), (315)

With regard to the issue of traffic generation, parking, necessary infrastructure, road safety and potential damage to listed buildings, the Council would advise the Reporter that the Ayrshire Roads Alliance (ARA) has not raised any objections to DU-H1 in Dunlop. The Council consider that the addition of 6 (indicative) units is unlikely to have 'significant' detrimental impacts on the road network.

With regards to the comments raised by respondent (104), public transport is not provided by and is not within the control of the Council, and is instead operated by private companies. Nevertheless, PLDP2 Policy T1: Transport requirements in new development (Volume 1, page 135) includes a number of conditions for all new development to ensure that all sites would meet requisite standards, in line with ARA policy.

With regards to the comments relating to the requirement for on-street parking (130), this would be determined on a case by case basis and depends on the scale and layout of the subsequent development proposal. DU-H1 has a capacity of 6 units, however, this is indicative and in-curtilage parking may be achievable on site as a result of the design of the developments. The merits of any subsequent planning application will be assessed on a case by case basis.

The developer of any each site proposed in Dunlop in PLDP2 must accord with

mitigation set out in the Environmental Report (CD47), which includes directly linking to existing cycling and walking routes, including core paths and rights of way in order to reduce vehicle usage.

In response to the respondents comments relating to the road network not being able to accommodate existing traffic, the Transport Appraisal (May 2022) background paper (CD19) does not raise any issues or capacity concerns relating to Dunlop's road network.

Any concerns with regards to matters of road and pedestrian safety would be a key consideration for any subsequent planning application, on which Ayrshire Roads Alliance would be consulted to provide comments on the proposal's design, layout and impacts. The Council notes these concerns and considers that they can be adequately addressed through design.

#### Pollution – (104), (136), (139), (182), (222)

With regards to comments raised by respondents relating to air, noise and light pollution from the future development of DU-H1, the scale of the site is modest and adverse impacts are likely to be negligible in terms of environmental pollution. It is considered that the design of the development and planning conditions attached to the development of the site could avoid or mitigate such issues arising, including any issues emanating from the site itself. The PLDP2 also contains policy NE12 (Volume 1, page 87) which seeks to ensure that proposals minimise and mitigate against air, noise and light pollution. This would be applicable and utilised to determine the acceptability of any subsequent development proposal.

#### Prioritise old and dangerous buildings – (182)

The Council acknowledges the comments made by the respondent and wish to highlight that the Policy SS4: Development on Vacant and Derelict Land (Volume 1, page 28) does indeed facilitate and promote the re-use and redevelopment of vacant and derelict land within settlements. As such, the Council considers that the Plans current content addresses this point of concern. The Council note that (182) is making reference to vacant and derelict sites being promoted ahead of sites such as DU-H1. However, the Council consider that the reasons for allocation of DU-H1 are appropriately addressed within Issue 30.

#### Agricultural land – (136), (315)

The respondents consider that DU-H1 should only be utilised for agricultural purposes. (315) state that this is a historic piece of agricultural land. However, the site is not found within any prime quality agricultural land classifications and so its development would not result in the loss of this asset. The Council consider that the site is appropriate for residential development.

#### Nature Conservation, Biodiversity and loss of natural features – (52), (87), (136), (139), (148), (182), (222), (315)

With regard to comments pertaining to impact of development on nature conservation,



loss of natural features and biodiversity through the proposed allocation in PLDP2 of DU-H1, it should be noted that the Environmental Report sets out a number of mitigation steps for each site in order to reduce any impact and, where possible, improve conditions. The site specific requirements in Volume 2 for DU-H1 (page 41) requires that the ***“semi-natural woodland that bounds the site to south and west contributes to the landscape framework and should be enhanced across the site”***.

The Strategic Environmental Assessment proforma for DU-H1 (CD47, Appendix 11.12: Dunlop) considered environmental impacts to be neutral in relation to biodiversity, flora and fauna as site does not form part of the CSGN's habitat networks, nor is it in close proximity to any other biodiversity related constraints. However, mitigation impacts on natural features within the Environment Report states that ***“existing trees and hedgerows should be retained”*** (CD47, Appendix 11.12: Dunlop). This should mitigate against the concerns raised by (52), (87), (136), (139), (148), (182), (222) and (315) in relation to impacts on biodiversity, including migratory birds.

With regards to the information provided by respondents (87), (136), (139), (148), (222) and (315) relating to particular species. (87), (136), (139) and (222) makes reference to the presence of bats. Bats are a protected species. Policy NE6: Vulnerable, Threatened and Protected Species (Volume 1, pages 81-82) criterion (i) states that *the Council will not support development, which would have an unacceptable adverse impact on protected species, including “European Protected Species (See Schedules 2 & 4 of the Habitats Regulations 1994 (As Amended) for definition).”* This would be applicable to any subsequent application if there is believed to be a presence of bats on site. NE6 requires the applicants *to take steps to establish their presence*.

#### Landscape and character – (87), (130), (136)

The Council acknowledges the concerns raised in relation to the irreversible loss of landscape as a result of the settlement boundary adjustments and subsequent development of DU-H1. The ENTEC Landscape Study (CD53) highlights that Dunlop is suitable for small-scale development opportunities and that any proposed settlement expansion should retain mature woodland features and create new landscape and boundary features. DU-H1 is a modestly scaled site within an indicative capacity of 6 units. The site requirements for Volume 2 incorporate the ENTEC Landscape Study findings and seek the retention of the semi-natural woodland that bounds the site to the south and west in order to retain the landscape framework across the site. While the loss of land and impacts on landscape are unavoidable with the allocation of periphery sites, these impacts can be appropriately mitigated and reduced.

The Spatial Strategy sets a key priority for land use which is focuses on sustainability and green recovery, reducing the need to travel unsustainably as well as promoting compact growth and 20 minute neighbourhoods. Developments must be sustainably located. DU-H1 is located within the settlement boundary of Dunlop and is in close proximity to active travel and public transport networks. The site is modestly scaled, only 6 indicative units, and as such the Council does not consider it to be of a scale, which would significantly alter the character of the whole village, as, suggested.

### Protection of Urban Landscapes – (315)

The Council disagrees that the PLDP2 is failing to protect urban landscapes (under the European Landscape Convention 2000). The PLDP2 contains a robust and effective policy framework which seeks to protect landscape and the built environment, most notably policies SS2, DES1, HE1, HE2 and NE1. Policy SS2 criterion (ii) (page 20) requires proposals to ***“be fully compatible with surrounding established uses and have no unacceptable impacts on the environmental quality of the area”***. Policy DES1 (page 59) requires development to demonstrate the Six Qualities of Successful Places. Criterion 1.1 requires proposals to ***“ensure that the siting, layout, scale, massing, materials and design enhance the quality of the place and contribute to the creation of a structure of buildings, spaces and streets that is coherent, attractive, and with a sense of identity”*** and 1.2. to ***“reflect the characteristics of the site and its context, safeguarding and enhancing features that contribute to the heritage, character, local distinctiveness and amenity”***. Policy NE1 (page 75) seeks to protect ***the “setting of settlements and buildings within the landscape”***. Policy HE1 sets requirements in relation to Listed Buildings and HE2 in relation to Conservation Areas. As such, the Council considers that the current wording of the PLDP2 makes provisions and seeks to protect the character of urban landscapes.

### Greenspace – (139), (222), (315)

(139) and (222) highlight how important green space is for all. The Council recognise this and the importance of green space, the Central Scotland Green Network and tackling biodiversity loss is embedded throughout the Plan, including within the Spatial Strategy. PLDP2 has greatly increased the prominence and importance of green spaces within the Plan and sets a robust and effective policy framework to protect these spaces, most notably policies SS3, DES1, OS1, OS2 and NE4. As such, the Council consider that the plan addresses the importance of green space in accordance with the comments provided by respondents (139) and (222).

(315) states that “this site is recognised in the LDP2 as a greenspace”. DU-H1 is allocated within PLDP2 as a residential development opportunity site, not as safeguarded open space. Nor was the site allocated as such within the adopted EALDP (2017), rather it was outwith the settlement boundary.

### Housing Site Methodology – (240)

(240) refers to Housing Site Appraisal Methodology background paper (CD8), critiquing the outcomes and scoring in relation to heritage assets, landscape character and townscape. The HSAM is not within the scope of the examination. Comment may however be made on comment pertaining the marketability criterion. It should be noted that the HSAM employs the findings of a survey of house builders to determine marketability; flood risk within the site as mentioned in the representation is addressed by another HSAM criterion.

### Housing Land Requirement – (240)

The allocation of sites is in accordance with the Draft NPF4, which sets out a Minimum All-Tenure Housing Land Requirement (MATHLR) of 4050 dwellings for East Ayrshire,



which has been supplemented by an additional 50% generosity. As stated above, the allocation proposed in Dunlop in PLDP2 is modest (indicative 6 units) and it is anticipated that any pressure added to services and amenities would be capable of being accommodated. The proposed allocated residential supply in Dunlop by contrast accounts for less than 0.1% of all supply set out in PLDP2. While the Council acknowledges that this makes a minimal contribution to the HLR in line with the respondent's comments, the Council does not consider this to merit its removal from the Plan. As outlined above, in general terms, the Council has taken a proportionate approach to the land allocation, with sites, of differing sizes and characteristics allocated throughout the authority area which provides range and choice.

The Council acknowledges the comments relating to recent planning applications for residential development within Dunlop. The respondent (240) makes reference to application (22/0526/PP) which was approved in 2021 (CD95 and CD96) and contributes an additional dwelling in the settlement. This application was on unallocated white land within the settlement boundary. Although consented with conditions, there is no guarantee that this proposal will be brought forward or implemented. Development on white land does contribute to the Housing Land Requirement and is separate from this. The Housing Land Requirement is embedded into the Spatial Strategy of the PLDP2 (B. Encouraging new housing; page 29). The respondent (240) also makes reference to site DU-X4, which was allocated as a housing development opportunity site (404H) within the adopted EALDP (2017) which currently has an application for four dwellings (22/0082/PP) and is pending consideration. Although pending consideration, should this application be approved, there is no guarantee that this proposal will be brought forward or implemented. Site DU-H1 was submitted to the Council for consideration during the call for sites. It was appropriately assessed at the Main Issues Report stage within the Interim Environmental Report (CD56) and the outcomes were in favour of the site being allocated. The Council remain steadfast in the allocation of DU-H1.

#### Supported housing/assisted living – (280)

The Council requires the provision of affordable housing on sites identified for such purposes in the LDP and on all sites of 30 or more houses within the Kilmarnock and Loudoun sub-housing market area. The specific mix of affordable housing to be provided is determined in early discussion with the Council's Planning and Housing services, and may cover a wide range of users including families, older and ambulant people with disabilities, and young people that are vulnerable. This is set out in policy RES2 of LDP2. Although a small development of the size of DU-H1 would not be required to provide affordable housing, the required amount and type of affordable housing required can be obtained from housing sites across the local area, and it is determined at the planning application stage. This does not preclude any developer from delivering affordable housing on this site.

#### Deliverability – (240)

The respondent utilises the comments provided by NatureScot and contained within the Environmental Report (CD47) and the Site Requirements in Volume 2 (page 41) to argue that the site will be difficult to deliver and be unattractive to prospective developers. The Council disagree that the site will be difficult to deliver. The Housing Site Appraisal Methodology (CD8) considers and assesses the marketability and site

viability of DU-H1. As such, this has been considered within the site selection process. However, the Council argues that it is ultimately up to the landowner and any subsequent developer to assess and consider if the development of the site is viable to them.

Precedent for future development – (130), (136), (240)

The Council acknowledges the concerns raised by the respondents. West View Terrace has, thus far, acted as an established development boundary to the south of the road.

The boundary of the proposed site aligns with West View Terrace to the north / east, with a field boundary to the north. In addition, to the north where West View Terrace meets Allanvale, there are residential dwellings to the west of this road. It is only to the west / south west that there could be an argument that it does not follow a defined natural boundary. However, the site follows the road, which is clearly defined, and has a site boundary which is also clearly defined and therefore further development westwards or southwards would be contrary to the LDP. The PLDP2 Dunlop settlement boundary now follows the extents of DU-H1, and as such the rest of the field falls outwith the settlement boundary of Dunlop and within the Rural Protection Area. Policy RH5: Rural Housing Development states that ***“residential development in the countryside will not be considered acceptable to the Council where (i) the development would constitute an inappropriate or unacceptable extension of development into the countryside from existing settlement boundaries”***.

DU-H1 was submitted to the Council during the call for sites and has undergone appropriate Strategic Environmental Assessment of its likely significant impacts. A host of other much larger sites were submitted for consideration. DU-H1 (West View Terrace) was selected as it was considered to be the most appropriate site for residential development. While the Council acknowledges the concerns raised by the respondents, the Council remains steadfast that this was the most appropriate site considered, and further that it is suitable for development. Clearly, new development will sometimes require amendments to existing and sometimes long standing settlement boundaries.

Loss of amenity to existing residents – (30), (87), (136)

The EALDP (2017) Green Infrastructure Supplementary Guidance identifies Dunlop as having a surplus of open space within the settlement. Within the PLDP2 the settlement boundary has been extended westwards to incorporate site DU-H1. Its allocation and subsequent future development will not result in the loss of open space or amenity space within the settlement. However, the Council acknowledge that the rural landscape has amenity and recreational value to local residents. DU-H1 is a modest residential land allocation of only 6 indicative units, comparatively significant smaller than other sites submitted to the Council for consideration and potential inclusion within the PLDP2. Although the Council acknowledges that land utilised by local residents may be lost, it wishes to highlight that this is significantly less rural land that if other sites were brought forward for inclusion. The Council considers that they have adopted a balanced approach to the sites allocated as development opportunity sites.

The Council disagrees that the allocation and subsequent development of DU-H1 would

result in a reduction of walking opportunities which respondent (30) argues will have an adverse impact on amenity. The site is not contained or immediately neighbouring any core paths or rights of way, as currently identified.

Active travel networks / path networks – (13), (17), (23), (24), (30), (48), (49), (50), (53), (57), (58), (60), (67), (68), (83), (84) and (85)

Respondents make a series of comments in relation to LDP2 and rights of ways, core paths and active travel networks.

The Proposed Plan recognises that community and leisure facilities are an important element in creating sustainable healthy communities. The East Ayrshire Leisure Trust are undertaking a review of the Green Infrastructure Strategy and the Core Path Plan. An Active Travel Strategy is being finalised by colleagues in Ayrshire Roads Alliance.

These strategies are the appropriate place for consideration of some matters raised in the representations, have their own status in legislation, and associated public consultation opportunities. It is not the purpose of the LDP to replicate or alter the Core Path Plan, which has its own role and process. The aspirations of these wider strategies are aligned to the Proposed Plan as is evidenced through various policies in Proposed LDP2.

#### **Reporter's conclusions:**

#### **DU-H1 – West View Terrace, Dunlop**

##### Heritage and potential effects on Conservation Area and Listed Building(s)

1. Site DU-H1 consists of part of a small field on the edge of the village, currently used as grazing land. It is outside the Dunlop Conservation Area, but the conservation area boundary runs along part of the short southern boundary of the site. Mature trees along this boundary largely shield the site from the conservation area. This is especially true in summer, but it will also be the case that a good screen will remain in winter, in part due to the presence of some evergreen trees and shrubs.
2. The site is more open to the west and will be visible from a field of grazing land in this direction that also forms part of the conservation area. However, I expect this field is relatively little visited by people. The background to current views of the allocated site from the field to the west is of the modern development to the east of West View Terrace.
3. For these reasons, I do not consider that any development of this site would be prominent or unsympathetic in any views from the conservation area. In any event, new development adjacent to (or indeed in) conservation areas is not unusual, and the presence of a conservation area is not in itself a sufficient reason to resist development. As expressed at Policy HE2 of the plan, the proper test is whether development serves to preserve and enhance the character and appearance of the area. Such matters can only be fully assessed in the context of a detailed development proposal. But, at this 'in principle' stage, I am confident that the openness of this site does not have any particularly important function in the setting of the conservation area. I therefore consider

the site is capable of being developed without any adverse effect on the character or appearance of the Dunlop Conservation Area.

4. A number of the buildings that exist on land to the south of the site, including Kirkland House, are apparently listed. The council states that Kirkland Coach House is of the highest 'A' listing. Policy 7 of National Planning Framework 4 (NPF4) states that LDPs should protect valued historic assets, and development proposals affecting the setting of a listed building should preserve its character, and its special architectural or historic interest.

5. However, it does not seem to me that the allocation site plays any particular role in the setting of the complex of buildings around Kirkland House. The site is within a clearly different curtilage, does not affect any approaches or key views either towards or, apparently, from the listed buildings. A group of mature trees and shrubs separates the site from the listed buildings and greatly limits any intervisibility. I conclude that, in principle, the use of site DU-H1 for housing need not affect the setting of these listed buildings or damage their character or interest.

#### Negative impact on wellbeing

6. Any development in the proximity of existing housing may be expected to give rise to a certain amount of disruption during the construction phase. However, for a site of the modest scale of DU-H1, I would expect this to be minimal and manageable.

7. Once complete, the development will cause some loss of views from existing homes and give rise to a small amount of additional traffic on West View Terrace. However, the planning system does not exist to protect private views, and I expect other local impacts will be minimal from a development of this scale. Overall, I do not anticipate any significant or long-lasting effect on existing residents' wellbeing.

#### Constraints: lack of facilities, services and infrastructure including education

8. Dunlop is a relatively small settlement but is provided with a reasonable range of facilities for a village of this scale. These include a train station, primary school and shops. I believe Dunlop could reasonably be classed as an example of a '20-minute neighbourhood', a concept promoted by NPF4 whereby people can meet the majority of their daily needs within a reasonable distance of their home, preferably by walking or using sustainable transport options. As such, I consider that Dunlop broadly has the characteristics of a place suitable to accept some further housing development.

9. As is normal for settlements of this scale, there will be some higher order facilities for which residents will need to travel to nearby towns to access. Representations point to doctors' and dentists' surgeries as examples of these. For this purpose, I note that Stewarton is only around four kilometres away and is accessible by public transport. I also accept that there are doubtless positive actions that could be taken to further improve service provision within Dunlop, perhaps including services for vulnerable and disabled people.

10. The settlement strategy of the proposed plan has been to direct the vast majority of development to Kilmarnock and the other larger settlements in the plan area. However, I

consider that it is appropriate for the plan to identify a range and choice of housing sites, and for some small component of the overall housing land supply to be directed at smaller settlements. In this context, it appears sensible for the plan to include a modest allocation in Dunlop, given the range of facilities and transport options that are available here.

11. In terms of the potential overloading of village facilities, I note that the proposed allocation at DU-H1 is modest in scale and could only have a minor effect on the patronage rates of existing facilities.

12. Specifically as regards education, I note that the education authority has not objected to the proposal, and that the likely 'child product' from a development of around six houses would be small.

#### Waste and wastewater capacity

13. I note that Scottish Water has been consulted on the DU-H1 proposal and offered no objection or adverse comment. It also seems unlikely that a proposal of this modest scale would have a significant effect on wastewater capacity. I therefore conclude that this matter does not appear to constrain this proposal.

#### Parking, road network and road safety

14. Development of this site would give rise to a small increase in the amount of traffic using West View Terrace and adjoining roads. However, West View Terrace and Kirkland Road are of a reasonable standard, and appeared to me to have ample capacity to cater for the modest additional use that this development would bring about. I note no objections have been received from the Ayrshire Roads Alliance, who are the council's expert advisors on this topic.

15. More widely, I recognise the concerns expressed by some regarding existing levels of congestion in the village. However, I do not consider that a development of only around six houses would have any significant effect on this; nor would I anticipate the development giving rise to additional speeding.

16. I note the comments regarding the unreliability of public transport, but overall I consider Dunlop to be relatively well-served by the Glasgow to Kilmarnock train service. It would appear possible to include necessary parking for the new homes within the development site.

#### Pollution

17. As regards air, noise and light pollution, the proposed allocation is modest in scale, and I would expect any such impacts to be negligible. Any particular concerns, for instance relating to construction activities, could be addressed at the planning application stage.

#### Prioritise old and dangerous buildings

18. I note that the plan as a whole includes a significant emphasis on encouraging the

development of vacant and derelict land, most prominently expressed at Policy SS4. However, some balance between brownfield and greenfield development is appropriate, and it does not appear that all the council's housing needs can be met on brownfield land alone.

#### Agricultural land

19. Policy 5 of NPF4 offers some protection of prime agricultural land, but I have seen no evidence that this site constitutes land of this quality. In any event the amount of farmland that would be lost is very modest. Overall, I do not consider that loss of agricultural land is a significant factor in determining the suitability of this land for development.

#### Nature conservation, biodiversity and loss of natural features

20. As grazing land bounded by a mature hedge to the north and some more mature trees to the south, the site may be of some existing value to wildlife. However, I note that it is not subject to any formal designation, and there are no objections from natural heritage agencies or organisations.

21. I note the reported sightings of various bird species on the land, and also of bats. As the council notes above, bats are a protected species. As such, Policy NE6 of the plan sets out how this matter would be addressed as part of the consideration of any planning application. I expect that it is likely that any potential effects are capable of suitable mitigation. But if this proves not to be possible, ultimately Policy NE6 would provide the basis to refuse planning consent.

22. The site requirements set out in the Environmental Report include the retention of existing trees and hedgerows. This measure should act to retain the nature conservation value of the site to a degree.

23. Overall, it does not appear to me that the site is of unusually great importance for wildlife for a peripheral greenfield site. I conclude that the nature conservation concerns expressed are not sufficient to require the deletion of this site.

#### Landscape and character

24. The field of which site DU-H1 forms a part is an attractive feature and performs some landscape function in terms of providing a semi-rural setting to the houses to the east of West View Terrace. However, the field is not visible from elsewhere in the village.

25. The site currently offers a pleasant foreground to views from West View Terrace towards Dunlop Kirk and the wider countryside. However, these views are filtered somewhat by the mature hedge and occasional trees that run along the north-western boundary of the field. The mature hedge itself would form an established and reasonably strong north-western landscape boundary to any development.

26. The site is visible to travellers approaching Dunlop along the B706 to the west of the village, but again these views are extensively filtered by trees along the field edge. In this view the site is seen against the background of the existing development along the



eastern side of West View Terrace. For these reasons, I consider that development of the proposed allocation would be neither particularly prominent, nor incongruous in views from this western approach.

27. Overall, I conclude that, while the site in its current condition is a reasonably attractive feature (particularly as a foreground to views from West View Terrace), it does not play any important role in the setting of the village as a whole, and any development should be able to be relatively easily integrated into the established landscape framework of the settlement.

28. I also note that Volume 2 of the plan contains certain safeguards relating to two of the most important factors I have identified. The developer requirements for the site specify that views across the landscape from West View Terrace are to be maintained, and that the semi-natural woodland that bounds the site should be enhanced. I consider that these provisions address the principal landscape issues and reinforce my view that the proposal is acceptable in landscape terms.

#### Protection of urban landscapes

29. There is no requirement for the LDP specifically to reference the European Landscape Convention. I have explained above my reasoning as to why I consider this land to be an acceptable development site in landscape terms.

30. A well-designed housing development on this site need not have any detrimental effect on urban landscapes. It will change the character of the southern part of West View Terrace to a more enclosed character, with houses on both sides of the street. But this is the established character of most of the village. More widely, development here would have a negligible impact on the urban character of Dunlop as a whole.

#### Greenspace

31. Site DU-H1 is currently agricultural land and not accessible greenspace for use by the public; nor is it identified in the proposed plan as greenspace. While the openness of the site does provide views of the countryside, this modest development will not change Dunlop's general character as a rural settlement with extensive access to, and views of, the countryside.

#### Housing site methodology

32. The council has used a housing site appraisal methodology to score the range of considerations pertaining to each proposed site. I address the various individual matters covered by the appraisal methodology elsewhere in these conclusions. However, it is not part of my role to rework the appraisal methodology, which does not form part of the LDP itself, and I have no power to recommend modifications to it.

#### Housing Land Requirement

33. I agree that site DU-H1 will make a negligible contribution to the overall East Ayrshire housing land supply. However, this is not to say that the site does not have value as contributing to the range and choice of sites for developers and house-buyers



alike. It is also not unreasonable for Dunlop to make some modest contribution to the overall housing land requirement.

34. Reference is made to two other small sites in Dunlop, one of which has planning permission for two houses and the other of which is subject to a planning application for four houses. The existence of these other small potential opportunities does not alter my views that site DU-H1 will usefully add to the range and choice of housing site available in East Ayrshire, and that the amount of new development being directed to Dunlop is not excessive.

#### Supported housing/ assisted living

35. Planning for the provision of supported housing/ assisted living is primarily a matter for the local housing strategy, rather than the LDP. Where a particular need for land for such development has been identified, there may be a role for the planning system in identifying suitable sites. However, I do not have the evidence before me to justify restricting the development of site DU-H1 to specialist housing of this type. In any event, I am not clear whether this representation is calling for the use of this particular site for specialist housing, or is making a wider point about the general lack of such provision.

#### Deliverability

36. The developer requirements for this site, set out in Volume 2 of the plan, include the retention of views from West View Terrace across the landscape, and the enhancement of boundary woodland across the site. I agree that these requirements may constrain development somewhat and may require slightly lower densities than would otherwise be required. It may that the estimated site capacity of six units will be hard to achieve. However, I note that this stated capacity is only indicative. Overall, I consider that this is a marketable location that should prove attractive to prospective developers, despite the requirements set out in the plan.

#### Precedent for future development

37. I consider that site DU-H1 is relatively well-contained by mature woodland to the south and a mature hedge to the north-west. I also note that some housing development has already taken place to the west of West View Terrace further to the north. I therefore do not consider that the proposal would break Dunlop out of its established landscape setting, or create any particular precedent for wider development out to the west of the village.

38. I do however accept that the development of site DU-H1 could potentially increase the likelihood of future pressure to develop the remaining open frontage on the western side of West View Terrace (north of DU-H1). I take no view on the desirability or otherwise of developing this land, but simply note that this is a relatively modest area whose suitability for development would require to be fully assessed through a future iteration of the LDP.

#### Loss of amenity to existing residents

39. I have already commented above on the value of this land as a foreground in views

from West View Terrace out to the open countryside beyond. However, the planning system has no role to play in the protection of individual residents' private views.

40. It appeared to me at my site visit that the proposal site was currently used as grazing land, and I saw no evidence of its use for amenity purposes such as walking. That said, I would not rule out that the land may on occasion be used for walking or horse-riding on an informal basis. However, this land forms a very small part of the wider resource of privately-owned grassland around the village over which the public may exercise its statutory public access rights. Site DU-H1 does not appear to me to have any special role in this regard sufficient to preclude its suitability for development.

### Conclusion

41. I recognise the level of concern expressed about this proposed allocation and the range of matters that have been raised in representations. I have addressed these matters above, but in summary I consider that this site represents a very modest housing land release that will contribute to the range and choice of sites available in East Ayrshire. Its development would not give rise to serious landscape, heritage or amenity impacts, and its small scale means that any effects on traffic or the availability of facilities will be negligible. Overall, I conclude that this is an appropriate location for new housing development, and I consequently recommend no change to the proposed plan.

### **Active travel networks / path networks**

42. A number of comments have been made regarding footpaths and cycle routes. While core paths, rights of way and some cycle routes are illustrated at Figure 10 of the plan, the LDP is not the lead strategy for identifying and delivering new such proposals. Above, the council refers to forthcoming reviews of the green infrastructure strategy and the core path plan, and the finalisation of an active travel strategy. I agree that these exercises are better positioned to consider the ideas and suggestions put forward in these representations.

43. The LDP and the planning system in general is primarily concerned with issues of development and land use change. Proposals for the use of existing highway land, or the planning of footpath links, are generally beyond the scope of the planning system, unless directly linked to new development.

44. That said, I note that paragraph 95 of the plan supports the creation of new and improved active travel routes to connect towns and villages, in particular those connecting smaller rural communities with nearby towns. This provision would appear to be particularly applicable to Dunlop.

45. Overall, I consider that it is not necessary for the plan to include more detail on these matters.

### **Reporter's recommendations:**

No modifications.

Issue 31	Fenwick residential			
Development plan reference:	Residential allocations FW-H1, FW-H2, FW-H3, FW-F1(H), FW-F2(H), FW-X2, FW-X3, FW-X6, FW-X9 & FW-X10	Reporter: Stephen Hall		
Body or person(s) submitting a representation raising the issue (including reference number):				
<table><tr><td>Gary Wright (32) Fenwick Community Council (71) Anita Cox (89) Stuart Cox (93) Donald Ferguson (96) S K Donald (97) Robert Tedford (102) Catherine Dickie (103) Mactaggart &amp; Mickel Homes Ltd (111) R D Thomson (113) Ronnie Andrew (119) Graham Stott (120) Ronald Stevenson (124) Dawn Homes (142) Northseal Scaffolding (149) Paul Grimes (188) Barratt Homes (195) Katheryn Oldroyd (234)</td><td>Murray Wilson (238) Noel Oldroyd (247) Gail Henderson (248) Simon Bell (251) Martin Riddell (252) Colin McKay (253) Deborah McCalliog (255) James McCalliog (257) Graeme McVitie (266) Andrew Somerville (268) Kirsty Somerville (269) Sheila Johnson (285) Landowners of site FW-F1(H) (288) Irene Wilson (306) Greta Roberts (312)</td></tr></table>			Gary Wright (32) Fenwick Community Council (71) Anita Cox (89) Stuart Cox (93) Donald Ferguson (96) S K Donald (97) Robert Tedford (102) Catherine Dickie (103) Mactaggart & Mickel Homes Ltd (111) R D Thomson (113) Ronnie Andrew (119) Graham Stott (120) Ronald Stevenson (124) Dawn Homes (142) Northseal Scaffolding (149) Paul Grimes (188) Barratt Homes (195) Katheryn Oldroyd (234)	Murray Wilson (238) Noel Oldroyd (247) Gail Henderson (248) Simon Bell (251) Martin Riddell (252) Colin McKay (253) Deborah McCalliog (255) James McCalliog (257) Graeme McVitie (266) Andrew Somerville (268) Kirsty Somerville (269) Sheila Johnson (285) Landowners of site FW-F1(H) (288) Irene Wilson (306) Greta Roberts (312)
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Provision of the development plan to which the issue relates:	The inclusion of opportunity sites in Fenwick & Laigh Fenwick: FW-H1, FW-H2, FW-H3, FW-F1(H), FW-F2(H), FW-X2, FW-X3, FW-X6, FW-X9 & FW-X10			
Planning authority’s summary of the representation(s):				
<p><b>Development and Proposed Allocations in Fenwick (General)</b></p> <p>A number of the responses have been submitted that make comment on the appropriateness and impacts of identifying new housing sites within Fenwick and Laigh Fenwick as a whole, which are not specific to particular site references. These general comments are summarised below:</p> <p><u>Factual accuracy</u></p> <p><u>102 &amp; 103</u> state that CEM6 is depicted as ‘Auchinleck Cemetery’ in P-LDP2 Vol 2 and that existing rights of way have not been depicted in that document.</p> <p><u>Rural Setting</u></p> <p><u>102 &amp; 103</u> state that Fenwick is officially classed as a ‘rural environment’ and certain of</p>				

the suggested developments would remove this designation. 103 states that the Scottish Government has stated that there should be no further 'urban creep' and that further development in Fenwick would adversely affect its rural character and 102 considers that Fenwick should fall within the P-LDP2 Rural Protection Area (RPA). 248 states that Fenwick should remain a rural conservation village, but this will not happen if it continually expands.

#### Lack of need for new housing allocations

71, 96, 102, 103, 124, 266, 268 consider that none of the suggested sites in Fenwick, including those identified as Future Housing Growth Areas, should be allocated or identified in LDP2. They consider that infrastructure costs would preclude any development.

71 specifically highlights that the number of dwellings in the settlement increased by 22% between 2010 and 2019; the area has already experienced enough housing development.

93 & 188 state that the amount of housing proposed in Fenwick either comprises a higher proportion than the East Ayrshire average in that a 10% increase is proposed for Fenwick and a 5% increase for East Ayrshire as a whole, or otherwise is subject to a disproportionate share of housing land supply.

253, 266 express doubt that there is any requirement for further residential development in East Ayrshire or Ayrshire. One representation states that the Central urban transformation section of Draft NPF4 (CD3) predicts a decline in Ayrshire over the next 20 years.

124, 188, 266 consider that the allocation of land in addition to FW-H2 and FW-H3 is not necessary, as neither of those sites has progressed to delivery. The council has not justified why additional land in Fenwick & Laigh Fenwick is required.

312 expresses concern that suburbanisation of settlements in East Ayrshire has taken place and that this will now occur in Fenwick & Laigh Fenwick.

#### Traffic and transport issues relating to all development in Fenwick

102, 103, 251 consider that construction traffic would damage the foundations of listed buildings in the settlement and/or that development would otherwise adversely affect the historic environment within Fenwick & Laigh Fenwick.

32, 102, 124, 266 consider that development within the settlement would lead to an increase in traffic or exacerbate existing congestion, that public transport is inadequate, that cycling is not desirable as the nearest services are in Kilmarnock and that levels of traffic are already high. Access to the settlement(s) is problematic. 71 states that the community has expressed a desire for the traffic issues around the Stewarton Road entrance to the village to be resolved.

234 & 247 seek the development of an acoustic barrier in Fenwick to address noise emanating from the M77.

102 states that any development must be better connected and that no proposals have been forthcoming to provide any improvement in transport or digital connectivity.

102 consider that none of the proposals would comply with the Draft NPF4, which seeks avoidance of further urbanisation and in this respect considers that fumes from the M77 other roads would adversely affect mental and physical health. They consider that development would be contrary to the Scottish Planning Policy (SPP) (CD26) commitment to sustainable growth.

306 suggests that reuse of the former A77 slip road adjacent to Blackfaulds Gardens to access the M77 could provide safer access to the settlement than the current arrangements. Access would be gained via the roundabout at the junction of Main Road and Stewarton Road; this would provide alternative access to Rysland Drive and reduce traffic volumes on Skernieland Road.

#### Carbon emissions and the environmental pollution

102 & 266 consider that development would result in increased carbon emissions because, amongst various reasons stated, additional housing would attract commuters to Glasgow or Kilmarnock and because it is expected that each household will use two to three vehicles.

#### Impact on natural environment and biodiversity

102 & 103 consider that development in Fenwick would adversely affect or reduce natural habitats and biodiversity and that a green buffer between the settlement and the M77 should be maintained. Protected species can be found within each site.

#### Capacity of existing services

32, 102, 103, 119, 124, 251, 266, 312 state that there are few services and amenities in Fenwick, including educational, medical and retail facilities. Several state that there is no space to accommodate further service expansion. Infrastructure is not able to accommodate further development and Kilmarnock is better placed to accommodate development because a greater level of service provision can be found there. 71 states that the community has expressed a desire for a village shop and a GP to open in the settlement.

195 considers that Fenwick/Laigh Fenwick would benefit from additional allocations to ensure its future sustainability in terms of supporting facilities and services. They consider that there is insufficient population within the settlement to support the existing facilities and services, which to be viable must rely on people travelling into the settlement. To meet net zero ambitions, they consider that new family homes are required to support Fenwick Primary School, which they maintain suffers from a declining school roll. (Please see attached supporting statement).

#### Capacity of infrastructure

124, 235, 266 state or express concern that the sewerage system or other water infrastructure in Fenwick is unable to accommodate additional water and wastewater

requirements associated with additional development. They ask whether SEPA has investigated the matter as part of the site selection process.

93 states that any current or future development must include full impact studies for provision of services by statutory authorities and that 'no comment' answers (within the Environmental Report) should be deemed unacceptable for any of the proposed developments for LDP2 and future plans.

#### Priority to be given to vacant and derelict sites

124 & 252 state that development should be directed towards vacant and derelict land and properties in Kilmarnock, including land surrounding the town centre.

252 considers that brownfield sites in Fenwick should be prioritised for identification as Future Housing Growth Areas.

#### Environmental Report Assessment

266 states that none of the sites as proposed in Fenwick & Laigh Fenwick performed well against the criteria of the LDP2 Interim Environmental Report.

#### Community Action Plan

306 requests that the priorities of the Community Action Plan be reflected in LDP2.

#### Loss of open space

103 understands that the Scottish Government places importance on communities having access to outdoor recreation for both exercise and mental wellbeing. The proposals for Fenwick would remove a large area of recreation and amenity space.

312 states that Fenwick & Laigh Fenwick is classed as being open space deficient and that the only green spaces in Laigh Fenwick are reserved for residents.

71 seeks an amendment to Safeguarded Open Space mapping within Vol 2 of P-LDP2 to incorporate several areas of open space, several of which are referred to within individual site assessments. In this regard, they note that proposed residential allocations FW-H2, FW-H3 and FW-F2(H) appear on their proposed map.

#### Need for appropriate house types and affordable housing

71, 188, 248 state that new housing development in Fenwick & Laigh Fenwick should be limited in scale and/or include properties that are smaller and aimed towards younger people or those wishing to enter the housing market. 248 does not object to new housing sites, but questions whether there are enough affordable, social homes being proposed.

#### Ground Conditions

188 maintains that much of Fenwick & Laigh Fenwick is subject to unstable, peaty



ground conditions that make land unsuitable for construction, and that existing development has displaced water to the detriment of trees.

### Coalescence

71 states that people in Fenwick & Laigh Fenwick place importance on avoiding coalescence between each part of the settlement in order to retain the character of each part. The settlement boundary of each should remain as presented in the 2017 LDP.

**Note:** There are further supporting details within representation 195 (RD73).

**Note:** There are further supporting details within representation 71 that pertain to specific proposal sites and Fenwick as a whole, including 51 responses to a questionnaire, the methodology employed to engage people in the community, concerns about the LDP preparation process, references and photographs. A survey conducted by 71 for LDP2 is requested to constitute a draft placemaking report, to represent the needs, concerns and aspirations of people in Fenwick & Laigh Fenwick (RD139, RD140).

### **FW-H1 - Bowling Green Road**

The following points are made regarding the inclusion of site FW-H1 within the Plan:

89, 306 note that much of site FW-H1 is at a lower level than the pavement at Main Road.

89, 103, 124, 253, 255, 257, 266, 306 consider that site FW-H1 is at risk of flooding and/or that flooding would affect adjacent properties, or otherwise note that the site would require work to improve drainage in order to make it developable. This is not addressed within the P-LDP2.

102, 103, 253, 266 state that FW-H1 is regularly utilised for livestock and silage harvesting. Concerning silage, 71 believes that SEPA mapping of the flood risk within site FW-H1 is not accurate because infra-red imaging can only be used correctly when vegetation is short and that, because the site is used for silage, that reliable assessment of risk has not been established.

71, 89, 93, 124 consider that an indicative capacity of 20 units is too great to be accommodated within site FW-H1. Overdevelopment of the site should not take place. Houses or garden sizes would be too small.

89, 93, 266 consider that any development within the site should reflect the style of the adjacent Laigh Fenwick Conservation Area in order to maintain the integrity of the settlement and its unique characteristics. 71, 124, 253, 306 are concerned that development within the site would detract from the appearance of listed and historic properties in the adjacent Laigh Fenwick Conservation Area.

71 disagrees with the statement in the HSAM (CD9) that 'the historic pattern of development in Fenwick and Laigh Fenwick has been one of close proximity to Main



Road.’ More recent development does not reflect this.

71 notes that Main Road is historically important, being associated with the birth of the cooperative movement, the Covenanters and US abolitionist movement. 90% of properties on Main Road have conservation status and that this makes Fenwick exceptional; the gap between Fenwick and Laigh Fenwick has resulted in a unique historic environment. Any removal of that gap would be contrary to Rural Protection Area (RPA) and Conservation Area designations.

With regard to impact on the Laigh Fenwick Conservation Area, 71 disagrees with the statement in the HSAM that ‘a landscape impact study commissioned by the Council indicated that the area in question was an area of medium to low landscape sensitivity to development’. Instead, the current approach into Laigh Fenwick presents a streetscape of traditional weavers’ cottages framed by a belt of mature woodland and hedgerow. This landscape makes the streetscape in Fenwick valuable and unique and any properties developed within FW-H1 would look modern and negatively affect Laigh Fenwick Conservation Area. This would be contrary to Draft NPF4 Policy 28.

89 seeks the development of a mix of house types at FW-H1 to meet the needs of existing residents of Fenwick & Laigh Fenwick and those seeking to move to the settlement.

89, 124, 255, 257, 266 consider that development of site FW-H1 would lead to an increase in traffic and/or cause safety issues or require parking provision within the site to address constraints to vehicular movement caused by existing in traffic the settlement.

71, 102, 103, 111, 124, 253, 255, 257, 266, 306, 312 consider that development of site FW-H1 would result in coalescence or diminish the distinction between Fenwick & Laigh Fenwick. The site comprises a historical boundary between the two settlements. A planning application for development within the site was quashed at the High Court because it would result in coalescence. The Reporter in their Examination of the 2010 Local Plan stated that development of site FW-X6 adjacent to FW-H1 would not be desirable due to coalescence and FW-H1 is subject to a similar constraint.

71 considers that FW-X6 and FW-H1 are interchangeable with respect to arguments for inclusion and that allocation of each site is undesirable. Although FW-X6 achieved a higher HSAM score than FW-H1, each site scored within the bottom 15% of all sites considered across East Ayrshire.

Concerning the issue of coalescence, 71 cites a number of statements made within East Ayrshire Council Local Plans and Local Development Plans dating from 1998 to 2017 that express an intention to avoid the issue when identifying housing opportunity sites. 71 is concerned that development within FW-H1 will encourage other development that would eventually join Fenwick and Laigh Fenwick. 71 considers that any coalescence would be contrary to the settled will of the people of Fenwick & Laigh Fenwick and that FW-H1 should not be allocated in LDP2 because development therein would be contrary to NPF4 Policy 28 and P-LDP2 Policy HE2.

71, 103, 124, 253, 306, 312 consider that the proximity of FW-H1 to the M77 would

result in air and/or noise pollution within the site. No mitigation exists to address the problem of noise, that removal of trees within the site would reduce any existing noise dampening. The development of FW-H2 has been affected by a similar noise issue.

255, 257 express concern that development and/or occupation by residents of site FW-H1 would produce noise pollution.

255, 257 express concern that residential development within FW-H1 would result in overlooking or otherwise reduce privacy.

111 highlights that the party that submitted FW-H1 is not a recognised house builder, is not a member of Homes for Scotland and that no affordable housing would be delivered within the site. FW-H1 should score 70/135, the same score as presented in the HSAM.

253 notes that FW-H1 did not perform well against the HSAM.

253, 255, 275, 306, 312 consider that there is no requirement to allocate FW-H1 and that FW-H3 and/or FW-H2 are preferable. Consent for development within FW-H2 has been granted and whilst development has not been forthcoming, the site is well screened by existing trees. Regarding FW-H3, the development would have little adverse effect on the adjacent High Fenwick Conservation Area. Other unnamed sites set out in the Proposed Plan for the 2017 LDP would also be preferable for development.

255, 257, 266 consider that development of site FW-H1 would adversely affect or reduce natural habitats and biodiversity. 238 considers the site to be of benefit as open space, maintaining the link to agriculture and a green border to the M77. 312 considers that FW-H1 comprises recreational open space and that it should be identified as Safeguarded Open Space in Vol 2 of LDP2.

257 states that access to their property for emergency services vehicles would be impeded by development at FW-H1 .

71 considers that FW-H1 is distant from services and facilities in Fenwick, which are around 800m from the site and the nearby bus stop constitutes the only service close by. Although Bowling Green Road is depicted as part of the cycle network on Council maps, the route is not used due to flooding, the quality of the road surface and vandalism; they contend that all cyclists enter the settlement under M77 J7.

**Note:** There are further details within representation 71 that include photographs of surface water at FW-H1 and a photograph of the approach to Laigh Fenwick which, they maintain, has not changed for centuries.

**Note:** There are further details within representation 124 that include photographs of surface water at FW-H1 (RD28).

### ***FW-H2 - Main Road***

71, 111 & 113 note that planning permission for the development of the site was

granted in 2009 and again in 2017, yet development has not been forthcoming. The site is therefore not effective and should instead be identified as 'white land' within the settlement boundary. 111 notes that the aforementioned consents were obtained by a party that is not a recognised house builder, is not a member of Homes for Scotland and that no affordable housing would be delivered within the site. 71 states that the most recent applicant sold the site at a loss of £0.5m, thereby suggesting that it is not effective, although they note that the site was subsequently purchased at a higher price.

89, 102, 103, 306 state that development at FW-H2 has not been forthcoming due to issues associated with drainage, sewerage and/or the stability of the perimeter wall on Main Street. Several maintain that this caused a previous applicant to sell the site after they had concluded that development would not be viable or profitable. However, it is suggested by one representation that development within the site at a smaller scale may be possible.

71 states that the aforementioned boundary wall should be retained as part of any future development in line with P-LDP2 Policy HE2: Conservation Areas and that the site should be considered for future inclusion within the High Fenwick Conservation Area. 93 states that the design of properties should reflect the characteristics of the Conservation Areas in Fenwick and Laigh Fenwick.

71, 93 consider that the indicative capacity is too high and that houses or garden sizes would be too small.

306 & 93 consider that development of the site would lead to an increase in traffic or that that sufficient off-street parking must be allocated to prevent further congestion on Main Road.

71, 102, 103, 306 consider that site FW-H2 has naturalised, is rich in biodiversity and note that at least two species of protected wildflowers have been identified within the site boundary. It is noted that only 13% of the site was previously developed and that the remainder comprised woodland.

71, 102 & 103 state that the site is used for recreation by the inhabitants of Fenwick. In this respect 71 considers that development of the site would be against the core objectives of Draft NPF4 Policy 12 because it would result in a loss of public green space and the degradation of the liveability of the community. They note that FW-H2 includes the only publicly accessible wood with mature trees in the settlement and that the site is accessible within a 10-minute walk of every part of Fenwick.

102 & 103 notes that although the site can be described as brownfield and/or that it is the only brownfield site in Fenwick, that there is evidence of contamination within the site.

71, 102, 103, 124, 306 state that the site bounds the M77 on its western edge and consider that it is subject to air and noise pollution. Under certain conditions noise from the M77 can be heard throughout the settlement, to the detriment of residents.

111 considers that FW-H2 should have scored 74/135 rather than 98/135 against the

HSAM. They wish for the site not to be allocated in LDP2 but to be retained within the Fenwick & Laigh Fenwick settlement boundary without designation as white land.

71 states that any proposal for the development of the site would be contrary to a range of P-LDP2 and Draft NPF4 policies. It should not be allocated in LDP2 because development would be contrary to NPF4 Policy 9 and Policy 12.

71 requests that the site requirements for FW-H2 as set out in Vol 2 of P-LDP2 should be amended. These changes would stipulate the retention and conservation of the aforementioned wall, the preservation of all mature trees within the site, would set out an indicative capacity of 20 units and would state that the development of a shop or health centre within the site would be acceptable. 306 concurs that FW-H2 could be developed for retail purposes.

### **FW-H3 – Stewarton Road**

113 notes that FW-H3 was allocated in the 2010 Local Plan with an indicative capacity of 20 units. However, the Council subsequently wished to remove the site because of a lack of progress and did so when it published the Proposed LDP in 2015. The Council nevertheless re-instated the site in 2017 following a representation that was supported by a planning application for residential development (ref. 15/0528/PPP) and a positive recommendation by the Reporter. However, they note that the application in question only gained planning consent in March 2022, with significant weight being given to the fact that the site was identified in the 2017 LDP.

113 states that there were protracted discussions over the possibility of shared access arrangements being provided for a park and ride facility and the proposed housing development at FW-H3, but that proposals were abandoned and alternative access arrangements investigated. 15/0528/PP was granted despite objection from Ayrshire Roads Alliance (ARA), because the applicant could not guarantee that the proposed access sightlines would be free of obstruction. When consent was granted, it was with a condition that detailed plans for access arrangements should be provided. Access arrangements supplied were ultimately not accepted by the Council. A solution to meet the requirements of ARA will be difficult to achieve without additional land out-with the control of the applicant being included.

113 notes that FW-H3 remains undeveloped even though it has been identified in two consecutive local development plans, and considers that development will not commence within the plan period given the aforementioned unresolved access issues. The site should be left as 'white land' within the settlement boundary.

71, 89, 103, 124, 306 state that development at FW-H3 is not effective due to air and noise pollution associated with the adjacent M77, the proximity of the site to the M77 slip road, and associated congestion. 71 notes the Council Environmental Health service stated in relation to application ref. 15/0528/PPP that the site was 'unsuitable for residential development unless and until suitable noise mitigation measures are put in place to minimise road traffic.' However, 71 considers that noise within the site is of such a volume as to be considered dangerous by the World Health Organisation and that the issue has resulted in mitigation steps including non-opening windows and a 4m high barrier that they deem to be insufficient to address any concerns.

93 consider that the indicative capacity is too high or does not reflect the size of the site. The design of properties should reflect the characteristics of the Conservation Areas in Fenwick and Laigh Fenwick.

71, 102, 103, 268, 269, 306 consider that development of site FW-H3 would adversely affect or reduce natural habitats and biodiversity. In this respect, several note that development of the site would offer no improvement to the existing green infrastructure of the settlement or would erode the green corridor.

102, 268, 269 consider that development of the site would lead to an increase in traffic, also noting that this would take place regardless of access arrangements and that vehicle emissions would damage the health of residents. 71 states that whilst ARA stated in their consultation response to application ref. 15/0528/PPP that there are no current parking restrictions on this road, that there should be due to current on street parking. They contend that siting the entrance to FW-H3 on Stewarton Road will further exacerbate existing traffic problems.

71, 102 & 103 note that within the site there is an existing historical drystone boundary wall of approximately 150m adjacent to the slip road that is mostly obscured by foliage. Development of the site would adversely affect the adjacent war memorial. 71 requests that the wall should be retained as it has visual importance to the character of the High Fenwick Conservation Area in accordance with P-LDP2 Policy HE2: Conservation Areas. It should be considered for future inclusion within the High Fenwick Conservation Area.

71, 103 & 269 consider that the site comprises green space or state that the site is used for recreation by the inhabitants of Fenwick.

111, 306 note that planning permission in principle for the development of 20 homes within the site was granted in 2022, that any full consent must accord with NPF4, or that various conditions to address constraints to which the site is subject require to be discharged. However, 111 highlights that the applicant is not a recognised house builder, is not a member of Homes for Scotland and that no affordable housing would be delivered within the site.

111 considers that FW-H3 should have scored 65/135 rather than 74/135 against the HSAM. They seek for the site to be allocated as a housing site in LDP2 but identified as non-effective.

306 suggests that FW-H3 could be developed for retail purposes.

269 express concern that development and/or occupation by residents of site FW-H3 would produce noise, light and air pollution, as a consequence of the removal of foliage that acts as a barrier to the M77 or otherwise.

269 expresses concern that electricity and water supplies may be affected by the development of FW-H3.

With respect to application ref. 15/0528/PPP, 71 considers that the developer contribution paid was too low, particularly so should ten large and expensive dwellings

be completed within the site.

71 states that FW-H3 should not be allocated in LDP2 because development therein would be contrary to NPF4 Policy 9 and Policy 14 because of potential damage to human health. Any proposal for the development of the site would be contrary to a range of P-LDP2 and Draft NPF4 policies.

### **FW-F1(H) (HSAM Ref. FW-X5) - Land South of Murchland Avenue**

#### **Support for the inclusion of the site**

288 wishes for FW-F1(H) to be allocated as a housing opportunity site in LDP2 rather than a potential Future Housing Growth Area but that identification as a Future Housing Growth Area would be acceptable were that not to be possible.

288 cites the findings of the HSAM, which state that FW-F1(H) is relatively free from constraints, located close to existing services and consequently scored second highest in Fenwick & Laigh Fenwick. FW-H1 and FW-H3 each scored lower than FW-F1(H) and, although the principle of residential development has been established at FW-H3, the case for the allocation of FW-H1 is less robust.

With regard to concerns about coalescence between Fenwick & Laigh Fenwick, 288 is of the view that development within the FW-F1(H) would not extend the settlement envelope any further south than currently exists at Maunsheugh Road. It is noted that NatureScot state that the site benefits from an existing landscape framework and this could be enhanced at the southern edge of the site to avoid coalescence. Orientation to the main road could be delivered, subject to detailed technical assessment.

288 cites considerations from PAN 2/2010 that may apply to the site.

- The landowners of the site are willing for development to take place and have promoted the site accordingly, and confirm no deficit funding would be required.
- The site is not subject to physical constraints or contamination and that no infrastructure constraints would preclude development;
- The preferred use of the site is for housing would enhance the settlement boundary.
- Fenwick is marketable and development would take place during the LDP2 period.
- Evidence of developer interest may be provided on request.
- Identification of the site as a Future Housing Growth Area is evidence of its suitability for residential use.

#### **Objections to the inclusion of the site**

113 considers that comments by NatureScot pertaining to FW-F1(H) do not account for the detailed topography and location of the site. It is noted that the lie of the land within the site is not conducive to the creation of an active frontage or traditional building types, as it abruptly rises north to south. They consider no significant landscape framework exists within the site that would help to absorb or accommodate any development.



71, 111, 113, 234, 247, 306, 312 consider that development of site FW-F1(H) would result in coalescence or diminish the distinction between Fenwick & Laigh Fenwick, to the detriment of the historic character of each settlement. The 2017 LDP states that there is a 'need to preserve the integrity of the two villages and prevent their coalescence'. 113 considers that if FW-H1 is developed in a suburban manner, that the additional development of FW-F1(H) would close the gap between Fenwick and Laigh Fenwick, to the detriment and irreversible damage of the setting of each Conservation Area.

111 notes that no affordable housing would be delivered within the site.

111 considers that FW-F1(H) should have scored 71/135 rather than 78/135 as presented in the HSAM. They wish for the site not to be identified as a Future Housing Growth Area in LDP2.

234, 247 are concerned that development within the site would look out of keeping with the listed and historic properties in the adjacent High Fenwick Conservation Area and Laigh Fenwick Conservation Area.

234, 247 consider that any development of FW-F1(H) to help to achieve a 20-minute neighbourhood should not come at the expense of other important considerations.

234, 247 seek the identification of the FW-F1(H) as Safeguarded Open Space in Vol 2 of LDP2 and wish for trees to be planted within the site to address climate change and mitigate flooding.

234, 247 express concern that residential development within FW-F1(H) would result in overlooking or otherwise reduce privacy and that this could not be mitigated by tree planting or fencing.

**Note:** There are further details within representation 288 of steps the applicant would take as part of any development of site FW-F1(H) were it to be allocated in LDP2 (RD116, RD117).

### **FW-F2(H) (HSAM Ref. FW-X8) - Waterslap Road**

#### Support for the inclusion of the site

111 wishes for FW-F2(H) to be allocated as a housing opportunity site in LDP2 with an indicative capacity of 43 units, as a 'Short Term' opportunity in Schedule 3 of Vol 1 of LDP2 and with a stipulation that 33% of the site would comprise affordable housing provision, managed greenspace and walking routes, biodiversity enhancement.

111 considers that FW-F2(H) should have scored 76/135 rather than 73/135 as presented in the HSAM. FW-F2(H) scores highest of the sites proposed for allocation in P-LDP2 or identified as a Future Housing Growth Area after their reappraisal of the scoring. The Entec landscape study (CD53a-c) identified FW-F2(H) as most suitable in landscape terms to accommodate development.

111 states that there is scope to deliver community benefit by providing off-street



parking and bin store facilities for existing adjacent residential properties. The development of the site would help to achieve population growth in an area of proven demand, which is close to transport links and job opportunities. The site has defensible edges by way of roads to the north and east and a watercourse along the southern edge, and development will deliver a mix of sizes and types of houses.

#### Objection to the inclusion of the site

142, 188, 251 consider that development of FW-F2(H) would result in detrimental impact to the Laigh Fenwick Conservation Area, archaeological sites, visual amenity and the setting of listed buildings. The site contains a number of trees subject to Tree Preservation Order (TPO). 188 notes that no Conservation Area Appraisal has been undertaken for Laigh Fenwick or Fenwick. 96, 266 consider that any development within the site should reflect the style of the adjacent Laigh Fenwick Conservation Area in order to maintain the integrity of the settlement and its unique characteristics, or otherwise express concerns about any impact on those characteristics.

251 questions the assessment of FW-F2(H) against the criteria of the LDP2 Environmental Report (CD47) and suggests that the impact on the environment of the site should have been described as 'Negative' overall.

71, 142, 188, 251 consider that the scale of FW-F2(H) is large and would constitute a significant extension to Laigh Fenwick, which they maintain is a relatively small settlement. They consider that the development of the site is likely to have a significant detrimental impact on the landscape setting and character of the settlement and that NatureScot stated that there will be landscape and visual impacts from existing housing.

71, 96, 120, 188, 251, 266, 285, 306 state that FW-F2(H) is at risk of fluvial flooding and that it is also subject to a moderate area of surface water flooding. The development of the site could have significant climate resilience implications, with flood risk being exacerbated because of the development of the site. It is stated that no indication is made in P-LDP2 that there would be a requirement to address flood risk within the site.

251 considers that development of FW-F2(H) is likely to have negative impacts on air quality and climate by proliferating private car use as a result of increasing the residential population of the area.

71, 96, 120, 188, 251, 252, 266, 285 consider that development of site FW-F2(H) would adversely affect or reduce natural habitats and biodiversity, several noting that NatureScot has stated that there is a potential that protected species may be identified within the site.

251, 285 state that development should not take place at FW-F2(H) because the site lies within the Rural Protection Area (RPA).

71, 96, 120 & 251 state that Fenwick & Laigh Fenwick is classed as being open space deficient and that the development of the site would therefore have adverse implications for human health and loss of recreational space.

71, 97, 251, 266 note that vehicular access was either not considered in the Environmental Report and/or indicate that Waterslap is narrow, without footpaths and unable to be widened due to existing properties. Residents of Laigh Fenwick have expressed concern over the safety of the road as it is currently arranged; these issues would be exacerbated by any future development.

306 notes that the allocated sites as proposed in P-LDP2 are too small to require affordable housing and that this precludes the delivery of a range of house types as required by the community.

97 notes that the 2015 'East Ayrshire Local Development Plan Summary of Responses Received to Main Issues Report' (CD102) states that 'the scale of the site would be too large an expansion for the small conservation village of Laigh Fenwick and could detract from its character'. Table 9 of the LDP2 Interim Environmental Report should constitute a material consideration. With relation to the identification of the site as a Future Housing Growth Area, the Community Council has expressed concerns about large-scale developments. A site with an indicative capacity of 68 units would be contrary to the aspirations of the local community and several P-LDP2 policies.

97 contends the proposed Spatial Strategy does not identify Fenwick & Laigh Fenwick as a 'key place of change' and instead focusses on Stewarton. The preferred scale of development proposed for Fenwick & Laigh Fenwick should be small as reflected in the Fenwick Community Action Plan 2020-2025.

97 objects to the findings of the HSAM in relation to FW-F2(H)/FW-X8. Specifically, they question:

- the appropriateness of the 'Marketability' criterion due to the site-specific risk of flooding that applies to FW-F2(H) and the requirement for remedial mitigation. They question the assertion in the HSAM that flood risk 'could be addressed'.
- the 'Biodiversity' score of '2'. No definition of the term 'somewhat important' can be found in the HSAM. Site FW-F2(H) has naturalised and development would be contrary to the aspirations of P-LDP2 Policy NE4: Nature Crisis and Policy NE8: Trees, Woodland, Forestry and Hedgerows. The LDP2 Interim Environmental Report indicated that there would be 'significant potential impact' on biodiversity.
- A contradiction between the LDP2 Interim Environmental Report stating there would be 'significant environmental impact' on the adjacent Laigh Fenwick Conservation Area and the HSAM score of '2', which states that 'impacts can be mitigated'. As a Conservation Area Appraisal has not been prepared for Laigh Fenwick, the score was informed without sufficient evidence and that development would be contrary to the provisions of P-LDP2 Policy HE1. The score should be changed from '2' to '1'.
- The score of 5 under 'Landscape Character and Townscape' as the score is informed without sufficient evidence such as a Character Area Appraisal. The LDP2 Interim Environmental Report indicates that there would be 'significant environmental impact'. The 2005 Entec landscape study states that there should be no southward expansion of Laigh Fenwick.
- The 'Visual Amenity' score, as the LDP2 Interim Environmental Report indicates that there would be 'significant negative effect on environment'. Noting that NatureScot was consulted as part of the assessment of site FW-F2(H), there is

no rationale for the HSAM score of '2', which states that the 'significance of the affect is moderate'.

71, 97 note that Laigh Fenwick is further from services and facilities including a public house and Fenwick Primary School than the rest of Fenwick, any development there being contrary to the 20-minute neighbourhood principle. Development within the site would therefore be contrary to Draft NPF4 Policy 7. There are no safe route to schools, noting that the 2017 LDP Examination Report concluded that a nearby site at Weavers Court was remote. Any development in Fenwick should be directed towards the northern part of the settlement and that no further development should take place following the completion of FW-H1.

188 considers that the identification of FW-F2(H) as a Future Housing Growth Area is contrary to Scottish Government guidance and that the Council is acting beyond its remit for LDP2. 188 believes that the Council has already encouraged a developer to advance plans for FW-F2(H) and that the Council will allow development at FW-F2(H) once the LDP2 reaches the final years of its lifespan.

142 considers that FW-F2(H) failed a number of 'tests' at Main Issues Report (MIR) stage.

**Note:** There are further details within representation 111 of steps the applicant would take as part of any development of site FW-F2(H) were it to be allocated in LDP2 (RD19).

**Note:** There are further details within representation 97 that include mapping and photographs of FW-F2(H) and their response to the LDP2 Main Issues Report consultation (RD12).

**Note:** 71 includes photographic evidence of flooding within the site and the junction of Waterslap and Main Road.

**Note:** 120 refers to the inclusion of photographic evidence of flooding and biodiversity within their submission but have attached no such details.

**Note:** There are further details within representation 188 that set out their response to the LDP2 Main Issues Report consultation (RD71).

### **FW-X2 - Land at Dewars Farm (AKA Dewars Holm)**

113 wishes for FW-X2 to be allocated as a housing opportunity site in LDP2. They state that the site is 1.6ha in area, of which 1.2ha is suitable development and that although more could be developed, the site could comfortably accommodate up to 8 dwellings, a sustainable, small scale in line with the size and character of the settlement. They state that the scale of development proposed would allow for a variety of layouts and styles in keeping with the High Fenwick Conservation Area and the local landscape, and would ensure a high standard of amenity and design. They note that development of the site would present no problems with regard to coalescence between Fenwick & Laigh Fenwick.

113 states that access would be taken from the existing road that serves FW-X2 with necessary sightline improvements at the junction and that all of the infrastructure necessary to enable development is available within the site or can be accessed from publicly available land. They state that development within the site is deliverable on land not liable to flooding and that there would be no loss of green or blue infrastructure.

113 considers that development of the site can be fully justified against relevant policies in the Draft NPF4 and P-LDP2, that FW-X2 is available for development in the short term and that a recognised local developer has secured the site. They state that any dwellings developed would incorporate new forms of technology that would meet low or zero emission requirements.

113 states that FW-X2 is situated close to Fenwick Primary School and local facilities, and meets the 20-minute neighbourhood principle contained within draft NPF4. They maintain that it can be accessed by all forms of transport, particularly those on foot, by those that are cycling or those using public transport. They consider that the development of the site would support local services and facilities.

**Note:** There are further supporting details within representation 113 (RD26).

### **FW-X3 - Land at Fenwick**

195 wishes for the site to be allocated as a housing opportunity site in LDP2.

195 considers that allocation of site FW-X3 in Fenwick would help to ensure the delivery of the P-LDP2 Vision and Aims will not be achieved for Fenwick/Laigh Fenwick without the allocation of FW-X3. They maintain that services cannot be supported sustainably by the current population or any modest increase in population resulting from the allocations proposed in P-LDP2, and consider that the pupil roll at Fenwick Primary School could reduce to such a degree that it might close.

Citing the aims set out in para. 2.2 of P-LDP2, 195 states with respect to Aim 1 and Aim 3 that FW-X3 would provide homes to new standards, meaning they would contribute to net zero targets and would provide population to support local facilities and services. With regard to Aim 2 and Aim 4, they maintain that FW-X3 lies within a 20-minute neighbourhood that contains a primary school and facilities, and that development therein would will be designed to be accessible to those facilities and services by active travel. Concerning Aim 5, they note that an indicative master plan for the development of FW-X3 details a significant area of amenity green infrastructure and active travel routes, and that development would support existing infrastructure, namely Fenwick Primary School and its pupil roll.

Concerning P-LDP2 Aim 6, 195 maintains that the house building industry provides and supports many direct and indirect jobs and contributes significantly to the economy of Scotland, this being highlighted by 'The Social and Economic Benefits of Home Building in Scotland' report recently published by Homes for Scotland. They state that the report demonstrates that house building can contribute significantly to the local economy.

195 maintains that development of FW-X3 would help to maintain bus services in the settlement or otherwise reduce the need to travel through helping to maintain local facilities.

195 expresses reservations as to the HSAM weighting applied to sustainability criteria compared to more subjective landscape considerations and they request that site FW-X3 be allocated as they consider that it meets those requirements.

195 states that development of FW-X3 would be able to meet the terms of P-LDP2 Policy NE1: Protecting and Enhancing Landscape and features, which they maintain justifies its allocation. They contend that the existing urban/rural interface between settlement and countryside is abrupt in the location of FW-X3 and weak because it relies on a settlement boundary formed by rear garden fences and some garden boundary features along the existing urban edge of Fenwick. They consider that the introduction of a new and enhanced landscape framework would set the context to a residential development within a parkland setting and predict that proposals would support a more robust and re-aligned boundary by consolidating and rounding off the edge to the built-up area. They contend that a large area of open space would be introduced across the higher, eastern parts of FW-X3 and that new landscape components would add a further wooded layer to the existing landscape framework and setting of Fenwick.

In addition to the aforementioned statements pertaining to school roll, support for facilities in the settlement and the 20-minute neighbourhood, 195 also sets out a range of other details within a supporting statement for site FW-X3. They consider that the scoring in the HSAM was incorrect and disregarded by the Council during the site selection process and, because FW-X3 scored well, it should have been proposed for allocation in PLDP2. They consider that the indicative capacity of FW-X5 is 150 dwellings and not 256 dwellings and that this discrepancy, which considered that the site was large in the context of Fenwick, resulted in a lower scoring against the HSAM.

They offer their own scoring against the HSAM, with 4/5 for 'Contribution to Spatial Strategy', 22/30 for 'Site Viability and Marketability' and 32/35 for 'Non-absolute constraints', noting that a score of '5' was appropriate for biodiversity and landscape character. They consider the site should score 33/60 for 'Sustainability of Location', including '5' for 'Distance to primary school', 'Visual amenity' and 'Landscape', and '4' for 'Distance to bus stop'. This would produce a score of 91/135 or second in Fenwick/Laigh Fenwick, behind FW-H2.

**Note:** There are further supporting details within representation 195 (RD73).

#### **FW-X6 - Maunsheugh/Main Road**

142 wishes for the site to be allocated as a housing opportunity site or Future Housing Growth Area in LDP2 and that it should be allocated or identified instead of FW-F2(H). They consider that the indicative capacity of 17 dwellings detailed in the HSAM is incorrect and that the capacity is instead 5 dwellings.

142 notes that the HSAM states that a significant flood risk is identified for FW-X6 in Stage 1 the HSAM but that Stage 2 of the HSAM gives FW-X5 & FW-X6 a score of '5',



then states that the site 'is affected to a significant degree by surface water flood risk'. Although they concede that a portion of the site is at risk of flooding, they contend any problems can be suitably mitigated.

With regard to HSAM 'Biodiversity' score of '2', 142 contends that no definition of the term 'somewhat important' can be found in the HSAM and that a score of '5' would be more appropriate, as they consider that the site performs a limited biodiversity role.

Concerning 'Landscape Character and Townscape', 142 notes that the HSAM states that NatureScot suggested 'the site benefits from an existing landscape framework and that development could be accommodated within it'. In this respect, they maintain that although the Entec landscape study recognises the importance of separation between Fenwick and Laigh Fenwick, that the development of FW-X6 would not eliminate that gap; development would lie north of existing development in Maunsheugh Road. They contend that landscape impact would be limited.

In conceding that the most significant impact of development within FW-X6 could be on the setting of the adjacent Laigh Fenwick Conservation Area, 142 notes that the HSAM provides a score of '5', that 'development of site would not affect any heritage asset'. In this respect, and regarding any coalescence between Fenwick & Laigh Fenwick, they maintain that most development within FW-X5 could be set behind existing housing in Maunsheugh Road, and a landscape buffer guaranteed by a Section 75 Agreement could be installed. In their view, the implications of physical coalescence are more imagined than real and they consider that no evidence has been provided by the Council to confirm otherwise.

With regard to impact on visual amenity, 142 notes that the HSAM provides a score of '2' or '...moderate role with regards to visual amenity' but note that NatureScot consider that development could be accommodated within an 'existing landscape framework'.

Concerning HSAM scoring attributed to the Entec landscape study, 142 is of the view that the study does not indicate any requirement for a specific appraisal and that the site is separated from the environmentally more sensitive undeveloped area between Fenwick and Laigh Fenwick by existing development along Maunsheugh Road.

142 notes that HSAM scoring attributed to FW-X5 with regard to the 'Examination report 2016 comments' criterion was higher at '5' only because FW-X5 had never before been proposed and that the criterion unfairly suggested that development at FW-X5 would be problem-free solely because it had never before been assessed. With respect to the 2016 examination, 142 notes the Reporter's comments on FW-X6 stated that development would bring about erosion of the separation between Fenwick and Laigh Fenwick and would harm the character and appearance of the countryside. However, they are of the view that their proposed site layout would address any issue of coalescence and note that NatureScot stated that development could be accommodated within an 'existing landscape framework'.

142 states that development of site FW-X6 would be in accordance with a range of P-LDP2 policies.

142 notes that the HSAM provided a Settlement Rank of 4/11 for FW-X6 and 2/11 for FW-F1(H). In this respect, they consider that there is little to differentiate the adjacent sites and that both should be identified as Future Housing Growth Areas and as alternatives to site FW-F2(H) Waterslap Road.

**Note:** There are further details within representation 142 of steps the applicant would take as part of any development of site FW-X6 were it to be allocated in LDP2 and their submission to the 2020 Call for Site Information (RD40).

### **FW-X9 - Land at Skernieland Road**

113 wishes for FW-X9 to be allocated in LDP2. They state that site at Skernieland is 3.5ha in area, and located to the south of a recent residential development at Fowld's View/Fulton's Crescent and land which is reserved for the future expansion of Fenwick Cemetery (CEM 6). They note that FW-X9 is within the ownership of East Ayrshire Council and that it was not allocated in the 2017 LDP.

113 states that not all the land within FW-X9 developable, noting that the southern boundary of the land that is developable extends to the top of a very steep escarpment that rises from the Fenwick Water and which also rises in an area of ground that is just out-with the northern garden boundary of The Paddock. They note that a large SuDS pond lies within the site and was constructed to service the Fowld's View and Fulton Crescent development. In this respect, they estimate that the developable area of the site extends to approximately 2.8 ha, subject to confirmation by detailed topographical survey.

113 notes that the Entec landscape study identifies the site as being 'most suitable' for development. They consider that development of the site would be consistent with the 20-minute neighbourhood concept as all local facilities are within a short walk.

In support of the allocation of the site in LDP2, 113 states that the adjacent residential development at Fowld's View and Fulton's Crescent was built on land sold by East Ayrshire Council to a residential developer and that development was regulated by a legal agreement signed in 2011. However, they note that the provisions of that legal agreement extend to site FW-X9. The legal agreement includes details pertaining to pedestrian and vehicular access arrangements, rights of connection to the aforementioned SuDS, which has a capacity for an additional 40 dwellings, servicing and an option to purchase the land in question. 102 & 103 note that no mention of the aforementioned option has been made in PLDP2.

113 considers that FW-X9 is more suitable for residential allocation or identification than FW-H2, FW-H3 or FW-F1(H).

71, 102 & 103 state that the area is used for recreational purposes by the local community. 71 considers that the site should constitute publically accessible green space.

**Note:** There are further supporting details within representation 113, including a site map and details of a legal agreement (RD134).



### **FW-X10 - Land Adjacent to 4 Maunsheugh Road**

149 seeks the allocation of FW-X10 as a Housing Opportunity or a Future Housing Growth Area as part of a replacement of FW-F2(H), which they consider is subject to a range of constraints. They state that FW-X10 has an area of 0.6ha, enjoys a southerly aspect and could accommodate up to 10 units at an average density. They note that their interest is recent and that they made no submission to the call for sites or MIR consultation.

149 has assessed the site against the criteria of the HSAM. In this respect, they consider that the site would perform similarly to FW-X6 and FW-F1(H) adjacent and that a robust determination of the merits of site FW-X10 could therefore be made.

Concerning HSAM Stage 1, 149 states that the site lies adjacent to the settlement boundary, that it is not at risk of flooding, that the site would not adversely affect a SPA, SAC or SSSI, that no native or ancient woodland would be affected and that the capacity is greater the threshold of four units.

In terms of Stage 2, 149 considers that FW-X10 would, as with FW-X6 and FW-F1(H) adjacent, score '2' against the HSAM 'Contribution to Spatial Strategy' criterion. With respect to the 'Site Viability and Marketability' criteria, they consider that FW-X10 should score '5' as with FW-X6 and FW-F1(H) adjacent because Fenwick is a marketable settlement. They deem that the site would achieve a similar score to the aforementioned sites; they suggest that the score for FW-X10 should be 23/35 or higher.

149 considers that the site would achieve a score of '5' against the HSAM 'Open Space and Recreation Value' criterion. They consider that the site would achieve the same score with regard to Coal Mining Risk Assessments as FW-X6 and FW-F1(H) each received '5'.

Concerning the 'Non-Absolute Constraints' criteria, 149 considers that FW-X10 should achieve a score of '5' for flood risk and that a score of '5' for biodiversity would be appropriate as they consider that the site performs no biodiversity role. They consider that a score of '2' would be appropriate for the 'Capability for Agriculture' criterion and that the site would score '5' for 'Land or Water Contamination'.

With regard to impact on 'Heritage Assets' as assessed in the HSAM, 149 considers that FW-X10 should be scored '5' because they consider that the development of the site would have no adverse effect. In this respect, they note that the southern boundary of FW-X10 that is nearest to Laigh Fenwick is heavily wooded and features mature specimens that would be retained.

In terms of the 'Landscape Character and Townscape' criterion, 149 considers that FW-X10 should score well and that the score of '1' applied to FW-X6 and FW-F1(H) was incorrect given the comments by NatureScot pertaining to an existing landscape framework within those sites. They note that P-LDP2 provides no guidance with relation to the townscape of the area of Fenwick in question. They consider that topography is an important consideration with regard to FW-X10, note that the site lies lower than Maunsheugh Road and that properties there would form a backdrop.

149 considers that completion of units within FW-X10 would constitute an extension of existing development at the eastern boundary of the site and that the settlement boundary would extend no further to the south-west than the limits of neighbouring gardens. Noting that the townscape of that part of Fenwick is not mentioned in the P-LDP, they consider that development would sit comfortably into the overall configuration of the settlement boundary as shown in the proposals map and maintain that development within the site would be of a high standard.

Concerning the Entec landscape study, 149 is of the opinion that the landscape quality of the site is described as 'medium to low' and its primary function is one of separating Fenwick from Laigh Fenwick. However, they consider that development with appropriate landscaping would not move Fenwick any further south than the current situation and that the area of separation between Fenwick and Laigh Fenwick would not be reduced to any significant extent. In this respect, they consider that the site would score favourably against the 'Visual amenity' HSAM criterion.

In terms of the 'Sustainability of Location' criteria of the HSAM, 149 considers that the site should score '2' for 'Distance to primary school', '1' for 'Distance to secondary school' and '2' for 'Distance to health centre or GP'. They consider that '1' is an appropriate score for 'Distance to EAC town or neighbourhood centre', although they note that various services can be found in the centre of Fenwick nearby. They believe that a score of '5' would be appropriate for 'Distance to bus stop', '1' for 'Distance to train station' and '1' for 'Previously developed land'.

Concerning the 'Urban/rural classification' criterion of the HSAM, 149 note that the site falls within the Accessible Area category as defined in Scottish Government's Urban Rural Classification 2020. With respect to the 'Distance to key town centre' criterion, they concede that Fenwick & Laigh Fenwick, the site is more than 10km from the nearest of these but that Kilmarnock can be reached via a relatively frequent bus service.

149 cites considerations from PAN 2/2010 that may apply to the site. They note that the site is in single ownership, that the site could be developed within the LDP2 period and that no deficit funding would be required. They note that the site is not subject physical constraints or contamination and that the site is accessible to water supply and foul sewage capacity. They consider that the preferred use of the site is as housing and that Fenwick is a marketable settlement, and that the site would therefore be effective.

149 states that development of site FW-X6 would be in accordance with a range of P-LDP2 policies.

#### Issues Raised In Relation to Non Planning Related Matters

89 & 312 reference issues associated with playing fields that are nor pertinent to the consideration of the suitability of sites for allocation in LDP2.

89 notes that the Council are not able to stipulate where development is undertaken, and the style of homes developed.

93, 188, 306 consider that the people of Fenwick or the Council should be able to influence the size or type of properties developed in Fenwick.

102 & 103 state that the pub on the Main Street in Fenwick is the Kings Arms and not the Kings Hotel.

102 & 103 state that Fenwick is bounded by the M77 and/or that there is no such area as West Fenwick except with the former parish of Fenwick boundaries, which no longer apply.

102 states that the summary table uses a guide (Stage 2 assessment key) which is not legible, and that it requires an additional table to explain each acronym.

102 refers to an area of land adjacent to FW-H3 that is used by the community during the festive period.

102 & 119 state that development would bring about no economic or other benefit to existing residents in Fenwick or would result in revenue for the Council.

102 makes various corrections to the description of sites in Fenwick & Laigh Fenwick as presented in the LDP2 Interim Environmental Report.

103 states that inhabitants of Fenwick moved to the settlement for various reasons.

124 states that roads in Fenwick are affected by potholes.

255 & 257 state that business operations would be adversely affected by development.

255 states that development would result in loss of views.

32, 255 & 269 state that the value of their property would be adversely affected or that views from their house would be affected.

255 considers that development of the site would be contrary to the Local Plan.

71 expresses concern that additional sites not presented the Main Issues Report were considered for inclusion in P-LDP2.

#### **Modifications sought by those submitting representations:**

##### **Development and Proposed Allocations in Fenwick (General)**

234, 247 seek the development of an acoustic barrier in Fenwick to address noise emanating from the M77.

71, 102, 103, 266, 268 wish for no housing opportunity sites to be allocated in Fenwick & Laigh Fenwick in LDP2.

##### **FW-H1 - Bowling Green Road**

71, 89, 93, 102, 103, 124, 238, 251, 253, 255, 257, 266, 306, 312 object to the proposed allocation of the site and wish for it not to be allocated in LDP2.

312 seeks the identification of the FW-H1 as Safeguarded Open Space in Vol 2 of LDP2.

### **FW-H2 - Main Road**

32, 71, 89, 93, 102 & 103 object to the proposed allocation of the site and wish for it not to be allocated in LDP2.

111 & 113 seek the retention of the site within the Fenwick & Laigh Fenwick settlement boundary but wishes for it not to be allocated in LDP2.

71 requests that the site requirements for FW-H2 as set out in Vol 2 of PLDP2 should be amended. These changes would stipulate the retention and conservation of the aforementioned wall, the preservation of all mature trees within the site, would set out an indicative capacity of 20 units and would state that the development of a shop or health centre within the site would be acceptable.

### **FW-H3 - Stewarton Road**

111 seeks for the site to be retained as a housing allocation but asks that it should be classified as non-effective.

113 seek the retention of the site within the Fenwick & Laigh Fenwick settlement boundary but wishes for it not to be allocated in LDP2.

32, 71, 268, 269 object to the proposed allocation of the site and wish for it not to be allocated in LDP2.

### **FW-F1(H) - Land South of Murchland Avenue**

142 wishes for the site to identified as a Future Housing Growth Area in LDP2.

288 wishes for FW-F1(H) to be allocated as a housing opportunity site in LDP2 rather than a potential Future Housing Growth Area but deems that identification as a Future Housing Growth Area would be acceptable were that not to be possible.

71, 111, 113, 234, 247, 306 wish for the site not to be identified as a Future Housing Growth Area in LDP2.

234, 247 seek the identification of the FW-F1(H) as Safeguarded Open Space in Vol 2 of LDP2 and wish for trees to be planted within the site.

### **FW-F2(H) – Waterslap Road**

111 wishes for the site to be allocated as a housing opportunity site in LDP2 with an indicative capacity of 43 units, as a 'Short Term' opportunity in Schedule 3 of Vol 1 of LDP2 and with a stipulation that 33% of the site as developed should comprise

affordable housing.

71, 96, 97, 111, 142, 149, 251, 252, 266, 285, 306 wish for the site not to be identified as a Future Housing Growth Area in LDP2.

#### **FW-X6 - Maunsheugh/Main Road**

142 wishes for the site to be allocated as a housing opportunity site or Future Housing Growth Area in LDP2.

#### **FW-X9 - Land at Skernieland Road**

113 wishes for the site to be allocated as a housing opportunity site in LDP2.

#### **FW-X10 - Land Adjacent to 4 Maunsheugh Road**

149 wishes for the site to be allocated as a housing opportunity site or Future Housing Growth Area in LDP2

### **Summary of responses (including reasons) by planning authority:**

#### **Development and Proposed Allocations in Fenwick (General)**

##### Factual accuracy relating to CEM6 (102 & 103)

CEM6 is depicted as 'Fenwick Cemetery' on p.189 of Vol 1 and p.45 of Vol 2 of P-LDP2. No correction is required. Rights of Way have not been depicted in volume 2 of the Plan, which sets out site allocations and particular boundaries. It does not, and is not intended to, highlight all constraints and features such as rights of way. For information these are contained within the Council's online mapping, ensuring they are publically accessible.

##### Rural Environment & Rural Protection Area (102, 103 & 248)

Fenwick & Laigh Fenwick is not subject to any specific rural environment designation in P-LDP2 and it was not identified as such in the 2017 LDP. Whilst the Scottish Government through the Draft NPF4 (CD3), and more recently through the NPF4 (CD4), seeks to ensure that settlements should be compact and that residential density should increase, it sets out no policy to prevent 'urban creep'. Notwithstanding, it is considered that each allocated site as proposed would not adversely affect the rural character of the settlement, either individually or cumulatively, and each site has been selected to avoid adverse landscape impact. The sites are proportionate and in scale with the existing village. The Rural Protection Area (RPA) is defined as those areas in the Kilmarnock & Loudoun Sub-Housing Market Area that do not fall within settlement boundaries. It would not be appropriate for a settlement as large as Fenwick not to be encompassed by a settlement boundary in LDP2; the minimum number of units to require a settlement boundary is 15.

##### Lack of proven need for new housing allocations (71, 93, 96, 102, 103, 124, 188, 195, 252, 253, 266, 268, 306 & 312)

It is not considered prudent or appropriate not to allocate or identify as a future growth site any land in LDP2 or during subsequent Plan periods, and in that respect the suggestion that the 2017 LDP settlement boundary should remain unchanged is inappropriate. Balance must be achieved between ongoing pressure for housing land release in the settlement and concerns by the community about new development. Consequently, a modest supply of housing land with an indicative capacity of 59 units or around 6 units per year has been set out in P-LDP2. Each site is sustainably located and has been selected in part because of its location close to transport, services and facilities. The level of allocation proposed is sufficient to maintain services in the settlement; there is no requirement to allocate additional or larger sites. Subject to thorough assessment, it is anticipated that further residential allocation may be made in the settlement as part of subsequent Plan periods, in order to continue to support services and facilities and therefore a Future Growth Area has been identified.

With regard to suggestion that the allocation proposed in P-LDP2 in Fenwick is disproportionate to East Ayrshire as a whole, it should be noted in the context of considerable developer interest, that only one new site is proposed in the settlement and that two have been carried forward from the 2017 LDP. This is considered entirely proportionate, and in line with other East Ayrshire settlements.

That the number of dwellings in Fenwick has increased over the last decade is not considered to constitute a negative influence on the settlement and instead is likely to have ensured its continued vitality; it is hoped that the sites as allocated in P-LDP2 will have a similar effect. The allocation of sites is in accordance with the Draft NPF4, which sets out a Minimum All-Tenure Housing Land Requirement (MATHLR) of 4050 dwellings for East Ayrshire, which has been supplemented by an additional 50% generosity. The 4050 figure has since been taken forward in the NPF4. There is therefore a very clear and specified requirement for housing land across East Ayrshire.

Whilst concern is expressed about suburbanisation, it is considered that any addition to the settlement is modest in numerical terms and is significantly smaller than the total of all sites proposed for allocation in the settlement as part of the call for sites and P-LDP2 consultation. It is considered that the character of the settlement will mostly remain unchanged.

#### Traffic & Transport issues (32, 102, 124, 266 & 306)

With regard to the issue of traffic generation and necessary infrastructure, the Council would advise the Reporter that the Ayrshire Roads Alliance has not raised any objections to any site proposed in P-LDP2 in Fenwick & Laigh Fenwick. A Transport Appraisal commissioned by the Council to support LDP2 (see CD19) does not express any particular concerns with respect to sites in Fenwick & Laigh Fenwick; any recommended mitigation set out within the Appraisal applies to locations elsewhere in East Ayrshire. The developer of any each site proposed in Fenwick in P-LDP2 must accord with mitigation set out in the Environmental Report, which includes directly linking to existing cycling and walking routes, including core paths and rights of way in order to reduce vehicle usage. It is also noted that the Environmental Report requires the design of sits NW-H3 and FW-H2 to provide natural screening to lessen the impacts of road noise, reflecting their close proximity to the M77.

Public transport is not provided by and is not within the control of the Council, and is instead operated by private companies. Nevertheless, P-LDP2 Policy T1: Transport requirements in new development includes a number of conditions for all new development to ensure that all sites would meet requisite standards, in line with Ayrshire Roads Alliance policy. To address any deficiencies associated with walking and cycling in Fenwick & Laigh Fenwick, Ayrshire Roads Alliance is preparing an Active Travel Strategy for East Ayrshire, which linked to the Council's Climate Change Strategy will bring about further investment in active travel. Similarly, to address digital connectivity, development must accord with P-LDP2 Policy INF2: Installation of Fibre Broadband for New Developments.

With regard to any traffic issues around the Stewarton Road entrance to the village, the Council understands that Ayrshire Roads Alliance is aware of the problem, which lies outwith the scope of the LDP. The provision of any new access arrangements to the settlement from the M77, as suggested, is a matter for Transport Scotland, within whose area of responsibility the trunk road network lies.

It cannot be established as part of the site selection process whether construction traffic would damage historic buildings and any such effects could regardless be addressed as part of the planning application process. Concerning general impact on the historic environment from development, it is considered that site requirements that pertain to those sites that lie adjacent to Conservation Areas, FW-H1 and FW-H3, are sufficient to address any such issues arising, alongside the built heritage policies of the Plan which any planning application must comply with.

#### Environmental Pollution and carbon emissions (102 & 266)

The Council acknowledges that Fenwick & Laigh Fenwick lie close to the M77 and that it would be adversely affected by such proximity without appropriate mitigation. Consequently, a requirement to undertake mitigation to address that proximity forms part of the site requirements through the Environmental Report for each site proposed for allocation in the settlement.

Regarding the release of carbon emissions, it should be noted that the Environmental Report requires any developer of each site to 'use zero carbon materials and construction methods and...embrace renewable energy methods to minimise carbon emissions'. Whilst it is acknowledged that housing may attract commuters, any development within the site must nevertheless comply with Policy SS1: Climate Change, Policy RE3: Low and Zero Carbon Buildings, Policy WM1: Waste Management in New Development and, if applicable, Policy CR2: Emissions to ensure that climate impact is minimised.

#### Impact on natural environment and biodiversity (102 & 103)

With regard to comments pertaining to impact of development on natural features, green infrastructure and biodiversity within the area encompassed by sites proposed for allocation in P-LDP2, it should be noted that the Environmental Report sets out a number of mitigation steps for each site in order to reduce any impact and, where possible, improve conditions. The developer of each site must comply with the requirements set out in the site description in order for any proposal to comply with the



Plan. With respect to any requirement for a green buffer between the settlement and the M77, it is maintained that such a buffer would remain after any development of the sites as proposed, as each is either not contiguous to the road or would include an appropriate standoff. P-LDP2 Policy NE6: Vulnerable, Threatened and Protected Species encompasses any associated impacts should they be identified.

Capacity of existing facilities (32, 102, 103, 119, 124, 195, 251, 266 & 312)

With respect to pressure on educational and medical services, P-LDP2 includes within its provisions Policy INF4: Developer Contributions, which will be implemented where a development will place additional demands on infrastructure, services, facilities and amenities that would necessitate new facilities or exacerbate deficiencies in existing provision. There is therefore a mechanism to address any capacity issues in terms of education and health and social care, should they occur.

The Council understands any desire on the part of the community in Fenwick that would wish to see the opening of a shop in the settlement. Whilst the delivery of such services is a commercial concern, P-LDP2 Policy TC3: Small-scale retail development in out-of-centre locations supports such development and any such proposals within Fenwick & Laigh Fenwick would likely be viewed favourably. Development of other footfall generating uses, such as a medical centre or GP, would be similarly supported, subject to assessment against appropriate LDP2 policies.

As stated above, the allocation proposed in Fenwick & Laigh Fenwick in LDP2 is modest and it is anticipated that any pressure added to services and amenities would be satisfactory and capable of being addressed through appropriate measures. With respect to the suggestion that Kilmarnock is best placed to accommodate development, the Council concurs and to that settlement and its immediate environs has been directed more than 60% of all indicative residential allocated supply in P-LDP2. The proposed allocated residential supply in Fenwick by contrast accounts for less than 1% of all supply set out in P-LDP2.

Capacity of Infrastructure (93, 124, 235 & 266)

Scottish Water has been consulted on all sites proposed for allocation in P-LDP2. Capacity has been determined with respect to FW-H2 and FW-H3 through the granting of planning consent for each site, whilst for FW-H1 they have stated that there is sufficient capacity in the current system.

In relation to the need for full impact studies (93), it is noted that all development proposals that fall outside the scope of permitted development are subject to the planning process, and are assessed accordingly. Statutory Authorities are consulted and respond, where there is a need to; this will not be the case for all developments. For those sites proposed for allocation in P-LDP2 in Fenwick & Laigh Fenwick, all are subject to mitigation and enhancement as set out in the Environmental Report. P-LDP2 itself was prepared alongside a Transport Appraisal (CD19) to determine impacts on vehicle movements and was submitted for consultation to all statutory agencies.

Priority to be given to vacant and derelict sites (124 & 252)

Alongside development opportunities throughout East Ayrshire, an effort has as far as possible been made in P-LDP2 to direct residential development towards vacant and derelict sites in Kilmarnock, close to the town centre. Sites KK-A2, KK-H11, KK-M1 and KK-M3 each comply with those characteristics. The P-LDP2 policy framework also includes a range of policies to encourage the reuse of brownfield land, including Policy SS4: Development of Vacant and Derelict land, which sets out a number of incentives to do so.

Only one undeveloped brownfield site can be found in Fenwick, FW-H2, and it has been proposed for allocation in P-LDP2. The Draft and then the NPF4 objective of directing development to previously developed land has therefore been met.

Environmental Report Assessment (266)

It is recognised that any new site is likely to have some negative environmental impacts associated with its development. Because of this, the aforementioned Strategic Environmental Assessment (SEA) was carried out and the outcome of this used in conjunction with the HSAM, to come to a decision on which sites were suitable for development. The SEA on its own does not tell us whether a site is suitable for development or not. However, the assessments can help to highlight possible mitigation measures, which could be carried out on particular sites in order to make what might otherwise be considered unsuitable development acceptable. For each site proposed for allocation in P-LDP2, there are a range of steps towards mitigation of environmental impacts, each of is informed by the SEA process.

Community Action Plan (306)

Concerning the Fenwick Community Action Plan, it is considered that although not all key principles have been met, that the Action Plan has broadly been reflected in LDP2, in particular support for Fenwick Primary School through a modest increase in the number of dwellings and the allocation of small-scale housing sites.

Loss of Open Space (71, 103 & 312)

Concerning comments that the sites suggested for designation as Safeguarded Open Space are used for recreational purposes or that development of those sites presented in P-LDP2 would remove such amenity, it should be noted that none of the suggested areas form part of the defined area of Safeguarded Open Space in Fenwick & Laigh Fenwick in the Proposed Plan. Indeed, they were not identified as such in the 2017 LDP, or as part of the review of open space that informed LDP2.

Nevertheless, and concerning the comment that the settlement is open space deficient, should any site be developed, the developer would be required to provide a requisite area of publically accessible open space within the development, subject to policy requirements, thereby increasing rather than reducing the total area of publically accessible open space in Fenwick & Laigh Fenwick.

Need for appropriate house types and affordable Housing (71, 248 & 188)

None of the three housing sites within Fenwick are specifically reserved for affordable housing. Nevertheless, it should be noted that land to accommodate around 1377 affordable dwellings has been allocated in P-LDP2, subject to completion of those sites for which a contribution is required. Additional affordable housing completions are expected to take place within land that is not allocated in the plan. Sufficient land to accommodate the affordable MATHLR has therefore been identified in P-LDP2 and there is therefore no requirement to allocate additional affordable housing supply. In terms of the policy RES3, the affordable housing requirement comes in for sites of 30 units or more. Of the residential sites in Fenwick, none of them exceed this threshold in terms of indicative capacity, however, if any planning application exceeds the indicative capacity and proposes over 30 units, affordable housing will be required.

There is no specific requirement upon developers to deliver types of housing other than, in certain circumstances, they must be affordable. Decisions pertaining to size and design are the responsibility of the developer.

#### Ground Conditions (188)

Ground conditions and the displacement of water are a matter for the developer of housing sites, however, it should be noted that development has previously not been precluded in the settlement due to any such issues.

#### Coalescence (71)

An effort has been made through the site selection process to avoid coalescence and ensure the separation of Fenwick and Laigh Fenwick and it is considered that no such issue would arise because of the proposed allocation of any site in P-LDP2.

#### Developer of Sites (111)

That the developers of 2017 LDP sites 287H and 174H were Homes for Scotland members is not considered to constitute any indication in itself that allocation of other sites promoted by members of that organisation would be effective, or that those sites would be suitable for development. Indeed, sites that are more suitable have previously been built out by non-HfS members.

### **FW-H1 - Bowling Green Road**

#### Level of Site Relative to Main Street (89 & 306)

It is considered that any difference in height between FW-H1 and Main Street could be reconciled if necessary through design considerations as part of the planning process.

#### Flood Risk (89, 102, 103, 124, 253, 255, 257, 266 & 306)

Whilst it is acknowledged that parts of the site are at risk of surface water flooding, it should be noted that SEPA has offered no objection to the allocation of the site and it is anticipated that any such risks could be addressed through the application and development processes. In this respect, it should be noted that the site requirements for FW-H1 stipulate that the developer must contact the relevant flood management

authorities to discuss their proposals. Any development of the site must comply with P-LDP2 Policy CR1: Flood Risk Management. It should be noted with respect to comments that suggest that SEPA imaging of the site to determine risk of flooding is inaccurate that the Council has full confidence in the assessments and findings of the statutory organisation.

Indicative Capacity of Site (71, 89, 93 & 124)

It should be noted that the capacity for each site presented in Vol 2 of the Proposed Plan is indicative, that is, the developer is not required to build precisely the number of units stated. A range of factors, including layout and development constraints, may result in development of a greater or lesser number of dwellings. However, any proposal would be required to comply with the relevant policies of the LDP. The design and layout of dwellings would be required to comply with LDP policies, in particular P-LDP2 policy RES4: Compact Growth, which requires consideration of the character of the existing area in terms of density.

Laigh Fenwick Conservation Area (71, 89, 93 & 266)

With regard to any concern about the impact that development within FW-H1 would have on the setting and character of the Laigh Fenwick Conservation Area, whilst the LDP cannot stipulate the style of dwellings, it nevertheless should be noted the site requirements for FW-H1 state the following. That 'the developer of the site must when developing their proposals consider the character and appearance of the Laigh Fenwick Conservation Area which lies immediately adjacent to the site'. The P-LDP2 Environmental Report furthermore states that 'development will be required to take into account the adjacent conservation area...in terms of scale of development, design and materials'.

Concerning the group of trees within the southern part of the site, the requirements also state that 'an appropriate buffer should be provided between any development and the semi-natural woodland along the southern edge of site'. It must be highlighted that the site in question does not fall within the Laigh Fenwick Conservation Area itself.

With regard to those comments that contend that to respect the historic pattern of development north/south along Main Road is an anachronism, it should be noted that the strategy for Fenwick/Laigh Fenwick has been to encourage development in that area precisely because facilities, services and transportation links have developed along that logical axis over many years. Proximity to those facilities, most of which are within reasonable walking distance, helps those sites proposed for allocation in P-LDP2 to meet 20-minute neighbourhood principles.

Whilst the Council understands that Fenwick/Laigh Fenwick is a historic settlement with connection to important events, it is contended that sustainability, which forms the backbone of P-LDP2, should be a principal determinant in the site selection process. Therefore, whilst historical precedent with respect to FW-H1 is important and has been respected through site requirements, it should not come before other important considerations.

Traffic, Transport & Parking (71, 89, 124, 255, 257 & 266)

With regard to the issue of traffic generation, road safety and necessary infrastructure, the Council would advise the Reporter that the Ayrshire Roads Alliance has not raised any objections. A Transport Appraisal commissioned by the Council to support LDP2 (CD19) does not express any particular concerns with respect to site FW-H1; any recommended mitigation set out within the Appraisal applies to locations elsewhere in East Ayrshire. With regard to any on street parking by visitors that might affect access to properties for emergency vehicles, it should be noted that provision of sufficient visitor parking would be required for new residential development and it is therefore considered that no such issue would arise.

It is considered that services and facilities in Fenwick, which lie within 800m of the site, are sufficiently close to fall within reasonable walking distance. Indeed, FW-H1 lies closer to those services than any other part of Laigh Fenwick and the location in question was selected because it was better placed to meet 20-minute neighbourhood principles than several other sites proposed for allocation in LDP2. Whilst the quality of the cycle network is a matter separate to an assessment of the suitability of the site in question for allocation, a site requirement for FW-H1 nevertheless stipulates that 'proposals should provide attractive connections to the adjacent cycle network'.

Landscape Considerations (71)

The Entec landscape study states that site FW-H1 is an area of 'medium to low landscape sensitivity to development, subject to detail (sic) design plans'. Such areas are described as those 'which have potential for development (complaint with good design standards and associated landscape provision) that could be accommodated within the existing landscape setting of settlements'. The aforementioned site requirements for FW-H1 stipulate that development must complement the adjacent Laigh Fenwick Conservation Area.

Mix of House Types (89)

The development of house types within the site would be a matter for the developer and cannot be stipulated in the LDP.

Coalescence (71, 102, 103, 111, 124, 253, 255, 257, 266, 306 & 312)

It should be noted that no coalescence between Fenwick and Laigh Fenwick would occur, as each settlement boundary does not meet the other. Indeed, the point at which each settlement is closest to the other as proposed in P-LDP2, at Maunsheugh Road, has not changed from that of the 2017 LDP. Site FW-H1 lies north of the Laigh Fenwick Conservation Area, east of the Fenwick Bowling Club, south of 'Langside' and west of 58 Main Road. The site is therefore surrounded by existing development and would no more result in coalescence than the present built environment. It should furthermore be noted that there is no proposal to develop the land that lies to the north of 'Langside' and west of Main Road; this field further helps to separate Fenwick from Laigh Fenwick.

Although the Council acknowledges that Fenwick and Laigh Fenwick are of importance

from a historical perspective and that each settlement has been physically separate from the other throughout history, it is considered inappropriate to prevent further development on that basis. Settlements are subject to constant change and many of the listed properties within the Laigh Fenwick Conservation Area were themselves additions to earlier development, such is the nature of urban morphology. Nevertheless, and concerning comments that allocation of FW-H1 would encourage other development that would eventually join Fenwick and Laigh Fenwick, the Council remains of the view that such an outcome should be avoided. Future Local Development Plans will be prepared and adopted with the views of the people of Fenwick and Laigh Fenwick considered, as is the case with the current process. That land which does fall within the settlement boundary will fall within the Rural Protection Area (RPA) and any development would be subject to associated policy.

Whilst it is noted that an application for development within the site was quashed at the High Court, it is considered appropriate to consider each site afresh when developing the LDP; the site was found to be suitable after assessment and discussion. The Council concurs with comments from the Reporter in their Examination of the 2010 Local Plan that stated that development of site FW-X6 would not be desirable and for that reason the site has neither been proposed for allocation, nor identified as a Future Housing Growth Area in P-LDP2. Allocation of FW-X6 would literally coalesce the settlement boundary between Fenwick and Laigh Fenwick; any comparison to FW-H1 is therefore unfounded.

Concerning the view expressed that the separation between Fenwick & Laigh Fenwick represents the settled will of the people of those places, it is considered that the consultation and examination of the Local Development Plan constitutes the most appropriate means of assessing the suitability of proposals for the allocation of housing land.

#### Housing Site Appraisal Methodology (71, 111 & 253)

Although site FW-X6 achieved a slightly higher HSAM score of 74/135 rather than the 70/135 obtained by FW-H1, the issue of coalescence was considered greater at FW-X6, and for that reason it is not proposed for allocation in P-LDP2. All sites in Fenwick scored poorly against the HSAM relative to others in East Ayrshire due to a somewhat lower availability of services and facilities in Fenwick & Laigh Fenwick. However, it is necessary for the Council to achieve a balance between those factors and persistent demand for residential development in the settlement. For that reason, the total indicative capacity of 59 dwellings as proposed in P-LDP2 is modest and broadly similar to that allocated in the 2017 LDP.

#### Environmental Pollution (71, 103, 124, 253, 255, 257, 306 & 312)

Concerning air and noise pollution from the M77, FW-H1 lies around 150m from that road, significantly further than FW-H2 and FW-H3 as proposed in P-LDP2, as well as a large number of existing properties at Main Road. Notwithstanding, it is considered that the design of the development and planning conditions attached to the development of the site could avoid or mitigate such issues arising, including any issues emanating from the site itself. With regard to the removal of trees within the site that could reduce noise dampening, it should be noted that P-LDP2 Policy NE8: Trees, Woodland,

Forestry and Hedgerows sets out a presumption against the loss of woodland, as well as individual trees.

Proximity of Dwellings (255 & 257)

Concerns pertaining to overlooking could be addressed as part of the design of the development and planning conditions would be attached to the development to avoid or mitigate such issues arising.

Affordable Housing (111)

No specific requirement to allocate land to accommodate affordable housing Fenwick & Laigh Fenwick was expressed during the preparation of P-LDP2. Nevertheless, it should be noted that land to accommodate around 1377 affordable dwellings has been allocated in P-LDP2, subject to completion of those sites for which a contribution is required. Additional affordable housing completions are expected to take place within land that is not allocated in the plan. Sufficient land to accommodate the affordable MATHLR has therefore been identified in P-LDP2 and there is therefore no requirement to allocate additional affordable housing supply.

Promoter of Site (111)

That the promoter of site FW-H1 is not a member of Homes for Scotland is not considered to constitute an impediment to its development and the site may be marketed to a range of national and local house builders, many of whom are not HfS members.

Impact on Biodiversity and green space (238, 255, 257, 266)

With regard to comments pertaining to impact of development on natural features and biodiversity within the area encompassed by FW-H1, it should be noted that the Environmental Report states the following. That 'appropriate screening and planting should be utilised throughout the development in order to mitigate its impact on landscape character and setting' and that 'existing trees and hedgerows should be retained'. Whilst it is accepted that allocation of the site, will result in a loss of green space, these requirements are considered sufficient to mitigate the loss of undeveloped green space that would take place upon development. There will still be an appropriate separate distance between the settlement and the M77. It should be noted that the developer of the site must comply with the requirements set out in the site description in order for any proposal to comply with the Plan.

Safeguarded Open Space (312)

No part of the site in question forms part of the defined area of Safeguarded Open Space in Fenwick & Laigh Fenwick in the Proposed Plan. Indeed, it was not identified as such in the 2017 LDP. LDP policy stipulates that the applicant would be required to provide a requisite area of publically accessible open space within the development, thereby increasing rather than reducing the total area of publically accessible open space in Fenwick & Laigh Fenwick. There is therefore no requirement to identify the entirety of FW-H1 as Safeguarded Open Space in Vol 2 of LDP2, however, recreational



or amenity open space provided as part of any development would subsequently be identified as Safeguarded Open Space.

#### Development or Allocation Contrary to P-LDP2 & Draft NPF4 Policy (71)

The Council is of the view that in principle, the site is capable of complying with the thematic policies of both the LDP2 and the NPF4. This will, of course, depend on the detail submitted at the planning application stage, in terms of matters like open space provision, design and layout.

#### Requirement to Allocate Site (253, 255, 275, 306 & 312)

The Council considers that FW-H2 and FW-H3 are suitable for allocation in LDP2. However, in the context of a large number of other sites proposed in Fenwick and their unsuitability for development during the LDP2 period, and the existence of recent planning consents that already apply to FW-H2 and FW-H3, it was considered necessary to allocate another site. Doing so will provide additional choice in Fenwick & Laigh Fenwick, will help to ensure that the MATHLR is met, and will otherwise ensure a generous supply of land during the LDP2 period.

With the above factors taken into consideration, the Council is of the view that site FW-H1 should be allocated for residential development in LDP2.

#### **FW-H2 - Main Road**

#### Effectiveness of Site (71, 89, 102, 103, 111, 113 & 306)

The Council contends that FW-H2 is effective. This assertion is supported by its programming in the 2019, 2020 and 2021 Housing Land Audits, the most recent of which was endorsed by Homes for Scotland in February 2022. Although programming has been delayed according to each Audit, the site nevertheless benefits from confirmation of the principle of residential development (ref. 16/0355/PPP); any issues associated with the development of the site are considered surmountable subject to a willingness on the part of the developer to address them. It is therefore considered appropriate to allocate the site in LDP2.

#### Promoter of Site (111)

That the most recent applicant at site FW-H2 was not a member of Homes for Scotland is not considered to constitute an impediment to its development and the site may be marketed to a range of national and local house builders, many of whom are not HfS members.

#### Affordable Housing (111)

No specific requirement to allocate land to accommodate affordable housing Fenwick & Laigh Fenwick was expressed during the preparation of P-LDP2. Nevertheless, it should be noted that land to accommodate around 1377 affordable dwellings has proposed for allocation in P-LDP2, subject to completion of those sites for which a contribution is required. Additional affordable housing completions are expected to take

place within land that is not allocated in the plan. Sufficient land to accommodate the affordable element of the MATHLR has therefore been identified in P-LDP2 and there is therefore no requirement to allocate additional affordable housing supply.

#### Boundary Wall & Mature Trees (71)

The Council would have no objection if the Reporter is agreeable to an amendment of the site requirements set out on p.43 of Vol 2 of P-LDP2 to require any developer of the site to as far as is reasonably possible retain the stone boundary wall at the easternmost extremity of the site. The Environmental Report sets out a number of requirements pertaining to trees that must be taken by the developer of the site.

#### Development of Non-Residential Uses (71 & 306)

The Council is broadly supportive of the suggestion that retail or civic uses could be developed within FW-H2 in order to address any such deficit in Fenwick & Laigh Fenwick. However, the principle of residential development therein has been established by consent ref. 16/0355/PPP and any departure at this time is not considered appropriate. Notwithstanding, P-LDP2 Policy TC3: Small-scale retail development in out-of-centre locations supports such development and any such proposals within Fenwick & Laigh Fenwick would likely be viewed favourably. Development of other footfall generating uses would be similarly supported, subject to assessment against appropriate LDP2 policies.

#### Indicative Capacity of Site (71 & 93)

It should be noted that the capacity for each site presented in Vol 2 of the Proposed Plan is indicative, that is, the developer is not required to build precisely the number of units stated. A range of factors, including layout and development constraints, may result in development of a greater or lesser number of dwellings. However, any proposal would be required to comply with the relevant policies of the LDP. The design and layout of dwellings would be required to comply with LDP policies, in particular P-LDP2 policy RES4: Compact Growth, which requires consideration of the character of the existing area in terms of density.

#### Traffic, Transport & Parking (93 & 306)

With regard to the issue of traffic generation, road safety and necessary infrastructure, the Council would advise the Reporter that the Ayrshire Roads Alliance has not raised any objections. A Transport Appraisal commissioned by the Council to support LDP2 (CD19) does not express any particular concerns with respect to site FW-H2; any recommended mitigation set out within the Appraisal applies to locations elsewhere in East Ayrshire. With regard to any on street parking, it should be noted that provision of sufficient visitor parking would be required for new residential development and it is therefore considered that no such issue would arise.

#### Design of Properties (93)

It should be noted that FW-H2 does not lie immediately adjacent to the Fenwick Conservation Area or Laigh Fenwick Conservation Area and it is therefore considered

that there should be no requirement that any properties developed within the site should reflect the characteristics of those Conservation Areas.

Impact on Biodiversity (71, 102, 103, 306)

With regard to comments pertaining to impact of development on natural features and biodiversity within the area encompassed by FW-H2, it should be noted that the Environmental Report states the following. That ‘appropriate screening and planting should be utilised throughout the development in order to mitigate its impact on landscape character and setting.’ It also states that ‘existing trees and hedgerows should be retained. Where trees are lost as a result of this development, new trees and other natural features should be planted throughout the development to create a sense of place and also to encourage new forms of green infrastructure, habitat networks and biodiversity to be formed’. These requirements are considered appropriate to mitigate any loss of trees and other green space within the site. It should be noted that developer of the site must comply with the requirements set out in the site description in order for any proposal to comply with the Plan.

Recreational Open Space (71, 102 & 103)

Concerning comments that the site is used for recreational purposes, it should be noted that no area of the site in question forms part of the defined area of Safeguarded Open Space in Fenwick & Laigh Fenwick in the Proposed Plan. Indeed, it was not identified as such in the 2017 LDP. FW-H2 lies within private ownership and any current use of the site for recreational purposes is a matter for the landowner. Nevertheless, LDP policy stipulates that the applicant would be required to provide a requisite area of publically accessible open space within the development, thereby increasing rather than reducing the total area of publically accessible open space in Fenwick & Laigh Fenwick.

Brownfield Land & Contamination (102 & 103)

The Council acknowledges that the site is brownfield in nature and this characteristic was a significant factor in its identification for allocation in P-LDP2. The remediation of contaminated land is a matter for the landowner and it would be addressed as part of any detailed planning application.

Environmental Pollution (71, 102, 103, 124, 306)

With regard to comments pertaining to impact on development within FW-H2 of the adjacent M77, it should be noted that the Environmental Report states that ‘it should be ensured that sensitive screening is provided on the site to screen the site to and from the M77/A77.’ The report goes on to state that ‘the design of the site should try and provide a much natural screening as possible to lessen the impacts of road noise within the development. This should be also improved by using materials within the actual houses that reflect noise or insulate the internal layout of the house from excessive road noise and vibration’. Whilst it is acknowledged that the impact of the adjacent motorway cannot entirely be nullified, it is considered that the aforementioned requirements are sufficient to address any concerns, which would be addressed as part of the planning application process.

### Housing Site Appraisal Methodology (111)

Concerning any comparison in HSAM scoring between FW-H2 and FW-X6, it should be noted that it is not specified in the representation why the latter site would score higher against the sub-categories or individual indicators than the former; only the overall categories are mentioned. The Council remains of the view that FW-H2 should be allocated in LDP2 and that FW-X6 should not.

### Development or Allocation Contrary to P-LDP2 & Draft NPF4 Policy (71)

The Council is of the view that in principle, the site is capable of complying with the thematic policies of both the LDP2 and the NPF4. This will, of course, depend on the detail submitted at the planning application stage, in terms of matters like open space provision, design and layout.

With the above factors taken into consideration, the Council is of the view that site FW-H2 should be allocated for residential development in LDP2.

### **FW-H3 – Stewarton Road**

#### Effectiveness of Site (113)

The Council contends that FW-H3 is effective. This assertion is supported by its programming in the 2019, 2020 and 2021 Housing Land Audits, the most recent of which was endorsed by Homes for Scotland in February 2022. Although programming has been delayed according to each Audit, the site nevertheless benefits from live planning permission in principle granted in 2022 (ref. 15/0528/PPP). The site is therefore viable and there is evidence of interest in its development.

#### Traffic & Road Safety Issues (71, 102, 113, 268 & 269)

Whilst an outcome could not be arrived at to the satisfaction of ARA as part of the determination of application ref. 15/0528/PPP, the Report of Handling contends that 'it is not considered that the presence of a bus stop within the visibility splay of the proposed access would give rise to an unacceptable road safety concern'. The Case Officer did not conclude that 'any other road or other access matters...would indicate any unacceptable impacts'. The applicant of the site must address concerns pertaining to visibility splays before development can commence. It is the view of the Council that this issue can be remedied in such a way as to render the site effective and developable. Issues concerning parking have been addressed as part of the determination of application ref. 15/0528/PPP.

With regard to the issue of traffic generation and associated vehicle emissions, the Council would advise the Reporter that the Ayrshire Roads Alliance has not raised any objections as part of the site selection process. A Transport Appraisal commissioned by the Council to support LDP2 (CD19) does not express any particular concerns with respect to site FW-H3; any recommended mitigation set out within the Appraisal applies to locations elsewhere in East Ayrshire. It should be noted that the issue of traffic has been addressed as part of the determination of application ref. 15/0528/PPP and the developer of the site would be required to accord with any associated

conditions. The allocation of the site in the 2017 LDP was considered appropriate with respect to traffic impact and the same would apply with regard to its allocation in LDP2.

Environmental Pollution (71, 89, 103, 124, 268 & 306)

The Council acknowledges that the site lies adjacent to the M77 and that it would be adversely affected by such proximity without appropriate mitigation. However, it should be noted that the Environmental Report sets out various measures that must be taken to lessen the impact of the road on residents. These include natural screening and planting, a noise barrier, use of materials that reflect noise and reduce road noise and vibration. The issue of noise and air pollution associated with proximity to the M77 has been addressed as part of the determination of application ref. 15/0528/PPP and the developer of the site would be required to accord with any associated conditions. Notwithstanding the aforementioned consent, it is considered that the design of the development and planning conditions attached to the development of the site could avoid or mitigate any noise, light and air pollution issues that may arise from within or outwith the site.

Indicative Capacity of Site (93)

It should be noted that the capacity for each site presented in Vol 2 of the Proposed Plan is indicative, that is, the developer is not required to build precisely the number of units stated. A range of factors, including layout, programming and development constraints, may result in development of a greater or lesser number of dwellings. However, any proposal would be required to comply with the relevant policies of the LDP. The design and layout of dwellings would be required to comply with LDP policies, in particular P-LDP2 policy RES4: Compact Growth, which requires consideration of the character of the existing area in terms of density.

Impact on Biodiversity (71, 102, 103, 268, 269 & 306)

With regard to comments pertaining to impact of development on natural features, green infrastructure and biodiversity within the area encompassed by FW-H3, it should be noted that the Environmental Report states that 'appropriate screening and planting should be utilised throughout the development in order to mitigate its impact on landscape character and setting.' It also states that 'existing trees and hedgerows should be retained. Where trees are lost as a result of this development, new trees and other natural features should be planted throughout the development to create a sense of place and also to encourage new forms of green infrastructure, habitat networks and biodiversity to be formed'. These requirements are considered appropriate to mitigate any loss green infrastructure within the site. The developer of the site must comply with the requirements set out in the site description in order for any proposal to comply with the Plan.

Recreational Open Space (71, 103 & 269)

Concerning comments that the site is used for recreational purposes, it should be noted that no area of the site in question forms part of the defined area of Safeguarded Open Space in Fenwick & Laigh Fenwick in the Proposed Plan. Indeed, it was not identified as such in the 2017 LDP. FW-H3 lies within private ownership and any

current use of the site for recreational purposes is a matter for the landowner. Nevertheless, LDP policy stipulates that the applicant would be required to provide a requisite area of publically accessible open space within the development, thereby increasing rather than reducing the total area of publically accessible open space in Fenwick & Laigh Fenwick.

#### Promoter of Site (111)

That the most recent applicant at site FW-H3 was not a member of Homes for Scotland is not considered to constitute an impediment to its development and the site may be marketed to a range of national and local house builders, many of whom are not HfS members.

#### Affordable Housing (111)

No specific requirement to allocate land to accommodate affordable housing Fenwick & Laigh Fenwick was expressed during the preparation of P-LDP2. Nevertheless, it should be noted that land to accommodate around 1377 affordable dwellings has been allocated in P-LDP2, subject to completion of those sites for which a contribution is required. Additional affordable housing completions are expected to take place within land that is not allocated in the plan. Sufficient land to accommodate the affordable MATHLR has therefore been identified in P-LDP2 and there is therefore no requirement to allocate additional affordable housing supply.

#### Drystone Wall, War Memorial & Conservation Area (71, 93, 102 & 103)

The Council would have no objection if the Reporter is agreeable to an amendment of the site requirements set out on p.43 of Vol 2 of P-LDP2 to require any developer of the site to as far as is reasonably possible retain the drystone wall within site. Concerning the war memorial, it should be noted that the requirements for FW-H3 state that the developer 'must when developing their proposals consider the character and appearance of the High Fenwick Conservation Area which lies immediately adjacent to the site.' Whilst the war memorial lies outside the Conservation Area, it is anticipated that compliance with associated site requirements will ensure that any development is sympathetic in design and layout.

#### Impact on Electricity & Water Supplies (269)

The provision of electricity and water supplies to site FW-H3 and any impact of development on neighbouring properties would be addressed as part of the planning application process or be a matter for utilities providers.

#### Housing Site Appraisal Methodology (111)

Concerning any comparison in HSAM scoring between FW-H3 and FW-X6, it should be noted that it is not specified in the representation why the latter site would score higher against the sub-categories or individual indicators than the former; only the overall categories are mentioned. The Council remains of the view that FW-H3 should be allocated in LDP2 and that FW-X6 should not.



### Development of Non-Residential Uses (306)

The Council is broadly supportive of the suggestion that retail uses could be developed within FW-H3 in order to address any such deficit in Fenwick & Laigh Fenwick. However, the principle of residential development therein has been established by consent ref. 15/0528/PPP and any departure at this time is not considered appropriate. Notwithstanding, P-LDP2 Policy TC3: Small-scale retail development in out-of-centre locations supports such development and any such proposals within Fenwick & Laigh Fenwick would likely be viewed favourably. Development of other footfall generating uses would be similarly supported, subject to assessment against appropriate LDP2 policies.

### Developer Contributions (Site Specific) (71)

Whilst developer contributions are addressed in a separate issue (Issue 20), it should be noted that the total number of dwellings that it is anticipated would be completed within the site is 20. The indicative capacity of 10 was informed by programming set out in the 2020 Housing Land Audit that would take place after the adoption of LDP2 in 2023.

### Development or Allocation Contrary to P-LDP2 & Draft NPF4 Policy (71)

The council is of the view that in principle, the site is capable of complying with the thematic policies of both the LDP2 and the NPF4. This will, of course, depend on the detail submitted at the planning application stage, in terms of matters like open space provision, design and layout.

With the above factors taken into consideration, the Council is of the view that site FW-H3 should be allocated for residential development in LDP2.

## **FW-F1(H) (HSAM Ref. FW-X5) - Land South of Murchland Avenue**

### Allocation in LDP2 (288)

Whilst it is considered that the site is broadly appropriate for residential development, and the party that has proposed the site has stated that a number of PAN 2/2010 requirements have been met, it is not considered necessary to allocate any additional sites in Fenwick & Laigh Fenwick or undertake substitutions of sites as presented in P-LDP2. Sufficient land has been proposed for allocation in P-LDP2 in the Kilmarnock & Loudoun Sub-Housing Market Area to comprise a buffer of more than 50% above the MATHLR and the inclusion of further sites is therefore not required. In the context of Fenwick & Laigh Fenwick, it is considered appropriate to release a small number of modestly proportioned sites, so as not to overwhelm services and facilities in the settlement during the Plan period. The allocation of FW-H1, FW-H2 and FW-H3 is sufficient to achieve this objective.

### Coalescence (71, 111, 113, 234, 247, 288, 306 & 312)

It should be noted that no coalescence between Fenwick and Laigh Fenwick would occur as part of the identification of FW-F1(H) as a Future Housing Growth Site, as



each settlement boundary would not meet the other. Although the Council acknowledges that Fenwick and Laigh Fenwick are of importance from a historical perspective and that each settlement has been physically separate from the other throughout history, it is considered inappropriate to prevent further development on that basis.

Whilst it is recognised that the 2017 LDP states that there is a 'need to preserve the integrity of the two villages and prevent their coalescence', it is contended that the identification of FW-F1(H) would not result in the joining of Fenwick and Laigh Fenwick. A sufficient gap would remain in the form of site FW-X6.

Concerning any impact on the High Fenwick Conservation Area and Laigh Fenwick Conservation Areas, it should be noted that the site lies adjacent to neither area; any future determination of the suitability of the site for allocation will be made with this factor in mind.

#### Topography & Landscape Impact (113)

The provision of an active frontage as suggested by NatureScot is desirable from a placemaking perspective and it is considered that, should the site be allocated during a later Plan period, doing so is technically possible. Whilst it is acknowledged that the site slopes downward from north to south, numerous other instances exist of construction of an active frontage in the context of more substantial gradients and it is considered that any such issues could appropriately be addressed. It is considered that development during a later LDP period could be accommodated within the site from a landscape perspective. In this respect, the Entec landscape study states that there is some potential for development within FW-F1(H) subject to the inclusion of sufficient space and screening to prevent coalescence of the two settlements.

#### Affordable Housing (111)

It should be noted that it is not proposed that FW-F1(H) should be allocated in LDP2 and any comments pertaining to affordable housing provision are therefore not relevant at this time.

#### Housing Site Appraisal Methodology (111 & 288)

As noted, FW-F1(H) performed well against the HSAM relative to other sites in the settlement. Concerning any amendment to HSAM scoring as proposed, it should be noted that it is not specified in the representation why the FW-F1(H) should score lower against the assessment; only the overall categories are mentioned.

#### 20-Minute Neighbourhood vs. Other Considerations (234, 247)

The Council contends that the allocation of residential sites to achieve a 20-minute neighbourhood and other considerations associated with sustainability are of paramount importance; the issues are prominent in P-LDP2 and Draft NPF4, as well as the NPF4. The site lies on the north/south road axis in Fenwick & Laigh Fenwick, is within walking distance of a range of services, lies close to a bus stop, and was therefore found to be broadly compliant with 20-minute neighbourhood principles.

Notwithstanding, landscape considerations are also of importance and the issue of landscape impact as pertains to site FW-F1(H) is explored elsewhere in this Schedule.

#### Safeguarded Open Space (234 & 247)

FW-F1(H) lies within private ownership and any tree planting within the site or use of the site for recreational purposes is a matter for the landowner. It was not assessed as contributing to publically accessible recreational or amenity open space as part of an audit undertaken by the Council and mentioned on p.21 of Vol 1 of P-LDP2. It is therefore not considered appropriate or necessary to define the area as Safeguarded Open Space in LDP2.

#### Proximity of Dwellings (234 & 247)

Whilst it is not proposed that the site should be allocated during the LDP2 period, should allocation take place at a later date, any concerns pertaining to overlooking could be addressed as part of the design of the development and planning conditions would be attached to the development to avoid or mitigate such issues arising.

With the above factors taken into consideration, the Council is of the view that site FW-F1(H) should be identified as a Future Housing Growth Area in LDP2.

### **FW-F2(H) (HSAM Ref. FW-X8) - Waterslap Road**

#### Promotion of Site for Allocation in LDP2 (111)

The Council is of the view that the site in question is broadly suitable for residential development subject to further consideration, that the Entec landscape study identified the site as most suitable in landscape terms and that the site is of such a size as to accommodate a complement of affordable housing.

Nevertheless, it is not considered necessary to allocate any additional sites in Fenwick & Laigh Fenwick or undertake substitutions of sites as presented in P-LDP2. Sufficient land has been proposed for allocation in P-LDP2 in the Kilmarnock & Loudoun Sub-Housing Market Area to comprise a buffer of more than 50% above the MATHLR and the inclusion of further sites is therefore not required. In the context of Fenwick & Laigh Fenwick, it is considered appropriate to release a small number of modestly proportioned sites, so as not to overwhelm services and facilities in the settlement during the Plan period. The allocation of FW-H1, FW-H2 and FW-H3 is sufficient to achieve this objective.

Concerning those statements that managed greenspace, walking routes and biodiversity enhancement would take place were the site to be allocated in LDP2; a determination of the suitability of these aspects would be made subject to a planning application. It is not considered appropriate to make a judgement of the suitability of the site before such details were submitted.

That the party that has submitted the site is a member of Homes for Scotland is not considered to constitute a significant indication of the suitability of the site. Those sites that have been submitted by parties that are not members of Homes for Scotland may

similarly be marketed to a range of national and local house builders, many of whom are not HfS members.

Housing Site Appraisal Methodology (97, 111 & 288)

It is not considered appropriate or necessary to change HSAM scoring at this stage of the Plan preparation process as doing so would have no outcome on the determination made by the Council on the suitability of sites. Comment may however be made on comment pertaining the marketability criterion. In this respect, it should be noted that the HSAM employs the findings of a survey of house builders to determine marketability; flood risk within the site as mentioned in the representation is addressed by another HSAM criterion.

Impact on Laigh Fenwick (71, 96, 97, 142, 188, 251, 266)

It is considered that the site in question is of an appropriate scale in the context of Laigh Fenwick and that it is broadly similar in size to others that have been completed in Fenwick & Laigh Fenwick in the past. With regard to concern about the impact that any future development within FW-F2(H) would have on the setting and character of the Laigh Fenwick Conservation Area, archaeological sites and trees subject to TPO, it should be noted that the site is not being proposed for development in P-LDP2 during the LDP2 period.

Nevertheless, it was concluded after assessment against the HSAM and further discussion that any impact would be moderate and could be addressed if necessary; a score of 2/5 for impact on 'Heritage Assets' was therefore applied. Should the site be allocated during a future Plan period, any developer of the site would be required to comply with relevant historic environment and tree protection policies in place at that time, as well as any site-specific requirements. Notwithstanding, it is considered that the site is broadly suitable for residential development and, as noted, any impact is moderate in landscape terms.

Concerning visual amenity currently enjoyed by people that live within those properties that overlook FW-F2(H), it should be noted that right to a view is not a material planning consideration and any such aspect currently experienced cannot be preserved on that basis.

It is considered reasonable to consider all parts of Fenwick & Laigh Fenwick, other than the area between them to ensure coalescence, as locations for future development, subject to detailed assessment, as different sites may be subject to a range of pros and cons. Development should not therefore be restricted to the northernmost part of the settlement as suggested.

Environmental Report (97 & 251)

It is recognised that any new site is likely to have some negative environmental impacts associated with its development. Because of this, the aforementioned Strategic Environmental Assessment (SEA) was carried out and the outcome of this used in conjunction with the HSAM, to come to a decision on which sites were suitable for development. The SEA on its own does not tell us whether a site is suitable for

development or not. However, the assessments can help to highlight possible mitigation measures, which could be carried out on particular sites in order to make what might otherwise be considered unsuitable development acceptable. It should be noted that it is not proposed that site FW-F2(H) should be allocated in LDP2 and it is therefore not necessary to set out any mitigation that would be required should it be developed.

Flood Risk (71, 96, 97, 120, 188, 251, 266, 285 & 306)

SEPA mapping indicates that largest part of the site, which lies at a higher elevation than the land immediately adjacent to the Fenwick Water, is not at risk of fluvial or surface water flooding. Whilst it is acknowledged that some parts of the site are at risk of flooding from the adjacent watercourse, it should be noted that SEPA offered no objection to the allocation of the site during the preparation of P-LDP2. It is anticipated that any such risks could be addressed through the application process, should the site be allocated during a future Plan period.

Air Pollution (251)

In terms of any air pollution that would arise from development of the site were it to be allocated during a later Plan period, it is considered that the design of the development and planning conditions attached to the development of the site could avoid or mitigate such issues arising.

Rural Protection Area (251 & 285)

It is correct to note that the site would lie within the Rural Protection Area (RPA) and any development would be subject to associated policy. It is therefore considered unlikely that development of such a scale to encompass the entire site would materialise during the Plan period.

Affordable Housing (306)

No specific requirement to allocate land to accommodate affordable housing in Fenwick & Laigh Fenwick was expressed during the preparation of P-LDP2. Nevertheless, it should be noted that land to accommodate around 1377 affordable dwellings has been proposed for allocation in P-LDP2, subject to completion of those sites for which a contribution is required. Additional affordable housing completions are expected to take place within land that is not allocated in the plan. Sufficient land to accommodate the affordable element of the MATHLR has therefore been identified in P-LDP2 and there is therefore no requirement to allocate additional affordable housing supply.

Recreational Open Space (71, 96, 120 & 251)

Concerning comments that the site is used for recreational purposes, it should be noted that no area of the site in question forms part of the defined area of Safeguarded Open Space in Fenwick & Laigh Fenwick in the Proposed Plan. Indeed, it was not identified as such in the 2017 LDP. FW-F2(H) lies within private ownership and any current use of the site for recreational purposes is a matter for the landowner.

Nevertheless, should the site be developed during a later Plan period, it is anticipated that the developer would be required to provide a requisite area of publically accessible open space within the development, thereby increasing rather than reducing the total area of publically accessible open space in Fenwick & Laigh Fenwick.

#### Distance from Services & Facilities (71, 97)

It is considered that FW-F2(H) lies at a reasonable distance from services and facilities in Fenwick and is no further away from them than dwellings in the remainder of Laigh Fenwick. The site lies within 150m of a bus stop and was selected because it broadly conforms to the north/south axis along which development in Fenwick & Laigh Fenwick has historically taken place. Concerning safe routes to school, it is noted that Laigh Fenwick is linked to Fenwick via a dedicated footpath, which lies adjacent to a road subject to a 30mph speed limit.

#### Impact on Biodiversity (71, 96, 97, 120, 188, 251, 252, 266 & 285)

The Council acknowledges that whilst the 'Biodiversity' HSAM criterion is difficult to define in technical terms, that the conclusion that site performs a somewhat important biodiversity function is correct and would appear to be verified by comments made within the representations. The site does not lie within any protected areas and is subject to no environmental designations. The Council is therefore of the view that impact on sensitive areas can be mitigated. It must again be noted that FW-F2(H) is not being proposed for allocation in LDP2 and no details of the site can therefore be found in the Environmental Report. Nevertheless, should the site be identified in a future Plan, it is anticipated that appropriate steps towards mitigation could be taken by the developer of the site. P-LDP2 Policy NE6: Vulnerable, Threatened and Protected Species encompasses any associated impacts should they be identified.

#### Access Arrangements (71, 97, 251 & 266)

The Council understands concerns relating to access to the site from Main Road. Nevertheless, it is considered that any issues arising could be addressed and remedied as part of the planning process should the site be identified in a later Local Development Plan.

#### Scale of Development (97)

The Council acknowledges the content of the Fenwick Community Action Plan 2020-2025 and its suggestion that development in Fenwick & Laigh Fenwick should be of a small scale. In this regard it is considered that FW-F2(H) would constitute a relatively small-scale addition to the settlement, broadly similar in size the site at Skernieland Road as presented in the 2010 Local Plan, which had an indicative capacity of 50 dwellings. Fenwick & Laigh Fenwick is not therefore a 'key place of change' although, should the site be allocated in a later Plan, it would be of such a size as to accord with the Fenwick Community Action Plan intention to deliver social housing, should such a requirement be expressed during the preparation of that Plan.

Appropriateness of Identification of Site as FHGA (142 & 188)

Assertions that the Council has encouraged a developer to advance plans for FW-F2(H) are incorrect, as is the belief that the site can be developed during the LDP2 period and that the Council will allow development at FW-F2(H) once the LDP2 reaches the final years of its lifespan. It is intended that the site will not be allocated in LDP2 and any development within it will be subject to RPA policies. The assertion that the identification of a Future Housing Growth Area in the area is contrary to Scottish Government guidance has not been substantiated, however, it can be confirmed that doing so is a requirement of the Plan preparation process and such sites were identified as part of the 2017 LDP. Concerning the statement that FW-F2(H) failed a MIR 'test', it can be confirmed from the above discussion that the site is considered to be broadly suitable for residential development, subject to mitigation.

Development or Allocation Contrary to Draft NPF4 Policy (71)

The council is of the view that in principle, the site is capable of complying with the thematic policies of both the LDP2 and the NPF4. This will, of course, depend on the detail submitted at the planning application stage, in terms of matters like open space provision, design and layout.

With the above factors taken into consideration, the Council is of the view that site FW-F2(H) should be identified as a Future Housing Growth Area in LDP2.

**FW-X2 - Land at Dewars Farm (AKA Dewars Holm)**

Promotion of Site for Allocation in LDP2 (113)

Whilst it is understood that coalescence would not occur, that the capacity as presented in the HSAM is perhaps higher than that promoted, that there may be developer interest and that flood risk could be averted, the site is nevertheless subject to a number of weaknesses. These include a greater distance from public transport combined with a greater impact on landscape quality according to the Entec landscape study than comparators in Fenwick & Laigh Fenwick.

Other sites proposed for allocation in Fenwick & Laigh Fenwick in P-LDP2 either benefit from the establishment of the principle of residential development and/or are otherwise more suitable for residential development because of their location relative to services, facilities and public transport options. They lie on the north/south axis along which development in the settlement(s) has historically taken place and where, from a 20-minute neighbourhood perspective, it is considered that further development should occur.

It is not considered necessary to allocate any additional sites in Fenwick & Laigh Fenwick or make substitutions for those that have been proposed in P-LDP2. Sufficient land has been proposed for allocation in P-LDP2 in the Kilmarnock & Loudoun Sub-Housing Market Area to comprise a buffer of more than 50% above the MATHLR and the inclusion of further sites is therefore not required.

Details of layout, access improvements, scale, style, design, technology or other more



detailed matters as promoted would be assessed subject to the submission of a planning application and its determination. It cannot be confirmed at this time whether any development within the site would conform to planning policy as suggested and to make a judgement on the quality or suitability of any development on that basis would therefore be premature.

With the above factors taken into consideration, the Council is of the view that site FW-X2 should not be allocated as a housing opportunity site in LDP2.

### **FW-X3 - Land at Fenwick**

#### Housebuilding to Support the Economy (195)

Whilst it is acknowledged that, as suggested, the house building industry contributes significantly to the economy of East Ayrshire, the allocation of an additional site in Fenwick when housing land supply as presented in P-LDP2 is already more than 50% above the MATHLR is not considered necessary, or appropriate in the context of Fenwick & Laigh Fenwick.

#### Support for Services (195)

The Council acknowledges comment that it is necessary to support the school roll, services and facilities in Fenwick through new development. Indeed, the intention to increase the population of East Ayrshire to ensure long-term viability forms a key element of P-LDP2, and those sites proposed for allocation in Fenwick & Laigh Fenwick in P-LDP2 form part of this objective. Nevertheless, it should be noted that no concerns about the sustainability of the school roll at Fenwick Primary School were expressed as part of the Plan preparation process and no suggestion has been made that the school might close.

The Council maintains that the scale of new development in Fenwick should be small and that the total indicative capacity of 59 units in P-LDP2 is sufficient to introduce a modest number of new homes, sufficient not to overwhelm existing services and infrastructure. In terms of other services, scope exists within P-LDP2 policy to introduce retail facilities in the settlement; any such development is within the remit of private developers.

#### Quality & Design of Development (194)

Design, technology, accessibility or other more detailed matters as promoted would be assessed subject to the submission of a planning application and its determination. It cannot be confirmed at this time whether any development within the site would conform to planning policy as implied and to make a judgement on the quality or suitability of any development on that basis would therefore be premature. With respect to net-zero, all new homes in East Ayrshire are required to meet such standards according to the policies of P-LDP2 and it is considered that any development at FW-X3 would be no more sustainable in this respect than any other new homes.



### 20-minute Neighbourhood (194)

Mapping presented in the representation that indicates that FW-X3 is within 800m of bus stops and other facilities in the vicinity of Main Road is not considered to be conducive to an accurate assessment, as it suggests that pedestrians would arrive there without physical impediment. In other words, that they would not require to walk down already existing streets or cross the Fenwick Water. In practical terms, the nearest bus stop to the edge of FW-X3 is more than 1km distant, significantly further away than any of the sites proposed for allocation in Fenwick & Laigh Fenwick in P-LDP2, each of which lies within 400m of a halt; the route is indeed convoluted, as stated in the HSAM. The contention that allocation of FW-X3 would support bus services cannot therefore be confirmed, given that it is considered that distances involved to reach a stop are likely to encourage car travel.

### Green Space Within Site (194)

It is stated in the representation that the indicative capacity of 256 is greater than 150 presented in the promotion of the site and that much of the site would comprise green infrastructure in compliance with P-LDP2 policy and the wishes of NatureScot. This area would, it is suggested, introduce an area of woodland to improve the setting of Fenwick.

Nevertheless, experience has shown that to underestimate the capacity of residential sites can result in significant divergence once development actually takes place. For example, the indicative capacity of 2017 LDP site 279H was 4, yet 20 dwellings were ultimately completed. It is therefore generally considered prudent to estimate that a site will be fully built out in accordance with LDP policy, with a requisite area of open space, rather than rely on the assertions made by the site promoter. A consideration of the site as accommodating 150 units rather than 256 would have made no material difference to the HSAM process, as is suggested, as the scoring was not influenced by site size and 150 units is notwithstanding considered large in the context of Fenwick & Laigh Fenwick.

With regard to the suggestion that development at FW-X3 would mend the rural/urban interface in the location in question or round off development, it is considered unnecessary to initiate development, as any landscape impact, regardless of open space proposed, would significantly outweigh any perceived shortcomings. Development would represent a significant projection of the settlement boundary into the open countryside, with no other existing development to the north or south and only a small farm to the east.

### Housing Site Appraisal Methodology (195)

The representation proposes rescoring against the HSAM and some suggestions as to how the scoring system could be changed. However, several amendments proposed in the representation are not possible due to the system and criteria in place and it cannot be determined whether the methodology paper itself has been referred to when such amendments were proposed. In this respect, whilst the representation suggests that HSAM scoring for FW-X3 is incorrect, it is not considered appropriate or necessary to change scoring or the HSAM process at this stage of the Plan preparation process, as

doing so would have no outcome on the determination made by the Council on the suitability of sites.

After a revision made to the HSAM on 14/06/2022, FW-X3 was found to have performed less well than many other sites in the settlement, primarily because it was found during the examination of the 2017 LDP to be unsuitable for allocation. The Reporter stated in the 2016 Examination Report that 'the proposed site would be a significantly large development and would conflict with (the vision for Fenwick & Laigh Fenwick)'. They also found that the site would be 'prominent in the countryside at the edge of the village' and concluded that they were satisfied 'sufficient effective housing land will be available for development in Fenwick and Laigh Fenwick over the Proposed Plan period to meet the housing land requirement'. The Council concurs with the Reporter's conclusions and considers that these factors also apply with respect to the site's appraisal for P-LDP2.

With the above factors taken into consideration, the Council is of the view that site FW-X3 should not be allocated as a housing opportunity site in LDP2.

### **FW-X6 - Maunsheugh/Main Road**

#### Capacity Presented in HSAM (142)

It is contended in the representation that the indicative capacity of 17 is greater than 5 presented in the promotion of the site. Nevertheless, experience has shown that to underestimate the capacity of residential sites can result in significant divergence once development actually takes place. For example, the indicative capacity of 2017 LDP site 279H was 4, yet 20 dwellings were ultimately completed. It is therefore generally considered prudent to estimate that a site will be fully built out in accordance with P-LDP policy, with a requisite area of open space, rather than rely on the assertions made by the site promoter.

#### Flood Risk (142)

It should be noted with respect to the HSAM flooding criteria that only fluvial flooding was considered in the scoring assessment, but that surface water flooding was where appropriate mentioned in the site descriptions in Stage 3. Whilst the Council acknowledges that surface-water flood risk may be addressed, around 1/3 of the site is subject to such risk and the statement in the HSAM is therefore correct.

#### Biodiversity (142)

The Council acknowledges that whilst the 'Biodiversity' HSAM criterion is difficult to define in technical terms, that the conclusion that site performs a somewhat important biodiversity function is correct. Although the site does not lie within any protected areas and is subject to no environmental designations it cannot be said to have a limited biodiversity role. A HSAM score of '5' as suggested is therefore inappropriate.

#### Heritage, Landscape Character, Townscape & Visual Amenity (142)

Whilst the Council acknowledges NatureScot suggestion that development could be

accommodated within the site and considers that impact on the Laigh Fenwick Conservation Area would be limited, it is apparent from the Entec landscape study that the area is defined as an area 'not suitable for development that may be required to preserve the setting of settlements and prevent coalescence'. The development of FW-X6 would result in the coalescence of Fenwick & Laigh Fenwick from a visual and cartographical perspective; each settlement would be joined consequent to any development, and the settlement would be presented as a unified whole on LDP mapping.

Landscape impact would be significant, as any development would likely necessitate the removal of a proportion of the wooded strip that lies to the east of Main Road, which currently provides a screen to existing development on Maunsheugh Road. It is not appropriate at this time to speculate whether a Section 75 agreement to preserve undeveloped an area at the southernmost part of the site and, irrespective, it is considered that any development within the site would perceptually result in coalescence between Fenwick & Laigh Fenwick. It has been made apparent through representations that issue of coalescence is important to people in Fenwick and any concern is therefore considered legitimate.

#### Examination of 2017 LDP (142)

Whilst it is claimed that sites that had not been subject to examination are unfairly elevated in the HSAM process, it is nevertheless the case, as acknowledged in the representation, that the Reporter when examining the Proposed 2017 LDP concluded that development of site FW-X6 would result in coalescence. It is considered that these factors remain valid and an indication of how sites may be assessed in future. As stated above, any mitigation would be insufficient to offset adverse impact on the character and appearance of the settlement.

#### Conformity to Planning Policy (142)

It cannot be confirmed at this time whether any development within the site would conform to planning policy as suggested and to make a judgement on the quality or suitability of any development on that basis would therefore be premature.

#### Comparison to FW-F1(H) (142)

As confirmed above, the suggestion that FW-F1(H) is similar to FW-X6 is incorrect and it is evident that development of FW-X6 would have a greater effect in terms of coalescence between Fenwick & Laigh Fenwick.

With the above factors taken into consideration, the Council is of the view that site FW-X6 should not be allocated as a housing opportunity site or Future Housing Growth Area in LDP2.

#### **FW-X9 - Land at Skernieland Road (71, 102 & 103)**

#### Legal Arrangements & Suitability of Site (102 & 103)

The Council notes that FW-X9 is subject to a legal agreement that would allow for the

development of dwellings within the site were it to be allocated. However, the site was not promoted during the call for sites and consequently no mention was made of the legal agreement in place. The site was not allocated in the 2017 LDP and no desire to allocate the site was expressed during the preparation of that Plan.

It is suggested in the representation that development of the site would have a low landscape impact and that development would meet the 20-minute neighbourhood concept. However, it should be highlighted that alongside FW-X10 and unlike the sites detailed in the HSAM, FW-X9 has not been subject to detailed assessment and discussion within the planning service or with EAC Councillors in order to arrive at a view as to its suitability for allocation.

Whilst it is suggested that FW-H2, FW-H3 or FW-F1(H) are not suitable for allocation of identification as a Future Housing Growth Area, each site either benefits from confirmation of the principle of residential development through planning consent and/or lies within closer walking distance of service, facilities and public transport options than does FW-X9.

#### Recreational Open Space (71, 102 & 103)

Concerning comments that the site is used for recreational purposes, it should be noted that no area of the site in question forms part of the defined area of Safeguarded Open Space in Fenwick & Laigh Fenwick in the Proposed Plan. Indeed, it was not identified as such in the 2017 LDP. FW-H2 lies within private ownership and any current use of the site for recreational purposes is a matter for the landowner.

With the above factors taken into consideration, the Council is of the view that site FW-X9 should not be allocated as a housing opportunity in LDP2.

#### **FW-X10 - Land Adjacent to 4 Maunsheugh Road**

##### Suitability of Site (149)

It should be highlighted that alongside FW-X9 and unlike the sites detailed in the HSAM, the site in question has not been subject to assessment and discussion within the planning service or with EAC Councillors in order to arrive at a view as to its suitability for allocation. Whilst a detailed assessment of the characteristics of the site is not possible at this stage, a number of comments may briefly be made, in particular pertaining to the assessment against certain of the HSAM contained within the representation.

It is acknowledged that the site is likely free from flood risk, would have moderate to low impact on landscape or natural environment designations, is within a marketable settlement, would not affect any heritage designations, lies within walking distance of various facilities and public transport, and is otherwise suitable. Comments pertaining to conformity to PAN 2/2010 criteria are also noted. However, the contention that development would have no impact on biodiversity is not supported; all greenfield sites feature some flora and fauna.

Given the aforementioned factors, the Council considers that the site is broadly suitable

for residential development and that it may have been looked upon favourably should it have been submitted at call for sites stage; in particular, the issue of coalescence between Fenwick and Laigh Fenwick is avoided. However, it is not considered necessary to allocate any additional sites in Fenwick & Laigh Fenwick or undertake substitutions of sites as presented in P-LDP2. Sufficient land has been proposed for allocation in P-LDP2 in the Kilmarnock & Loudoun Sub-Housing Market Area to comprise a buffer of more than 50% above the MATHLR and the inclusion of further sites is therefore not required.

#### Conformity to Planning Policy & Quality of Development (149)

It cannot be confirmed at this time whether any development within the site would conform to planning policy as suggested and to make a judgement on the quality or suitability of any development on that basis would therefore be premature. The design quality of development and other more detailed matters as promoted would be assessed subject to the submission of a planning application and its determination.

With the above factors taken into consideration, the Council is of the view that site FW-X10 should not be allocated as a housing opportunity site or Future Housing Growth Area in LDP2.

#### **Reporter's conclusions:**

##### **General Matters**

1. Before considering the matters raised in comments on the individual proposals in the plan, a number of issues of more general applicability to Fenwick have been mentioned and require to be addressed.

##### Character of village

2. A number of representations point to the rural character of the village, and the damage to this character posed by new development. This is a valid consideration that may reasonably be applied, where relevant, to the various individual housing proposals (below).

3. I find Fenwick to have a mixed character typical of a large village. Parts of the settlement have a close visual connection with the surrounding countryside, while others, particularly within the conservation area boundaries, have a more urban character. There are several peripheral estates that display a more suburban feel. Where these individual characters are of value, I agree that this should be an important consideration. However, I do not take the view that Fenwick as a whole is close to some 'tipping point' whereby the overall character of the village would markedly change to a more urban one.

4. There is a legal requirement to pay special attention to the desirability of preserving the character and appearance of conservation areas. This matter must therefore be a consideration when assessing the suitability of proposed allocations within or close to conservation area boundaries. But the conservation area status of the historic hearts of Fenwick and Laigh Fenwick should not be interpreted as presenting any absolute bar

to further development in the village. Rather, the requirement is to apply the legal test.

5. The Scottish Government, in National Planning Framework 4 (NPF4) requires LDPs to allocate land to meet the housing land requirement. While there is support for local living and 20 minute neighbourhoods, this does not mean all development must be directed to large towns. There is no prohibition on the allocation of land on greenfield land or land within existing villages provided such sites are sustainable and otherwise appropriate.

6. It would not be appropriate for the plan to apply the rural protection area designation to built-up parts of Fenwick, as this designation is clearly intended to apply to countryside areas outside settlement boundaries.

#### Volume of proposed development

7. I addressed the overall level of the proposed plan's housing allocation at Issue 17, where I found that the overall approach to housing land supply was to be supported. I also found that the plan's spatial strategy for how the housing allocation should be distributed around the plan areas was broadly appropriate.

8. Turning to Fenwick in particular, I note that it is proposed to allocate three sites with a total estimated capacity of 59 houses. This represents less than 1% of the total allocated capacity of the plan. Two of the sites (FW-H2 and FW-H3) are existing allocations carried forward from the adopted 2017 plan. Site FW-H1 is therefore the only fresh proposed allocation in the proposed plan. I discuss site-specific matters relating to this site below, but here I note that FW-H1 has an estimated capacity of 20 units. For a settlement of the scale of Fenwick, the scale of the housing allocation is relatively modest.

9. The plan proposes identifying two additional future housing growth sites at FW-F1(H) and FW-F2(H). No potential capacity for these sites is stated, but I note from paragraph 190 of the plan that the expectation is that these sites will not be developed before 2033 and will be the subject of further detailed assessment, and a formal decision as to whether they should be allocated or not, through a future review of the LDP.

10. While I agree that it can sometimes be necessary to manage the rate of growth of individual settlements, I do not consider that Fenwick has been subject to excessive or unusual levels of housebuilding in recent years. It may be that levels of housing development have been proportionally greater here than for the council area as a whole, but this may be reflective of a number of factors including the availability of suitable sites and market demand. It is important for the planning system to provide a range and choice of sites for development, but there is no need for housing allocations to be distributed between settlements in a strictly proportional manner.

11. For these various reasons, I am satisfied that the overall volume of housing land identified in Fenwick is not, of itself, excessive.

12. Some representees argue there is a lack of demand to develop more houses in Fenwick or point to the lack of activity on the established allocations at FW-H2 and FW-



H3. At Issue 17 I noted that the amount of housing land allocated in the plan is high and exceeds the minimum all-tenure housing land requirement identified in NPF4 by 52%. The likely result of this approach is that some sites will remain undeveloped and continue in their current use over the medium term. This could include sites in Fenwick. But this would not in itself be necessarily problematic. Rather, it responds to NPF4's expectation to promote an ambitious approach to housing land supply and serves to promote the availability of a wider range and choice of site and so improve the functioning of the housing market.

#### Traffic and transport

13. Fenwick is a relatively large village containing a variety of services and facilities, including a primary school, church, pub, café and pharmacy. While it is somewhat lacking in shopping facilities, I nevertheless consider residents can meet many of their day-to-day needs locally on foot or by cycling.

14. Other higher order needs can be met relatively nearby in Kilmarnock, to which Fenwick is linked by half-hourly bus services. Existing and new housing in Fenwick may be attractive to commuters, but the regular bus service to Glasgow, Kilmarnock and Ayr does provide a sustainable transport option. I therefore conclude that the village is a relatively sustainable location for new development in transport terms. That said, I acknowledge that any level of new development is likely to increase local traffic levels to a degree.

15. Developers would be required to comply with the provisions of Policy T1 of the plan, including meeting relevant roads standards, embracing active travel infrastructure, and making financial contributions to transport infrastructure improvements where appropriate. The council also points to the various transport mitigation measures identified for the Fenwick allocations in the Environmental Report. Policy SS2(vii) of the plan would require these measures to be implemented.

16. Above, the council appears to acknowledge that there are some traffic issues around the Stewarton Road entrance to the village. While I did not experience these difficulties myself, I assume these are associated with traffic travelling to and from the M77 at peak times. Insofar as this is an existing matter that the Ayrshire Roads Alliance is apparently aware of, it is an issue that is not caused by new development but could be exacerbated by it. I have no further information on this matter from which to draw any useful conclusions, apart from noting again that Policy T1 would allow the council to secure funding from developers for any improvements that were found to be necessary to accommodate their proposed development.

17. To conclude, I consider it likely that sufficient capacity does exist in the road network, or could be secured through developer contributions at the planning application stage, to allow development to proceed. Specific matters relating to the individual sites are considered below.

18. The matter of an acoustic barrier between Fenwick and the M77 is largely beyond the scope of the examination. However, if this was found to be necessary to mitigate noise impacts on any individual new development site, then it could be considered at the planning application stage. I note the mitigation required in the Environmental



Report for sites FW-H2 and FW-H3 includes the provision of natural screening to mitigate road noise. Similarly, the comment relating to the desirability of realigning the slip road onto the M77 does not appear to be related to any particular proposal of the plan, and so is beyond the scope of the examination.

19. Any construction traffic would use the existing road network, primarily the B7061 Main Road. Given the standard of this road, and the relatively modest scale of the allocations, it seems unlikely that vibration from construction traffic would be sufficient to cause any significant damage to listed buildings or the conservation area.

#### Capacity of existing services

20. I noted above the facilities and services that are present in Fenwick, but I also note the absence of a 'village shop' and (according to representations) a general medical practice. It is to be expected that villages of the size of Fenwick will not contain the full range of services required by their population, but this is not a reason to avoid all new development in such locations. I consider Fenwick to contain a reasonable level of service provision, and other higher-order services exist nearby in Kilmarnock and can be accessed via a regular bus service.

21. Where new development puts existing essential services under strain, the planning authority can, where justified under the provisions of Policy INF4 of the plan, seek developer contributions towards the provision or improvement of such services. Other existing services may be operating under-capacity, and so benefit from additional population. For instance, the analysis provided by Lichfields on behalf of Barratt Homes appears to show the existence of some significant spare capacity going forward in Fenwick Primary School. It may also be that further development could provide added demand to make some new services viable in the village.

#### House types and affordable housing

22. I have some sympathy with the comments seeking for a proportion of any new housing built on the allocated sites to be aimed towards younger people/ first time buyers. However, it is uncommon for the planning system to seek to control house type in this way, particularly on privately owned sites. To do so would require a level of justification that is not before me at this examination, and I therefore decline to introduce such a requirement.

23. Under Policy RES2, the requirement to include a proportion of affordable housing only applies to sites of 30 or more homes. This may be because it is increasingly impractical to deliver affordable homes in small groups. Because none of the Fenwick allocations are expected to have a capacity of 30, there would consequently be no affordable housing requirement. Detailed evidence of a particular local need for affordable housing is not before me, and in any event I note that the plan makes extensive provision for such development elsewhere in the Kilmarnock and Loudoun housing sub-market area. I recognise that such provision may be sub-optimal for people seeking housing specifically in Fenwick but, for the reasons stated, I decline to recommend any modification to the plan.

Other matters

24. I have no reason to doubt the council's statement that sufficient water and sewerage capacity exists to serve the proposed developments. If this is found not to be the case, then Policy INF4 provides for developer contributions towards resolving any deficiencies.

25. NPF4 promotes the reuse of vacant and derelict land, while not ruling out the release of some greenfield sites. I find that this approach has been broadly followed by the proposed plan, particularly through Policy SS4 and the allocation of various brownfield development sites, including site FW-H2 in Fenwick. However, I accept the need to allocate some additional greenfield land, both to deliver the desired housing supply and to provide a range and choice of site.

26. The strategic environmental assessment has informed the proposed plan and forms part of the evidence to this examination. However, I have drawn my own conclusions based on my site inspection and the range of submitted evidence.

27. I am not aware that the Fenwick community action plan is before the examination, so I cannot comment on how far its contents have been reflected in the proposed plan.

28. It may be that sites FW-H1, FW-H2, FW-H3 or FW-F1(H) are accessed informally from time-to-time, as is probable for any greenfield site on the edge of a village. However, none of these sites appeared to me to have a strong open space function. I discuss the open space function of site FW-F2(H) below. The safeguarding of other open spaces in Fenwick is discussed at Issue 9.

29. With regard to the cemetery extension site CEM6, this appears to have been correctly referred to in Volume 2 of the proposed plan as 'Fenwick Cemetery'. No modification is therefore required.

30. Rights of way are not planning designations or directly connected to land use. There is therefore no requirement to illustrate these on development plan proposals maps and, in my experience, this is rarely, if ever, done. Above, the council has pointed to its online mapping, where this information is publicly available. No modification is required.

31. I discuss any relevant natural environment considerations for the various individual sites below.

32. In general, I doubt that ground conditions across Fenwick are unsuitable for development given the building that has taken place historically. I expect that any concerns in relation to individual sites could be satisfactorily addressed at the planning application stage.

33. I address coalescence issues between Fenwick and Laigh Fenwick below, in connection with the particular sites affected.

34. I have based my conclusions regarding all sites on my own assessment based on my site inspection and the submitted evidence. I have not relied on the council's

Housing Site Appraisal Methodology, and it is no part of my role to critique this document. I do not find the identity of the party promoting any particular site to be of any great relevance to my consideration.

### **FW-H1 - Bowling Green Road**

35. The site consists of a grass paddock located on the northern edge of Laigh Fenwick. It is contained by the B7061 Main Street to the east, Bowling Green Road and the Langside property to the north, the bowling club itself to the west and built development and mature trees to the south. Development would not be extensively visible from the wider countryside but would form a prominent feature as experienced from Main Road. The M77 lies around 100 metres beyond the bowling club, but maturing landscaping blocks most views from here.

36. I consider the main issue to be addressed is the potential for coalescence between Laigh Fenwick and Fenwick. These two related settlements have retained something of their individual identities, though the sense of these being two separate villages is already somewhat compromised. To the east of Main Road there is full intervisibility between the northern properties of Laigh Fenwick and the southern edge of Fenwick, and a continuous line of detached properties is visible at some distance to the east. Pavements and street lighting along Main Road also serve to reduce the rural character of the gap between the two villages somewhat.

37. The sense of separation is stronger to the west of Main Street. Some sporadic development already exists here, in the form of the bowling club and the property Langside. However, a sense of openness remains, with none of the buildings of Fenwick (to the west of the road) being visible at all from the northern edge of Laigh Fenwick. The southern edge of site FW-H2 is, however, visible, and the development of this site will narrow the gap between the settlements on this western side of the road. It is to be hoped that the mature hedge and sporadic trees along the southern edge of FW-H2 can be retained to soften this boundary.

38. I find that site FW-H1 benefits from a degree of containment by the northern edge of Laigh Fenwick, Langside, Bowling Green Road and the bowling club. A significant gap of around 140 metres would remain on the western side of Main Road between Langside and the southern boundary of site FW-H2 in Fenwick. Due to the local topography, and subject to the effective landscaping of site FW-H2, intervisibility between Fenwick and Laigh Fenwick to the west of Main Road would remain limited. For these reasons, I consider on balance that the development of site FW-H1 would not cause an unacceptable degree of coalescence between Laigh Fenwick and Fenwick.

39. Turning to other matters, the council accepts that parts of the site are at risk of surface water flooding. I note there is no objection from SEPA, but it remains the case that Policy 22 of NPF4 promotes the avoidance of flood risk and limits its support for development at risk of flooding to certain particular circumstances not applicable to the proposal site. There may be measures that can be taken and considered at the detailed stage to address this matter, but there may also be a need to avoid building on those parts of the site subject to flood risk. This could reduce the potential capacity of the site below the 20 unit estimate contained in Volume 2 of the plan, though I have no

basis by which to substitute any alternative figure. However, it does not seem to me that any flood risk constraint is sufficiently severe to call into question the principle of development on the wider site.

40. Regarding the site capacity of 20, I note that this figure is explicitly described in Volume 2 of the plan as being indicative. Given the flood risk constraint referred to above and the character of the local area, it may well be that any final development would be for fewer houses than this.

41. Any development here could affect the setting of the immediately adjoining Laigh Fenwick Conservation Area. As such it would be required under Policy HE2 of the plan to preserve and enhance the conservation area's character. However, this consideration does not rule out the possibility of sympathetic development.

42. The site lies some 150 metres from the M77 motorway. While noise from this road is audible on the site, I consider that new development at this distance from major roads is not unusual. Any particular design measures required to mitigate the impact of the motorway could be considered at the detailed design stage.

43. As a greenfield site, this land may be of some value to wildlife, but it is not subject to any biodiversity designations and I am not persuaded that it has any particular value that would not apply to any similar field on the village edge. Nor does the site appear to me to perform any special open space function, or to have any particular value for public access. The mature trees along the southern boundary appear to be located outside the site, and any located on the boundary itself could be retained as a condition of any planning permission.

44. The site is located in the northern part of Laigh Fenwick, closest to the village services of Fenwick. The primary school for instance is within a 800 metre walking distance. I therefore do not consider the site to be particularly remote or incompatible with the concepts of local living and 20-minute neighbourhoods promoted by NPF4.

45. I note the concerns raised regarding the detail of any development, such as access for emergency vehicles, and potential effects on the amenity of neighbouring property, such as overlooking. However, I consider these matters could be addressed in the detailed design of any proposal, and are not relevant to the principle of the allocation.

46. Overall, for the reasons stated, I am satisfied that site FW-H1 constitutes an appropriate housing allocation and conclude that no modification is required.

#### **FW-H2 - Main Road**

47. This is a naturalising brownfield site that has benefited from planning permission for housing in the past, and is a carried forward housing allocation from the existing adopted LDP. While it is evident that development has not yet proceeded, I note the council's evidence that the site remains programmed in the, most recent, 2021 housing land audit. On this basis I conclude that the site is effective. In this context I do not consider the identity of the landowner, or the suggestion that the site has recently been sold, to be greatly relevant to my conclusions. It may be that the condition of the

boundary wall represents a potential cost, but I am not satisfied that this potential constraint is sufficient to call into question the overall deliverability of the site.

48. I agree that the naturalisation of this site that has occurred is likely to have increased its value to wildlife. However, it is not subject to any biodiversity designation and has a status as an established housing development site. I therefore consider the main biodiversity consideration is how the impact of development can best be mitigated.

49. Policy SS2 of the plan requires developers to implement the mitigation measures set out in the environmental report. For site FW-H2, these include the retention of existing trees and hedgerows, or, where trees are lost, the planting of new trees and other natural features to encourage new habitat networks and biodiversity to be formed. I consider these measures represent the best mitigation that can be achieved in the context of an established housing development site.

50. On my site inspection I encountered some faint informal paths within the site, indicating that some use may be made of the site for recreational access by local people. However, the level of use does not appear to be heavy, and access is not promoted. Overall, I conclude that this consideration is not so powerful as to outweigh the established status of this land as a housing development site.

51. I agree that the existing stone wall along the Main Road frontage of the site is an attractive feature that makes a positive contribution to the character of the village. Above, the council has confirmed its preparedness to accept the inclusion of a developer requirement to retain this wall among the developer requirements for the site. I agree the inclusion of such a requirement would be worthwhile and recommend such a modification below.

52. The site is somewhat separated from the Fenwick Conservation Area but is visible from within the area. Appropriately designed new development is not incompatible with the preservation of the character and appearance of nearby conservation areas. Particularly if the existing boundary wall is retained, I am satisfied that development need have no unacceptable heritage impacts.

53. At its closest, the site is within 60 metres of the M77 motorway. At this distance I expect that noise impact will be a factor, as acknowledged by the council. I note the developer requirements included within the environmental report include provision of natural screening to lessen the impacts of road noise, and the use of materials within the houses that reflect noise or insulate the internal layout. These measures will mitigate the impact of the motorway to a degree. But I expect that noise, and possibly vibration, may still have a negative impact on future residents, especially in gardens and other outdoor areas. However, this is not to say that these impacts would be so bad as to prevent this being a pleasant place to live. I am also conscious of the established planning status of this land, and the importance of the planning system delivering certainty and consistency in decision-making over time. Therefore, on balance, I am satisfied that the potential for noise and vibration impacts are not so severe as to justify the removal of this site from the plan.

54. Regarding the site capacity of 29, I note that this figure is explicitly described in

Volume 2 of the plan as being indicative. Should any design considerations or site constraints demand a lower level of development, then I do not consider that the plan should be read as preventing this.

55. Regarding other matters raised, it seems unlikely that any possible contamination on the site is an insurmountable constraint, and I therefore consider this matter can be suitably addressed at the planning permission stage. I would expect any necessary parking associated with the development to be provided within the site. Any proposal for retail or health care use on the land could be considered by the council on its own merits, and small proposals may be compatible with housing use for the wider site. Proposals that significantly affected the capacity of the site to deliver housing could be deemed contrary to the plan, but I would not expect the plan to include positive allocations for these uses without clear evidence that such uses may be forthcoming.

56. Overall, for the reasons stated, I am satisfied that site FW-H2 continues to constitute an appropriate housing allocation and conclude that no modification is required.

### **FW-H3 – Stewarton Road**

57. This is an overgrown area of slightly elevated land containing some regenerating scrub. While development could be quite prominent in some views (at least without suitable landscaping), it is very well contained by the built-up edge of Fenwick to the east and the M77 motorway to the west.

58. The site was allocated for housing in the existing adopted LDP and gained planning permission in principle for housing development in 2022. Given the existence of this very recent consent, I consider it would be untenable to excise this land from the Fenwick settlement boundary or delete this allocation. I note the council's evidence that the site is programmed for development in the most recent housing land audit and, on the basis of this and the recent consent, conclude that the land must currently be considered to be effective and deliverable.

59. A wide range of concerns about the development have been raised, which I will touch on briefly below. But the most significant factor in my view is the existence of the recent planning consent, which has established the suitability of this land for housing development in principle. That said, the detailed provisions of this permission, such as the arrangements for developer contributions, are beyond the scope of this examination.

60. Issues have been raised regarding accessing the site. These appear to include the presence of a bus stop within the visibility splays at the site entrance. I have not been furnished with detailed evidence on this matter but note that it was addressed in the consideration of the approved planning application. I also note the absence of any objection from the Ayrshire Roads Alliance to the proposed allocation in this emerging plan. Overall, it seems unlikely to me that access constraints are so severe as to make the site undeliverable.

61. Another significant matter is the potential impact of noise from the M77 on future residents. The mitigation requirements set out in the environmental report include the



provision of natural screening to lessen the impacts of road noise and the use of materials within the houses that reflect noise or insulate the internal layout of the house from excessive road noise and vibration. I suspect that, as well as natural screening, some form of noise barrier may also be required, but this is a matter than can be fully and adequately explored at the detailed planning stage. It is likely that some noise impact will remain, at least in outdoor garden areas, but with suitable mitigation I am satisfied that this need not be so severe as to render this an unpleasant place in which to live.

62. Turning briefly to other matters, the site adjoins the conservation area boundary, but there is no reason why a sensitively designed development should not also serve to enhance the character and appearance of the area. I do not consider that the openness of this land is itself particularly important to the character of the conservation area. Any impact on individual assets such as the war memorial can be assessed in the context of a detailed proposal. I noted the presence of the drystone wall along the eastern boundary of the site, but I do not consider this feature to be of such importance to the wider character of the area as to warrant any special mention in the plan.

63. In terms of nature conservation, the site may have gained some increased value for wildlife as it has become overgrown, but it is not subject to any biodiversity designations and I am not aware of its having any special value. The site is not promoted for public access, and I saw no great evidence of any extensive use of it by local people (such as informal paths) in the course of my site inspection. On the contrary, the overgrown nature of the site rendered access quite difficult.

64. The capacity of the site given in Volume 2 of the plan is explicitly stated to be indicative and therefore non-binding on either the developer or the planning authority. The council can consider any proposals for a retail development on its own merits, and it may be that a small village shop would be compatible with the use of the wider site for housing.

65. Overall, for the reasons stated, I am satisfied that site FW-H2 continues to constitute an appropriate housing allocation and conclude that no modification is required.

#### **FW-F1(H) - Land South of Murchland Avenue**

66. This sloping grass field is located to the east of Main Road between Fenwick and Laigh Fenwick. It is well-contained by built development to the north and east, with a mature hedge and occasional small trees along the Main Road frontage.

67. I consider the main issue to be addressed is the potential for coalescence between Laigh Fenwick and Fenwick. These two related settlements have retained something of their individual identities, though the sense of these being two separate villages is already somewhat compromised. To the east of Main Road there is full intervisibility between the northern properties of Laigh Fenwick and the southern edge of Fenwick, and a continuous line of detached properties is visible at some distance to the east. Pavements and street lighting along Main Road also serve to reduce the rural character of the gap between the two villages somewhat.

68. That said, site FW-F1(H) comprises the largest part of the remaining gap between Fenwick and Laigh Fenwick to the east of Main Street. If FW-F1(H) were to be built on only a small area of low-lying land to the south would remain undeveloped (site FW-X6). FW-F1(H) is also particularly prominent as viewed from Main Street (despite the presence of the roadside hedge) due to the rising nature of the land. For these reasons I consider that the development of FW-F1(H) would effectively mean that no meaningful landscape gap could be said to remain between the two villages to the east of Main Street.

69. A gap would remain to the west of Main Street, which would still have some value. However, I consider that were there to be almost continuous frontage development along the eastern side of the road any remaining sense of Fenwick and Laigh Fenwick being separate settlements would largely disappear. Because it is the openness of this land that provides the visual separation function, I consider that a possible requirement for structural landscaping within FW-F1(H) would not satisfactorily mitigate this impact.

70. The council points to the ongoing existence of open land at FW-X6, but I consider this site to be so small as to be unable to provide this separation function on its own. I also acknowledge that housing along Maunsheugh Road already largely serves to physically join the two settlements further to the east. However, I place most weight on the sense of separation that can still be experienced on Main Road because this is the main route between the villages.

71. Avoiding coalescence is not the be all and end all in assessing the advantages and disadvantages of this site. And I have noted that the sense of separation between these settlements is already somewhat compromised. However, it is clear from the representations received that preserving the remaining separate identity of Laigh Fenwick is a significant issue for local residents.

72. On balance, I consider that it is important to avoid full coalescence between the two villages unless there is a powerful reason why it is necessary to develop this land. In this context, I note that site FW-F1(H) is included in the plan as a future housing growth area rather than a housing opportunity site. This means its development is not required in the plan period to deliver the housing requirement of the current plan. For these reasons, I conclude on balance that site FW-F1(H) south of Murchland Avenue should be removed from the plan.

73. I have considered the other matters raised in relation to this site both from parties in favour of development and those opposed. I acknowledge the likelihood that this land could form a deliverable and effective housing allocation. But given my conclusions above regarding the principle of development at this location, it is not necessary for me to consider these matters in further detail.

#### **FW-F2(H) - Waterslap Road**

74. This site is identified as a future housing growth area in the proposed plan. As such, its development is not supported in the plan period, but its future potential, subject to further detailed examination, is acknowledged. I consider that this designation as a future housing growth area constitutes a reasonably significant commitment to the principle of development on this site. I therefore consider the

proposal should only go ahead if there is reasonable confidence that this would be an appropriate site for housing development, and I have assessed it on this basis.

75. The site constitutes an elongated triangle of overgrown formerly agricultural land to the south of Laigh Fenwick. It is bounded to the north-east by the minor road of Waterslap and a row of traditional buildings; to the north-west by the rear of buildings on Main Road and by Main Road itself; and to the south-east by Fenwick Water. It is therefore well contained by strong physical features.

76. The site would be quite prominent in views from the Waterslap approach to Laigh Fenwick but would be seen against the background of existing development on higher ground. Development would extend the urban envelope of Laigh Fenwick further to the south along the eastern side of Main Road, but I note that some development already exists to the western side of this road, and site FW-F2(H) would sit below the road and be relatively well screened by roadside vegetation. A rise in land to the south-eastern side of Fenwick Water would limit visibility of the site from this direction. The zone of theoretical visibility mapping provided by the promoter of the site (the accuracy of which I have no reason to doubt) confirms that development would be mainly visible from the east and south, from where it would be largely backgrounded by existing buildings in Laigh Fenwick. Overall, I consider that development here would not be particularly prominent or incongruous in landscape terms.

77. The buildings to the north-west and north-east of the site are within the Laigh Fenwick conservation area. It seems to me that the focus of this conservation area is Main Road, and that the openness of site FW-F2(H) does not have a particular important role to play in defining the area's character. The site is not visible from the heart of the village. While development would be prominent from Waterslap, it should be possible to ensure that the character and appearance of the conservation area is preserved through the delivery of a high-quality design.

78. Similar considerations would apply in relation to nearby listed buildings, none of which appear to me to rely on the openness of this site as an important component of their setting. In terms of the overall form of the village, development at FW-F2(H) would be broadly in keeping with the north-south axis along which Fenwick and Laigh Fenwick have traditionally grown. For these reasons, I find the principle of development here to be compatible with conservation and urban design considerations.

79. Because the site is located at the southern extremity of Laigh Fenwick, it is not particularly well-situated to access many of the services and facilities which are located further north in Fenwick. For instance, houses in parts of the site would be over one kilometre from the primary school. However, I note this is below the maximum threshold of 1,600 metres for walking mentioned in Planning Advice Note 75. A bus service exists adjoining the site, apparently offering half-hourly services to Fenwick and Kilmarnock. I consider this frequency to be no more than reasonable. While some facilities are available more nearby (such as a café and hotel in Laigh Fenwick), overall I do not consider the site to be particularly well located in terms of local living and 20-minute neighbourhoods.

80. It is clear from the evidence that parts of the site closest to Fenwick Water may be subject to flooding. The promoter of the site has indicated how they consider the site

could be developed avoiding the flood risk areas, and it appears to be the case that the mapping provided by SEPA shows only a strip along the south-eastern edge of the site, adjacent to the river, to be at risk. I noted on my site visit how the land rose towards the north-west. I conclude that, while flood risk will clearly be an important consideration in any design, this factor does not rule out the principle of development across the wider site.

81. The promoter of the site indicates that access could be taken from Waterslap. I agree that direct access arrangements into the site from here look straightforward. However, Waterslap itself is relatively narrow, with limited advance visibility on its approach to Main Road. I expect that access would be possible from here, but alternative access arrangements may also be possible directly from Main Road to the west, albeit some change in level would need to be overcome. Overall, I consider that the site appears capable of being accessed, either from Waterslap, or Main Road.

82. The site has naturalised to a degree, and it appears to be some time since it was in active agricultural use. The council acknowledges the site is somewhat important for biodiversity. The site promoter has carried out a preliminary ecological appraisal, which found the habitats and plant species recorded within the site boundary to be widespread and common throughout the local region.

83. I expect that the site is of some local value to biodiversity and this will have increased in recent years as agricultural use appears to have been abandoned. However, it is not subject to any habitat or wildlife designations, or to any adverse representations from bodies with acknowledged biodiversity expertise. A number of mature trees exist within the site and along its boundaries, but it would appear possible to largely retain these within any development.

84. In the course of my site inspection, I noted the presence of some informal footpaths through the site indicative of recreational access by local people. As an attractive piece of open land adjacent to the village, I am in no doubt that the site may be valued as a resource for activities such as dog walking. However, the site has no particular status or designation as open space, and is not promoted as such.

85. As noted above, it is not part of my role to critique the council's housing site assessment methodology (HSAM), and I base my conclusions on this and other sites on my own assessment.

86. In conclusion, I have noted above the positive and negative aspects to this site's identification as a future housing growth area. It has strong physical boundaries, fits easily into the local landscape and historical settlement pattern, avoids negative impacts on the historic environment, and appears acceptable in terms of access and flood risk. I also acknowledge that development here would not be wholly conducive to local living and 20-minute neighbourhoods, and the site has some local value for wildlife and recreational access. However, on balance I am satisfied that these disadvantages are not so severe as to outweigh the site's advantages or render the site unsuitable for identification as a long-term opportunity in the plan.

87. The promoter of the site argues that the site should be allocated for development in this plan period, and not just as a future growth area. However, at Issue 17 I found

that the housing land allocation made in the plan was more than sufficient to meet the minimum all tenure housing land requirement, and that there was no need to allocate additional sites. Within Fenwick/ Laigh Fenwick itself, the plan makes a reasonable allocation of three sites for development in the plan period with capacity for 59 homes. Above I have found these sites to be effective and/ or suitable for allocation in the plan. NPF4 expects LDPs to identify areas suitable for new homes beyond the ten-year period of the plan. For these reasons, I conclude that this site should remain shown as a future housing growth area in the plan. No modification is required.

#### **FW-X2 - Land at Dewars Farm (AKA Dewars Holm)**

88. This is an area of low-lying rough grazing land adjacent to the Fenwick Water. The promoter of the site acknowledges that parts may be subject to flooding, and that areas to the south and east of the site are unsuitable for development due to steep slopes. However, they are of the opinion that around 1.2 hectares remains and could form an effective housing site.

89. I find the site to be relatively well contained in landscape terms by mature trees and woodland and by the rising topography to the east of the site. Access may be possible onto Raith Road by upgrading the existing access to the property Dewars Holm, though I note that the curvature and gradient of this road could make this less straightforward than the site promoter suggests. Overall, I expect the site is capable of accommodating development in a technical sense, though the developable area may be less than the 1.2 hectares suggested.

90. The dominant settlement pattern of Fenwick is built around the north-south axis of Main Road on higher land to the west of Fenwick Water. My main concern is that the allocation of site FW-X2 would introduce significant urban development to the east of Fenwick Water in this northern part of Fenwick for the first time. I acknowledge that the Raith Road estate to the south of Kirkton Road already exists to the east of the river. However, these houses are not readily apparent in this approach to Fenwick. There are also some sporadic houses to the east and south of the site, but these are not currently 'read' as forming part of Fenwick. I therefore consider that development at FW-X2 would result in the village breaking out of its historic landscape setting in this area in an undesirable way.

91. At Issue 17 I found that the housing land allocation made in the plan was more than sufficient to meet the minimum all tenure housing land requirement, and that there was no need to allocate additional sites. Within Fenwick/ Laigh Fenwick itself, the plan makes a reasonable allocation of three sites for development in the plan period with capacity for 59 homes. Above I have found these sites to be effective and/ or suitable for allocation in the plan. On this basis, there is no requirement to identify additional land, such as site FW-X2, for allocation in this plan.

92. For these reasons I conclude that this land should not be allocated for housing development, and no modification to the plan is required.

#### **FW-X3 - Land at Fenwick**

93. Site FW-X3 consists of a large agricultural field to the east of Fenwick. It is mainly



bounded by managed agricultural hedges, and also by the existing Raith Road housing estate to the west. Parts of the site are widely visible from the wider countryside, especially towards the north-east, where the land is higher. However, the site promoter indicates that this area could be reserved as open space. In many views, the site is seen against the background of the stark unlandscaped edge of the Raith Road estate. This would lessen the impact of development to an extent, and also provides an opportunity to improve the quality of the urban edge at this point.

94. Development here would amount to a major strategic extension to the village. It would be out-of-alignment with the historic settlement pattern of the village, which is built around a north-south axis to the west of Fenwick Water. That said, this pattern has already been disturbed in this part of the village by the development of the Raith Road estate.

95. The site is not particularly well-located in terms of pedestrian access to the services and facilities of Fenwick, being (I estimate) over 800 metres walk at its nearest point to the primary school and services located on Main Road. However, I note this is less than the 1,600 metre maximum walking distance referred to in Planning Advice Note 75. Overall, I consider the site could be said to be marginal in terms of its compliance with the concepts of local living and 20-minute neighbourhoods.

96. The site promoter indicates that vehicular access to the site would be taken from the minor road to the south. Onward travel from here towards Kilmarnock, Glasgow and the M77 would appear to require cars to either drive through the existing Raith Road estate or utilise the somewhat substandard Waterslap access onto Main Road. The Transportation Overview provided by the site promoter provides only limited analysis of these matters, which I expect would require further investigation before this site could be progressed.

97. The site promoter argues that the volume of development that this site could provide is necessary to support services and facilities in Fenwick, including the school roll. It is clearly the case that any growth in population is likely to increase patronage of local shops and services, and this may be a valid planning consideration, especially if those services are at risk.

98. However, I am not wholly convinced by the site promoter's analysis for a number of reasons. Firstly, the catchment area for the school and other facilities in Fenwick presumably extends beyond the village itself to encompass surrounding hamlets and farms. Visitors and passing traffic will also have a role in supporting facilities such as shops and public houses. Secondly, I do not find it unusual for rural schools to have lower rolls than might be considered ideally efficient, and I have seen no evidence that Fenwick Primary School is under any real threat of closure. Thirdly, I do not interpret either national policy or any wider principles of good planning as expecting the populations of rural villages to necessarily be raised to some particular theoretical threshold deemed sufficient to support a particular package of services and facilities.

99. As noted above, it is not part of my role to critique the council's housing site assessment methodology (HSAM), and I base my conclusions on this and other sites on my own assessment.



100. At Issue 17 I found that the housing land allocation made in the plan was more than sufficient to meet the minimum all tenure housing land requirement, and that there was no need to allocate additional sites. Within Fenwick/ Laigh Fenwick itself, the plan makes a reasonable allocation of three sites for development in the plan period with capacity for 59 homes. Above I have found these sites to be effective and/ or suitable for allocation in the plan. On this basis, there is no requirement to identify additional land, such as site FW-X3, for allocation in this plan.

101. Overall, I consider that this site does have some advantages including the opportunity to improve the urban edge in this area, provide additional recreational open space and to support local services and facilities. I would not rule out its potential for development in the long term. However, there is no requirement to allocate this site at this time, and on this basis I conclude that no modification to the plan is required.

#### **FW-X6 - Maunsheugh/Main Road**

102. This is a low-lying area of overgrown land located on the northern edge of Laigh Fenwick. The site is quite well contained by existing properties to the south-east and Main Road (and its associated roadside vegetation) to the west. However, I consider that development here would nevertheless be visible and would serve to diminish the sense of separation between Fenwick and Laigh Fenwick on this eastern side of Main Road. Similar considerations with regard to coalescence therefore apply as for site FW-F1(H) (above).

103. The parties agree that at least part of the site is affected by surface water flood risk. I accept that it may be possible to address this risk, though it remains the case that NPF4 Policy 22 offers only limited support for any development proposals in a flood risk area. I expect further analysis of this matter would be required before development could be supported.

104. Given its semi-naturalised state, I expect the site may be of some value to wildlife. However, I note that it is not subject to any formal biodiversity designation, and overall I doubt this factor would amount to an absolute constraint to development.

105. As noted above, it is not part of my role to critique the council's housing site assessment methodology (HSAM), and I base my conclusions on this and other sites on my own assessment.

106. At Issue 17 I found that the housing land allocation made in the plan was more than sufficient to meet the minimum all tenure housing land requirement, and that there was no need to allocate additional sites. Within Fenwick/ Laigh Fenwick itself, the plan makes a reasonable allocation of three sites for development in the plan period with capacity for 59 homes. Above I have found these sites to be effective and/ or suitable for allocation in the plan. On this basis, there is no requirement to identify additional land, such as site FW-X6, for allocation in this plan.

107. Overall, I consider that the development of this site would have some negative effects in terms of coalescence between Fenwick and Laigh Fenwick, and potentially in terms of flood risk. Given the absence of any need to identify additional land in Fenwick at this time, I therefore conclude that no modification to the plan is required.

### **FW-X9 - Land at Skernieland Road**

108. The northern section of this land falls within the settlement boundary and currently contains a car park for the adjacent cemetery and other flat overgrown land. This area is reasonably well-contained in landscape terms and enjoys good access from the cemetery access road. It is allocated in the plan for a cemetery extension (CEM6). If this use does not materialise, I agree that housing may be a suitable alternative. Given the location within the settlement boundary, such a housing proposal could potentially be progressed within the terms of Policy RES1 of the plan.

109. The southern part of the land itself falls into two sections. Development of the upper western section, adjacent to the urban edge, could potentially fit quite naturally into the existing urban fabric. While there are open views towards the north, otherwise the site benefits from strong containment by existing development and mature trees. Access would appear feasible from Fowlds View or Fulton Crescent. However, the site already contains a large SUDS feature that would constrain the developable area. It was also clear from my site inspection that the site was crossed by a number of informal paths indicative of its extensive use by local people for dog-walking etc.

110. The eastern section of this land sits below a steep bank alongside Fenwick Water. Potential flood risk may be an issue, and it would be challenging to access the land due to the change in level. This area seems to me to have much less potential for development than the western parts of the site.

111. In summary, I would not rule out the development potential of the western part of this site in the long term. However, at Issue 17 I found that the housing land allocation made in the plan was more than sufficient to meet the minimum all tenure housing land requirement, and that there was no need to allocate additional sites. Within Fenwick/ Laigh Fenwick itself, the plan makes a reasonable allocation of three sites for development in the plan period with capacity for 59 homes. Above I have found these sites to be effective and/ or suitable for allocation in the plan. On this basis, there is no requirement to identify additional land, such as site FW-X9, for allocation in this plan.

112. I also note that this site was not proposed at the 'call for sites' stage or included in the main issues report. It has not therefore been subject to the same full assessment and public consultation as other proposals. It is difficult to introduce new allocations at the examination stage in these circumstances.

113. For these reasons, I conclude that this land should not be allocated for housing at this time, and that no modification is required.

### **FW-X10 - Land Adjacent to 4 Maunsheugh Road**

114. The site consists of a small paddock bounded by existing development to the north, east and west, and by a rather straggly overgrown hedge to the south. The site is therefore well-contained, and even to the south I note that both Laigh Fenwick and the Raith Road estate extend further in this direction than this site does. In terms of coalescence, the site would not be visible from Main Road, which I consider to be the main area of sensitivity in this regard, and Maunsheugh Road already has almost continuous built development along its northern side. Maunsheugh Road is narrow but

may be capable of accommodating additional traffic from a relatively modest development.

115. Overall, I agree with the council that this site may have some potential for development. However, I note that this site was not proposed at the 'call for sites' stage or included in the main issues report. It has not therefore been subject to the same full assessment and public consultation as other proposals. It is difficult to introduce new allocations at the examination stage in these circumstances.

116. At Issue 17 I found that the housing land allocation made in the plan was more than sufficient to meet the minimum all tenure housing land requirement, and that there was no need to allocate additional sites. Within Fenwick/ Laigh Fenwick itself, the plan makes a reasonable allocation of three sites for development in the plan period with capacity for 59 homes. Above I have found these sites to be effective and/ or suitable for allocation in the plan. On this basis, there is no requirement to identify additional land, such as site FW-X10, for allocation in this plan.

117. For these latter reasons I conclude that, while this land may have some potential, it should not be allocated for housing at this time, and that no modification is required.

#### **Reporter's recommendations:**

I recommend that:

1. the following sentence be included among the developer requirements for site FW-H2 in Volume 2 of the plan.

'The developer must, as far as is reasonably possible, retain the existing stone wall along the eastern boundary of the site.'

2. Site FW-F1(H) be removed from Schedule 3 and from Volume 2 of the plan.

Issue 32	Fenwick non-residential	
Development plan reference:	PROP 2: Park and Ride at West Fenwick (Volume 2, Page 105 and Rural Area map) and commercial opportunities within Fenwick	Reporter: Stephen Hall
Body or person(s) submitting a representation raising the issue (including reference number):		
Gary Wright (32) R Tedford (102) Catherine Dickie (103) P Grimes (188) Murray Wilson (238) Dunlop & Lugton Community Council (240)	Martin Riddell (252) H Morris Group (262) Andrew Sommerville (268) Kirsty Sommerville (269) Sheila Johnson (285) Fenwick Community Council (71) G Roberts (312)	
Provision of the development plan to which the issue relates:	Volume 2 (page 105) and the Rural Area Map: The inclusion of and scope of PROP2: Park and Ride at West Fenwick and the lack of commercial opportunities within Fenwick	
Planning authority's summary of the representation(s):		
<u>The need for retail or industrial space in Fenwick</u>  <u>Murray Wilson (238)</u>  Something other than housing should be proposed in Fenwick. Fenwick would benefit from retail or industrial space particularly in sites close to the M77.  <u>Objection to the inclusion of PROP2</u>  The Proposal to explore a Park and Ride at Fenwick West is objected to on the following grounds:  <u>Traffic implications</u> <ul style="list-style-type: none"><li>• Creation of additional traffic, resulting in congestion, noise and air pollution (<u>32, 102, 269, 188, 268, 285, 312</u>)</li></ul> <u>Impact on Kilmarnock town centre and retail</u> <ul style="list-style-type: none"><li>• The proposal would have a negative effect on Kilmarnock, which is already suffering, through diverting footfall away from the town (<u>102, 103</u>)</li><li>• It is considered the proposal is really for an out of town retail facility (<u>103</u>);</li></ul> <u>Character and rural setting</u> <ul style="list-style-type: none"><li>• Park and ride facility would be detrimental to the character of the village (<u>268</u>)</li><li>• Removal of green space around the area (269)</li></ul>		

- The site would undermine the Rural Protection Area and would nearly join together Kilmarnock and Fenwick (71)
- The second phase of the proposal, business and industrial development, would be out of character with the rural setting (285). It would constitute sprawl into the countryside and was not addressed in the 2021 Business and Industrial Land Supply review (CD50) (312).
- It is a way to create additional houses and parking between Fenwick and Kilmarnock (188)

#### Access issues

- The Transport Assessment did not cover this site although it is known there were access problems with the business and industrial land for industry and Meiklewood/Mossie at the north of Kilmarnock (312).
- Any site at West Fenwick would present technical difficulties where the slip road off the M77 northbound joins Kilmaurs Road and then continues as the old A77. The X77 express bus would not make 2 stops within half a mile (312)
- It is unclear what the impact on the M77/A77 on/off ramps will be (188)

#### Scale

- The size/capacity of what is being proposed would necessitate around 100 buses at peak time. Bus service would need to be hugely improved (252, 102, 103)
- The scale of the proposed Park and Ride site is too large. Its scale is unsuitable for the Rural Protection Area and its size would suggest it would become one of the largest park and ride facilities in the country (71)

#### Lack of proven need

- Majority of people using the park and ride would be coming from Kilmarnock, so would have to drive out of the town to get to the park and ride. Most would stay in their cars and drive to Glasgow. (252)
- No need for such a development and no assessment of demand has been undertaken. Fenwick is well served by bus services and very few people choose to park in Fenwick to then travel to Ayr and/or Glasgow (285, 312)

#### Better alternative locations

- Proposal would only work if the Park & Ride is on the Stewarton side of the motorway, utilising the ground in front of the timber merchant and access the current bus stop at Glaister bridge (32)
- Locating closer to a railway station may be better option (252)
- A more strategic location would be near to the Bellfield Interchange (312)
- A small scale site in Fenwick could be found to reduce on-street parking and encourage sustainable bus travel for commuters from the surrounding area (312)
- There are better sites that have not been considered, including the Kingswell junction of the M77, Bellfield Interchange or Silverburn Park and ride. (71)

Non-planning matters raised:

- Degrade local houses (32)

Additional considerations

Dunlop and Lugton Community Council (240)

Whilst the Park and ride proposal is not objected to, proposals and timescales for access from Dunlop and Stewarton, must be included as integral to any studies, both in terms of vehicle and cycle access.

Objection to the limited scope of PROP2

H Morris Group (262)

The inclusion of PROP2 is supported, however its scope should be expanded to become a strategic opportunity site for business and industry, as well as a mobility hub and multi modal interchange.

The development of the site should be led by a masterplan approach, which would set out how the site can best meet business and industrial need and support the AMIC (Ayrshire Growth Deal) project. In terms of phasing, the business and industrial development should come first followed by truck stop/accommodation, additional services for business meetings, a multi modal interchange including EV charging and additional facilities (service station/shops /rest area/play etc.)

Detailed supporting information is provided to support the amended allocation for the site. In the summary the reasons comprise:

The need for additional business and industrial land

- There is a need for additional land to be allocated for business and industrial use. This is backed up by studies commissioned to inform the preparation of the LDP (Avison Young Industrial Land Review (CD50)) and Graham and Sibbald Report on Land at Kilmarnock North (CD 67). In particular, the Avison Young report recommends that additional land be allocated for business and industrial use and that for large sites, the focus should be on Kilmarnock.
- There are limitations with the business and industrial sites included in the Plan, specifically:
- Rowallan (KK-B6) – no new land has been allocated, over and above the 2017 LDP allocation. For the site that is identified, topography and poor access limit deliverability, which has been demonstrated through lack of take up.
- Kirklandside (RU-B2(02) and RU-B2(01)) – Development is contingent on works to increase the capacity of the Bellfield Interchange. This will take time and money, as well as further land acquisition, a new trunk road access and flooding solutions. The site is only therefore likely to be deliverable in the long term
- Moorfield (KK-A1) – Whilst this is considered an active site, in light of comments above this is the only active site, demonstrating that there is a lack of deliverable sites.



- Lack of deliverable sites will impact the ability of the Plan to meet one its stated aims, 'Drive economic recovery and growth in a sustainable and inclusive manner and ensure there is access to employment opportunities'

#### Benefits of the West Fenwick Site

- There are clear benefits to the West Fenwick site such as no traffic or flooding issues, a willing landowner, locational advantages in relation to the M77 and access to Glasgow.

#### Alignment with national policy and LDP spatial strategy

- The Mobility hub and multi modal transport interchange is fully in line with National Transport Strategy 2 (CD5) and the draft Technical report for STPR2 (CD38 a and b). It would also align with any bus priority measures brought forward on the M77 to tackle peak time congestion and resultant vehicle emissions
- The proposal is in line with the spatial strategy of the plan and consistent with spatial strategy policies SS1 and SS2.

#### **Modifications sought by those submitting representations:**

##### Murray Wilson (238)

Whilst a specific modification is not stated, the respondent would like to see retail or industrial space within Fenwick.

Gary Wright (32), R Tedford (102), Catherine Dickie (103), P Grimes (188), Martin Riddell (252), Andrew Sommerville (268), Sheila Johnson (285), Kirsty Sommerville (269), G Roberts (312), Fenwick Community Council (71)

Whilst a specific modification is not always stated, the above respondents object to PROP2 Park and Ride and West Fenwick and it is assumed, the above respondents would request that the PROP2 site and associated text be removed from volume 2 of the Plan.

##### H Morris Group (262)

The West Fenwick site should be identified as a strategic opportunity site for business and industry, as well as a mobility hub and multi modal interchange. The developer requirements box under PROP2 should read:

*'The Council and the landowner working in partnership will prepare a masterplan associated business plan for the site. The masterplan should:*

- *Detail how the site can best be developed to meet identified needs for business and industrial units in the Kilmarnock area and to support the wider ambitions of the AMIC project,*
- *Include designs for a mobility and multi-modal hub in support of potential bus priority proposals for the M77 (either as a separate project or as part of the wider*

*Glasgow Managed Motorway Network) or other traffic and transport related proposals to reduce unsustainable travel'*

**Summary of responses (including reasons) by planning authority:**

**The need for retail or industrial space in Fenwick (238)**

Fenwick is a small settlement with an associated small number of services and community facilities. It is not considered to have a sufficient number or range of consolidated commercial or community uses for a town centre to be allocated. However, the Proposed LDP2, through policy TC3 supports small scale retail developments in rural communities with no town centres where they would meet day-to-day needs. The policy also supports tourist-related shops in particular circumstances and community uses within settlements. This is considered sufficient and appropriate for a settlement of Fenwick's size and village character.

It is further noted that in terms of industrial space, the site at PROP 2 will be explored for industrial use as part of a second phase. Any such development would create employment opportunities for Fenwick residents.

**Objection to PROP2: West Fenwick Park and Ride (32, 102, 103, 252, 285, 269, 71)**

The Council notes that the respondents object to the inclusion of the Park and Ride proposal site. Firstly, the Council would clarify that the site is a proposal in the Plan rather than a site allocation, the difference being that the identification of a proposal does not give in principle support to a development, in the same way as a residential or business/industrial allocation. Instead, it is included for transparency to highlight that the Council is intending to explore this site for a particular use. Further investigation is needed into the site itself and to the feasibility of a park and ride, and potentially other uses (business/industry and EV charging), before the Council could be confident that the use of the site would be acceptable. The Council could have done this work without identifying it in the Plan; a planning application could then have been made or potentially a site allocation in LDP3. However, in order to be transparent and to ensure a plan-led approach to development, the Council consider there to be value in being upfront and including the PROP site within the Plan. It may be, that this further work that is needed may result in the site and park and ride use not being taken forward, or an alternative site being sought; this has still to be fully explored.

In terms of the objections to the PROP site, the Council would comment as follows:

**Traffic implications (32, 102, 269, 188, 268, 285, 312)**

As per comments above, the impacts of the site and the use have still to be fully teased out. Notwithstanding this, the Strategic Environmental Assessment of the Plan included this PROP site and the findings will be used to guide future work. Whilst, at a very local level the site could create additional traffic with potential noise and air impacts, the wider purpose of a park and ride site is to make it easier and more convenient for people to travel by bus, therefore reducing car usage and associated emissions. This is a particular issue for peak time travel between Ayrshire and Glasgow on the

M77, which requires action to address it. The location is on the other side of the motorway from Fenwick and it is not expected that it would create additional traffic within the village.

Impact on Kilmarnock town centre and retail (102, 103)

Impact on Kilmarnock town centre would be a key consideration in the further feasibility work that is required. The driver for the park and ride proposal is to help a transition from car travel to more sustainable bus travel; it is not to encourage greater travel from Kilmarnock to Glasgow etc. The PROP included in the Plan makes no reference to support for retail, or indeed housing. The Council therefore considers the concerns over it being an out town retail facility to be unfounded.

Character and rural setting (269, 268, 71, 285, 312, 188)

The Council does not consider that the site would result in Fenwick and Kilmarnock joining together. There would still be a considerable separation distance between the settlements. There is no reference for support of housing within the Proposal. Whilst the park and ride site and a potential second phase business & industrial site would have an impact on local character, this would need to be weighed up against the benefits of the proposal, primarily carbon emission reduction associated with a shift to lower carbon travel and local economic benefits associated with new business premises. Whilst part of the site is greenfield, there is an element of commercial use already there and the presence of the motorway separating the site from Fenwick would minimise any impact on the character and setting of the village or indeed the integrity of the Rural Protection Area.

Scale (252, 102, 103, 71)

It is agreed that the scale of the PROP site is considerable, however, it is re-iterated that this is Proposal, it is not a site allocation. Feasibility work, especially in partnership with SPT and Stagecoach is needed to fully understand demand and potential usage numbers and therefore the necessary capacity of such a facility.

Access issues (312, 188)

In broad terms, the Council considers the site to be well located for the motorway network, close to the off and on ramps, essential to make the use of such a facility and bus travel more generally enticing enough to enable a transition from private cars. However, the proposal can only move forward if further work shows the access to be adequate. This further detailed work has not yet been undertaken.

Lack of proven need (252, 285, 312)

The Council agrees that the viability of a park and ride facility at this location has not yet been proven, in terms of demand and potential usage numbers. This work has still to be undertaken. However, the Council is of the view that peak time car travel from Ayrshire to Glasgow presents a significant challenge, particularly in the context of the climate emergency, that it justifies making effort to examine the potential for the development of a new park and ride facility.

Alternative locations (32, 252, 312, 71)

The Council is of the view that the Fenwick West site warrants greater examination, essentially due to its proximity to the motorway network and to Kilmarnock and surrounding villages, the most populated part of East Ayrshire. There is also an element of brownfield land and no fundamental constraints. This is not to say that on further assessment, it may be proven that the site is not the optimum location and alternatives will be examined. Whilst the Council agrees that proximity to a railway station would be advantageous, such land is limited around existing railway station.

Additional considerations (240)

Whilst not within the scope of the LDP, it is noted that the feasibility work will need to look at access to the site from surrounding settlements, including Stewarton and Dunlop, as a fundamental part of exploring whether the site could help to address car congestion and help enable a transition to more sustainable forms of travel.

**Objection to the scope of PROP2 (262)**

It is noted that the respondent seeks the broadening out of the scope of PROP 2 essentially to allow a wider range of uses from the outset.

In terms of context, as stated above, the PROP2 is not an allocation, rather it has been included as a marker to demonstrate the Council's commitment to exploring the feasibility of, in the first instance, a park and ride facility. In line with the current wording, further uses, namely business and industry, will only be supported once the park and ride facility is established.

The Council does not agree that the scope of uses should be expanded, as set out below.

The need for additional business and industrial land

In terms of the overall provision of business and industrial sites, the Council considers the plan as proposed to be sufficient. A significant new business and industrial site has been allocated at Bellfield East (RU-B2(O1) and (O2)), which provides 78.65 hectares of land, in addition to the adjacent site specifically safeguarded for the Ayrshire Growth Deal (AGD) (RU-A1). This represents a significant new greenfield release to give space for new business activity and investment and to ensure there is land to take advantage of any further development opportunities linked to the AGD, bearing in mind the significant injection of investment that the AGD will bring to Ayrshire as a whole and Kilmarnock specifically. The site has been the subject of specific feasibility studies to explore both flooding and transport constraints (CD91). The Council is confident that, whilst the location is not without complexities, it is deliverable and provides an important location for economic activity and is fundamental to meeting the vision and aims of the Plan.

In addition to Bellfield, as the respondent (262) points out opportunity sites are allocated on the edge of Kilmarnock at Rowallan and Moorfield Business Parks. In terms of Rowallan, whilst there has been capacity at the Business Park for some time,

the Council still considers it a good location for business and industry; there are a range of occupiers currently at the business park, it is well located in terms of the motorway network and it scored well in terms of the Business and Industrial land review carried out to inform the Plan (CD50). The Council considers it to be developable. In relation to the Moorfield, site KK-A1 is allocated to deliver the Ayrshire Engineering Park project (part of AGD), but with capacity and provision within the site allocation to support further complementary business and industrial development. In addition, KK-F1(B) at Moorfield West is identified as a future growth area for longer term business and industrial development. Other, primarily brownfield, sites are allocated, which although built out in part, do continue to offer opportunity for new development, such as KK-B4(S), KK-B3(S) and KK-B1 (2)

It is considered that the current balance of the Plan in terms of business and industrial land is correct; several large edge of town sites, Bellfield in particular comprising a large scale new land release, complemented by more established locations within the urban envelope. The addition of a new site at Fenwick West, outwith the settlement boundary and isolated physically from the town, is not necessary or desirable.

#### Merits of the West Fenwick Site

Whilst the Council notes the lack of constraints on the West Fenwick site, the Council is of the view that there are other spatial aspects of the site that must be taken into account.

As stated above, the site is physically distinct from Kilmarnock or indeed nearby Fenwick. A critical part of the Council's position on this site and indeed its justification for inclusion in the Plan as a PROP site, is that the park and ride element is central to making the location more accessible, sustainable and therefore an acceptable location for business and industrial use. It is not a location that the Council would direct business and industrial use to without the park and ride facility; the park and ride must come first. Whilst it is noted that the respondent is promoting a masterplan approach to the overall development, it is noted that the suggested phasing would see business and industrial development brought forward first. This is not supported by the Council; without the park and ride infrastructure it would effectively be a business and industrial location within the rural area, isolated from the existing built form of the town and which would, developed in isolation, impact on the character and setting of the local setting of the area. This is not considered to reflect the spatial strategy of the Plan, or indeed good placemaking.

As has been made clear above, the viability of the park and ride facility has still to be fully assessed. Should the park and ride should come forward, further work will be carried out to explore the feasibility of business and industrial units. Any such proposal would need to be of a size and scale suitable for both the rural location and to be located adjacent to the park and ride facility.

#### Compatibility with the national policy and the spatial strategy

The Council does not dispute that the widening of the scope of the PROP2 site would be in accord with particular parts of national policy. It would also be in accord with parts of the LDP2 spatial strategy. However, it should be noted that fundamental to the

spatial strategy and underpinning the Plan in its entirety, is the need to address climate change and contribute to net-zero by 2045. Without the Park and Ride facility, the development of a business and industrial site within the rural area with good motorway access but limited low carbon or active travel linkages, is not considered acceptable in the climate emergency context.

On balance, the Council is firmly of the view that the inclusion of PROP2, as currently worded is acceptable and that the widening out of the scope of PROP2 is not necessary or appropriate.

### **Reporter's conclusions:**

#### **Need for retail or industrial space in Fenwick**

1. I have some sympathy for the suggestion that planning for new development in Fenwick should not be limited to solely housing allocations. It is clear from representations that there is a local desire for some other uses, and particularly for a 'village shop'. However, I recognise that the demand for, and commercial viability of, such uses is not a given.
2. I note that Policy TC3 of the plan offers support for small scale convenience shops within settlement boundaries. Policy IND1 allows for new business and industrial proposals within settlements where these uses are compatible with surrounding uses and there are no unacceptable impacts on the local environment and amenity. It therefore seems that the plan makes some allowance for small scale retail or business developments to occur in Fenwick should a demand arise. The council has indicated that such proposals could be entertained within the allocated housing sites. Meanwhile no particular alternative sites for such uses within the village have been suggested.
3. On this basis I conclude that no modification to the plan is required

#### **Principle of PROP2: Park and Ride at West Fenwick**

4. I note the council's characterisation of this proposal (and the other 'PROP' designations in the plan) as being an early-stage intention to explore the possibility of pursuing the suggested use, rather than being a firm commitment. I agree it might be useful to highlight the potential for future significant land use change in this way. However, I also find that the incorporation of this proposal into the development plan could potentially be interpreted as changing the planning status of the land to a degree, and conferring some level of expectation that the development described may come about. The fact of this proposal being in the plan would be likely to be found to be a reasonably powerful consideration should any planning application for development on this site emerge. And yet it may be that the council's future investigations indicate that the site is not, in fact, suitable for these uses after all.
5. I therefore do find it necessary to address the various concerns that have been raised, while recognising at the same time that this proposal has not been assessed and developed to the same degree of detail as the more concrete site allocations in the plan. I also find it necessary to include some additional wording in the plan to confirm that these notations on the proposals map are not intended to give in-principle support



to this development, as the council confirms in its evidence above.

6. PROP2 is located on a largely greenfield site that would potentially extend urban development into an area of countryside that currently has an overwhelmingly rural character. Depending on the height of, and lighting for, any development, the proposal could be widely visible across the relatively flat countryside between Fenwick and Stewarton. I therefore consider there is a potential for a significant landscape and visual impact, though this could doubtless be mitigated somewhat through structural landscaping. This impact will require to be balanced against the benefits of the scheme before any final view is taken as to the suitability of this proposal to go forward.

7. In terms of risk of coalescence, a significant tree belt exists to the south of the site, and an area of woodland lies to the south-west. These features effectively block all views from the site towards Kilmarnock. The M77 motorway separates the eastern end of the site from the southern end of Fenwick, and there appears to be no intervisibility between the village and the proposal site. The site would potentially be highly visible from the adjacent B751, but this road leads to Kilmaurs over three kilometres away. Visibility of the site from the A77 and B7038 roads between Fenwick and Kilmarnock would be limited. For these reasons, I do not identify any real risk of increased coalescence between Fenwick and Kilmarnock or any other settlement arising out of this proposal.

8. As things stand, this would not be a sustainable location for new business development due to its landscape impact and poor accessibility by transport modes other than the private car. I therefore consider it sensible to only consider the suitability of this land for business development later as and when any park and ride facility has been developed and the possibility of this being a more accessible site by modes other than the private car is more certain.

9. The scale of the site, of at least 10 hectares, does appear to be far larger than could feasibly be required for a park and ride site alone. I assume that any such facility would only require a small proportion of this land, and that the scale of the proposal is to allow for the selection of the most appropriate precise location, and for the potential second phase of business and industrial units if required. On this basis, I am content for the scale of the site to remain unchanged.

10. In terms of access and congestion, the intention appears to be for this site to intercept traffic travelling north from Kilmarnock, and for people to transfer into buses for onward travel to Glasgow. If successful, the effect should therefore be to reduce overall levels of traffic on the M77 going north. However, as traffic leaves and rejoins the M77, increased traffic on the motorway slip roads, the section of the A77 to the west of Fenwick, and the various A77 roundabouts must surely be expected. Cars returning to Kilmarnock from the park and ride site would presumably mainly use the B7038, increasing pressures on this road. I can therefore understand the concerns of representees regarding increased congestion at these locations.

11. However, it is clear that these impacts are yet to be fully assessed. I am therefore not in a position to draw any firm conclusions either on the likely attractiveness of such a facility to drivers, or on the capacity of the existing road network to cater for additional traffic. Factors such as the scale of the park and ride facility and the scope for

improvements to existing road infrastructure are currently unknown. Assessing the traffic implications of the proposals will clearly need to be a key strand of work for the council going forward.

12. All I can say at this stage is that I have not seen any comprehensive or convincing evidence that persuades me that a park and ride site of some scale here is undeliverable in traffic terms. I am also reasonably confident in stating that there would be little reason to expect increased traffic levels within Fenwick itself, given that the village sits on the opposite side of the M77 from the proposed park and ride site.

13. There is no reference or encouragement in the proposed plan for this to be a retail site, and I therefore do not consider that any detrimental impact on Kilmarnock town centre can be anticipated. Any possibility that the existence of a park-and-ride facility could encourage more people to travel into Glasgow, and thereby damage the economy of Kilmarnock, can be investigated further as the proposal is taken forward.

14. I note the alternative locations suggested for a park and ride facility, but I have not been provided with the detailed evidence necessary for me to consider substituting such alternative sites.

### **Scope of PROP2**

15. The suggestion in the proposed plan as drafted is that the land at west Fenwick should firstly be investigated for the feasibility of establishing a park and ride facility, and that business and industrial uses should only be explored as a possible second phase. As I have noted above, I agree that it is sensible to only consider the suitability of this land for business development later, as and when any park and ride facility has been developed and the possibility of this being a more accessible site by modes other than the private car is more certain. As things stand, and in the possible absence of a park and ride facility, I do not consider this to be a sustainable location for a significant employment development due to its poor accessibility for modes other than the private car.

16. Development here would also represent a significant incursion into otherwise open countryside on land not well-related to any existing settlement. Such an incursion might possibly be justified in due course if associated with an operational park and ride facility that had a particular locational requirement to be situated here, and which would have established a precedent for urban development in this area. But in advance of any such facility being built, I consider the overall case for stand-alone employment development here to be weak.

17. I note the encouragement given in national policy, including National Planning Framework 4 to promote and facilitate business and industry uses, and to allocate sufficient land for these uses ensuring there is a suitable range of sites. I also note the assertions made in evidence questioning the deliverability of some other sites that are allocated in the plan for employment uses. However, at Issue 5 I concluded that the plan is taking reasonable steps to maintain a good supply of land for new industrial development.

18. Significant amounts of available employment land appear to remain available for

development relatively nearby at Rowallan in north Kilmarnock (sites KK-B6(S) and KK-B6(O)). Further land is available in west Kilmarnock at Moorfield (sites KK-B4(S) and KK-B4(O)), with additional land being made available in this location with the Ayrshire Engineering Park proposal (site KK-A1). While it may be that achieving significant business development at the Kirklandside and Kaimshill sites to the south-east of Kilmarnock may be a longer-term prospect, I am nevertheless satisfied that there is no pressing need to release additional employment land to the north of Kilmarnock at the current time.

19. In any event, even if the deliverability of some of the employment allocations in the plan can be called into question, I would remain unconvinced that west Fenwick would be the appropriate location to provide alternative land, at least until the park and ride facility was operational, due to the potential negative impacts identified above.

20. For these reasons I conclude that business and industrial use of this land should be investigated only as a second phase to the park and ride initiative, and consequently that no modification to the plan is required.

**Reporter's recommendations:**

I recommend that the following additional sentence be added at the end of paragraph 100:

'For the avoidance of doubt, the inclusion of these proposals in the plan is not intended to establish the principle of these uses at these locations.'

Issue 33	Galston and Newmilns	
Development plan reference:	Residential allocations GA-H1, GA-H2, GA-F1(H), GA-X9, GA-X10, NM-B1(O), NM-X4	Reporter: Stephen Hall
Body or person(s) submitting a representation raising the issue (including reference number):		
Newmilns Regeneration Association (29) Loudoun Valley Trust (47) SEPA (106)		NatureScot (157) Vesuvius PLC (181) Robin Ghosh (197)
Provision of the development plan to which the issue relates:	Volume 2 (pages 46-50 and 87-88): The inclusion of opportunity sites in Galston and Newmilns: GA-H1, GA-F1(H), GA-X9, GA-X10, NM-B1(O) and NM-X4.	
Planning authority's summary of the representation(s):		
<b>General Comments</b>		
<u>29 and 47</u> believe that more residential opportunity sites should be considered in the Irvine Valley.		
<u>197</u> believes the spatial strategy overly focuses on Kilmarnock, Stewarton and Kilmaurs, allocating excessive land to these communities, and that this should be redirected to the Irvine Valley. A review of the Galston land bank shows that by the time of adoption, there will be an effective capacity of four plots; in contrast, the Council has permitted significant development in Stewarton yet continues to release land in the face of community opposition and strained services.		
<b><u>NEWMILNS</u></b>		
<b>NM-B1(O): Brown Street (Opportunity)</b>		
<u>181</u> object to the identification of site NM-B1(O) as a business and industry opportunity site, instead seeking its allocation as a miscellaneous opportunity site. The respondents argue that despite the industry and business allocation, there has been limited market interest for such uses, and would thus like alternative uses to be considered including "industrial, energy, leisure, residential, and a foodstore". The respondents have prepared a masterplan (RD70), enclosed with their response, which seeks to introduce a mix of uses and suggests a phased approach to the comprehensive redevelopment of much of the site.		
In their view, this is supported by the Review of Business & Industrial Land Supply in East Ayrshire (CD50) in which the site scores 15/30. Sites scoring 15-19 are described as "suited to an alternative use in the longer term for residential or other use" and sites scoring below 15 are "considered to be less suitable for employment uses as their size		

or location makes them less desirable” and are recommended “for alternative uses where possible and otherwise deallocated”.

#### **Proposed new site NM-X4 (Newmilns Glebe)**

29 and 47 recommend site NM-X4 (RD6) be allocated for residential use, as this site is not subject to flood risk unlike most other areas of the town.

### **GALSTON**

#### **GA-H1: Belvedere View**

157 recommend that developer requirements include: provision of a robust landscape framework with a defensible settlement edge; retention and extension of existing hedgerows; creation of active travel links into the settlement and beyond; incorporation of multifunctional green and blue infrastructure.

197 objects to GA-H1 on the grounds of the site being access constrained, blighted by historic mineral working and not effective due to ownership disputes, and furthermore there is no planning application history.

#### **GA-H2: Brewland Street**

106 recommend that, although they do not consider the allocation will impact any of the proposed actions in the Draft Flood Risk Management plan, the Ayrshire Roads Alliance be consulted regarding this allocation as they are responsible for the maintenance and inspection of the Galston Flood Protection Scheme.

#### **GA-F1(H): Maxwood Road**

197 considers unlikely that GA-F1(H) will meet the housing needs of Galston.

#### **New site GA-X9 (Barr Wood)**

197 seeks inclusion of site GA-X8 (RD75, RD76) as a miscellaneous development opportunity, including short-term residential development opportunity (housing, care home, retirement housing, affordable housing), leisure and tourism development (inc. hotel), and community woodland and structural landscaping. This area benefits from excellent road access and proximity to the Bellfield Interchange, Kilmarnock, and links to Glasgow, with an opportunity to introduce a roundabout access to regulate and slow traffic entering Galston from the West. This is thought to be more marketable.

#### **New site GA-X10 (Land south of Barwood Gate)**

197 seeks inclusion of GA-X9 (land to the south of Barwood Gate) as Future Growth Area as an alternative to GA-F1(H).

### **Modifications sought by those submitting representations:**

### **General Comments**

29, 47 and 197 seek more development opportunity sites be identified in the Irvine Valley area.

### **NEWMILNS**

#### **NM-B1(O): Brown Street (Opportunity)**

181 seeks allocation NM-B1(O) be changed from business and industry opportunity site to miscellaneous opportunity site, supporting industrial, energy, leisure, residential and retail.

#### **NM-X4**

29 and 47 seek inclusion of site NM-X4 as a residential allocation.

### **GALSTON**

#### **GA-H1: Belvedere View**

157 seeks that developer requirements for site GA-H1 include provision of a robust landscape framework with a defensible settlement edge; retention and extension of existing hedgerows; creation of active travel links into the settlement and beyond; incorporation of multifunctional green and blue infrastructure.

197 wishes the site be removed from LDP2, and be replaced with GA-X9.

#### **GA-F1(H): Maxwood Road**

197 wishes the Future Growth Area be removed from LDP2, and be replaced with GA-X10.

#### **New site GA-X9 (Barr Wood)**

197 seeks allocation of site GA-X8 as miscellaneous development opportunity for housing, leisure and tourism development, and amendment to the settlement boundary accordingly.

#### **New site GA-X10 (Land south of Barwood Gate)**

197 seeks that site GA-X9 be identified as Future Growth Area.

### **Summary of responses (including reasons) by planning authority:**

#### **General Comments**

##### More residential allocations in the Irvine Valley (29, 47, 197)

It is firstly pointed out that LDP2 allocates sufficient land for housing to meet the Council's Minimum All-Tenure Housing Land Requirement during the Plan period. As



such, it is not considered necessary to allocate any additional land for residential development.

A number of consultation exercises were undertaken to enable the Council to assess land put forward by developers and promoters, from 2017 through to 2020, as set out in the Housing Site Appraisal Methodology (HSAM) (CD8). In addition, several sites that had not been allocated or proposed for allocation through call for sites were also assessed, those being locations where it was considered that there might be potential for housing growth, subject to further discussion and analysis. As a result of these processes, a total of 22 sites were assessed in the Irvine Valley area: 9 in Darvel & Priestland, 10 in Galston, and 3 in Newmilns.

After the assessment detailed in Appendix 6 of the HSAM (CD6), of these 22 sites, 6 sites were allocated for residential use (4 in Darvel and 2 in Galston), 1 was identified as a Future Residential Growth Area (GA-F1(H)), and a further 4 were allocated as Miscellaneous sites rather than solely residential. This decision was taken to allow for the development of footfall-generating as well as residential uses (GA-X1/GA-M1, GA-X3/GA-M2, GA-X4/GA-M3, NM-X3/NM-M2), taking account of their locations and in an attempt to optimise the potential for development to come forward. The indicative capacities for all of the above would result in the development of 264 units within residential opportunity sites, 100 units within future growth area GA-F1(H) and potentially approximately 25 residential units within miscellaneous opportunity sites.

A further 2 sites were not explicitly allocated but the principle of residential development remains, as they are located within the settlement boundary (DL-X2, NM-X2). 3 were not allocated due to their completion being anticipated before adoption of LDP2 (DL-X1, GA-X5, GA-X8). One other site was allocated for business & industry uses (NM-X1). Taking all of the above into account, only 5 of the 22 assessed sites were excluded on an absolute basis: DL-X3 (due to flooding and other constraints), DL-X4 (too small for allocation), DL-X5 (due to landscape impacts), GA-X2 (due to landscape impacts and constraints), and GA-X6 (due to flooding). This shows that there was not much more scope for inclusion of alternative or additional sites within the ones that were submitted through the various call for sites exercises in the 3 years prior to the publication of the Proposed Plan.

Within Galston, the most recent Housing Land Audit (CD74) shows there is indicative capacity programmed for 161 units of residential development, as well as 11 of residential within miscellaneous sites; this is completed with a FGA of 100 houses to be considered after LDP2. 197 claims that a review of the Galston land bank shows an effective capacity of four plots by the time of adoption, but does not offer any further information to substantiate this claim; the above shows that the indicative capacity of allocated sites is much higher.

It should be noted that 264 dwellings as proposed for residential allocation in the Irvine Valley is broadly similar to 296 units as allocated in the 2017 LDP (CD48). Whilst 264 dwellings accounts for around 4% of all land proposed for allocation throughout East Ayrshire in P-LDP2, several of the sites in question have been carried over from the 2017 LDP and, although developable and sustainably located, have not yet attracted development. House completions in the Irvine Valley have remained low during several Plan periods, despite the allocation of a generous amount of land; this is considered to

reflect market demand for new homes in the area. The allocation of additional land would therefore potentially be subject to concerns over the effectiveness of such an approach. The indicative capacity proposed is therefore deemed entirely appropriate and sensible for the purposes of LDP2.

In relation to the statements made in the representation with respect to excessive land allocations in Kilmarnock, Stewarton and Kilmaurs, the following comments may be made. The northern part of East Ayrshire, including Kilmarnock and Annick, is identified in the P-LDP2 Spatial Strategy as an appropriate area to which most housing growth should be directed because it features the greatest concentration of services and facilities in the Council area. The Kilmarnock and Annick parts of East Ayrshire are also the focus for most market demand for new homes in East Ayrshire and housing land has been allocated in the area to correspond with that requirement. Allocations made must reflect local demand for housing in order for the LDP housing supply to be effective and not likely to be challenged.

This requirement applies to Stewarton, where it should be noted that the allocation of one residential opportunity site in that settlement is required in order to facilitate the development of new education and medical facilities, as set out in the Stewarton Development Framework (CD59) and concurrently reflect housing market conditions in the area. These matters are addressed in detail under Issue 42 – Stewarton.

The allocation of sites is in accordance with the NPF4 (CD4), which sets out a Minimum All-Tenure Housing Land Requirement (MATHLR) of 4050 dwellings for East Ayrshire, which has been supplemented by an additional 50% generosity. In general terms, the Council has taken a proportionate approach to the land allocation, with sites, of differing sizes and characteristics allocated throughout the authority area. As such, the Council do not consider it necessary to allocate any further sites as the Housing Land Requirements have been easily met.

## **NEWMILNS**

### **NM-B1(O): Brown Street (Opportunity)**

#### **Change of designation from Business and Industry to Miscellaneous (181)**

The Council notes the request to amend the designation at the Brown Street site to a miscellaneous opportunity site, with a wider range of the supported uses beyond the current allocation for business and industrial use. The Council is of the view that the current business and industrial allocation is the correct allocation for this site. The respondent points out that the site scored 15 in the Industrial land review. It is worth at this point noting what this score means in the context of the report; sites that scored 15 – 19 were considered *‘to be a good strategic fit, providing an opportunity for local employment/industry, with some businesses already established on many of the sites’* (Page 21 CD50). It is further suggested in the Review that many of the sites *‘may be suited to an alternative use in the longer terms of residential or other uses (subject to an appropriate masterplan)’*. It is therefore the Council’s position that the retention of the site as a business and industrial allocation within LDP2 is entirely in line with the findings of the independently carried out review.

Whilst the allocation was not made solely on the basis of that scoring, it was an important factor. It is also true, that site NM-B1(O) represents the largest opportunity for business and industrial use within the Irvine Valley, there are no other sites of a comparable size within any of the valley settlements. The Council considers it important to retain a strategic scale opportunity site for business and industry and it is considered to have number of advantages. The opportunity site comprises both active businesses and vacant sites and is therefore a long established industrial area. The vacant elements, some of which accommodate vacant warehouses, were previously in industrial use so it is a brownfield site, with servicing and infrastructure.

In partnership with local community stakeholders, and linked to the CoRE Ayrshire Growth Deal project, the Council is exploring the feasibility of developing the site for energy use to support existing and future commercial occupiers. An initial feasibility study by the University of Strathclyde (RD103) found that the part of the site occupied by two large vacant warehouses has significant potential for renewable energy generation, including photovoltaic, ground source heat and battery and /or thermal storage. A local community group is moving this work forward with the intention of procuring a more detailed feasibility study. Linked to this work an online survey was carried out over February and March 2022 to explore demand for business space within the Irvine Valley (CD84). Of the 43 responses, 37 did not think there was enough good quality work, office or studio space in the Irvine Valley, of which 35 said they would consider using such space if it was available. The survey results, therefore provide some evidence to suggest that there is demand for new business space within the Irvine Valley. In light of above research, in terms of demand for business use and the potential for energy use, the Council consider there is real merit in pursuing the current allocation in the Plan. The Council maintains there is a realistic prospect of development coming forward, which would bring considerable benefits to the local community and economy.

Notwithstanding the above, the Council notes the ambition of respondent 181 in terms of a long term masterplan to bring forward a mix of uses. However, it is considered that this is still at an early stage and that there are matters that would need to be resolved around access and potential flood risk. In addition, in terms of housing sites the Plan at present allocates sufficient land to meet the Council's Minimum All-Tenure Housing Land Requirement during the Plan, without the need to re-allocate what the Council considers to be a worthwhile and viable business and industrial opportunity, the only of its type within the Irvine Valley. Whilst the Council recognises that there could be benefits to the town, it is considered that matters such as flooding and access would require to be further examined, particularly in terms of residential development. Therefore, whilst the Council recognises there could be merit to the masterplan with a mix of uses, it is the Council's view that it would be premature for LDP2 to support the range of uses as suggested at this location at this point in time. It is considered that this matter should be re-examined in the preparation of LDP3 and if progress has not been made in terms of business and industrial development, a wider range of uses may be able to be supported.

#### **NM-X4**

Proposal of new site NM-X4 (29, 47)

It should be highlighted that unlike the sites detailed in the HSAM, the site in question has not been subject to assessment and discussion within the planning service or with internal Council departments in order to arrive at a view as to its suitability for allocation. The respondents have provided no details to support its identification in terms of determination of environmental constraints or other factors that might establish its suitability, other than the absence of flood risk.

Whilst a detailed assessment of the characteristics of the site is not possible at this stage, a number of comments may briefly be made. The site is within 800m of the Newmilns town centre, however, there are likely access constraints as only one point of access is possible. Significant areas of mature native woodland can be found within the site, as well as ancient woodland (2a), the felling of which would be undesirable, and elements of the CSGN acid grassland network. The ENTEC landscape study 2003 (CD53a-c) assessed this area as being “not suitable” for development in terms of landscape and visual impacts, stating that “development would be on skyline”.

With the above factors taken into consideration, and with the proposed allocation of alternative sites within the Irvine Valley area, the Council is of the view that site NM-X4 should not be allocated for residential development in LDP2.

## **GALSTON**

### **GA-H1: Belvedere View**

#### **Add developer requirements (157)**

Any developer of the site would be required to meet policy NE1 which contains requirements in relation to avoiding and mitigating landscape impacts, policy NE8 which seeks to protect hedgerows, DES1 and T1 which contain provisions relating to active travel and the sustainable travel hierarchy, and OS1 which requires multi-functional green and blue infrastructure. As such, it is the Council’s view that no changes are required to the site requirements.

#### **Site access constrained, blighted and not effective (197)**

Although the current extents of the site have not had a planning application, since the site was first allocated in a Local Plan the western portion of the site has been developed. It remains the only large-scale viable site in Galston that is constraint-free, and was considered suitable as part of the 2017 Examination process. The site is within the Coal Authority’s Low Development Risk Area and, as such, consultation with the Coal Authority will be required.

With the above factors taken into consideration, the Council is of the view that site GA-H1 should be allocated for residential development in LDP2.

### **GA-H2: Brewland Street**

#### **Consult the Ayrshire Roads Alliance with regard to the Galston Flood Protection Scheme (106)**

As part of the site selection process, the Ayrshire Roads Alliance were consulted regarding a number of proposed site allocations including GA-H2. Their comment on GA-H2 from July 2021 was “Not in the SEPA and Irvine Valley flood envelope, no known flooding issues though location is adjacent to flood plain”. The site has been allocated during successive Plan periods and there is a recommendation in the site description to contact the flood management authority early in the planning application process. It is thus considered that any extant issues relating to the Galston Flood Protection Scheme can be adequately addressed as part of the planning application process.

### **GA-F1(H) (Maxwood Road) vs New site GA-X10 (Land south of Barwood Gate)**

#### Replace this allocation as FGA with proposed alternative GA-X10 (197)

The site was not submitted as part of the call for sites process but had been defined as Future Growth Area in LDP1. When other sites were considered in Galston, none other than the land at Belvedere View (GA-H1) were considered appropriate for allocation, primarily as a consequence of adverse landscape impact, flood risk or completion timescales. Although the site scored relatively poorly against the site assessment criteria, it is the only site of any size to be relatively free from constraints not to be allocated and has furthermore been constituted a future growth area in LDP1. As such, the Council is of the view that the site should not be considered for allocation in LDP2 but to form part of the LDP3 preparation process, and thus to remain as Future Growth Area.

It should be highlighted that unlike the sites detailed in the HSAM, the site in question (GA-X10) has not been subject to assessment and discussion within the planning service or with internal Council departments in order to arrive at a view as to its suitability for allocation. The respondents have provided no details to support its identification in terms of determination of environmental constraints or other factors that might establish its suitability, other than “the land to the south would also appear well suited as a future growth area”.

Whilst a detailed assessment of the characteristics of the site is not possible at this stage, a number of comments may briefly be made. The proposed area is distant from the town centre and related facilities, comprises locally important good quality agricultural land, and is on the opposite side of a strong defensible settlement boundary, which serves as a natural edge of settlement and at the same time would disconnect the proposed area from the rest of the settlement.

With the above factors taken into consideration, the Council is of the view that the site GA-F1(H) should remain allocated as Future Growth Area and that the proposed GA-X10 should not be allocated.

### **New site GA-X9 (Barr Wood)**

It should be highlighted that unlike the sites detailed in the HSAM, the site in question has not been subject to assessment and discussion within the planning service or with EAC Councillors in order to arrive at a view as to its suitability for allocation. The respondents support its identification by highlighting its “excellent road access and



proximity to the Bellfield Interchange, Kilmarnock, and links to Glasgow”, but any advantage in proximity to either of these is negligible at this scale. The respondents affirm that it “is more likely to be marketable” but provide no evidence to substantiate this claim.

Whilst a detailed assessment of the characteristics of the site is not possible at this stage, a number of comments may briefly be made. The site is far away from the town centre and related facilities, and physically disconnected from the settlement boundary. The area proposed for housing, leisure and tourism is subject to medium fluvial flood risk from the river Irvine, covering the entirety of the area proposed for housing, which represents an absolute constraint. The site contains areas of native and ancient woodland whose felling would be inappropriate and comprises locally important good quality agricultural land. Access to the site would require a new junction on a trunk road, which is only supported in exceptional circumstances.

With the above factors taken into consideration, and with the proposed allocation of other preferable sites within the Galston area, the Council is of the view that site GA-X9 should not be allocated for miscellaneous development in LDP2.

### **Reporter’s conclusions:**

#### **General comments**

1. At Issue 17 I found that the housing land allocation made in the plan was more than sufficient to meet the minimum all tenure housing land requirement (MATHLR), and that there was no need to allocate additional sites. In terms of the distribution of housing sites, there has been a particular focus on land around Kilmarnock. As the main service centre in the plan area, and an area of apparently relatively higher demand for new housing, I do not find this surprising or necessarily problematic. That said, there remains a value in providing a range and choice of housing sites. There is a case for providing at least some opportunities for towns and larger villages in the plan area to grow.
2. Across the Irvine Valley as a whole, the council has outlined above the scale of land releases proposed in the plan and the scale of other residential opportunity sites, such as sites within the settlement boundary and sites with planning permission. The plan allocates land with an indicative capacity of 264 units across six sites in the Irvine Valley, and the council estimates the future growth site at Maxwood Road, Galston could have capacity for 100 further houses. Additional housing development may take place within the miscellaneous opportunity sites identified at Loudon Road, Newmilns (site NM-M2) and at three locations in Galston (sites GA-M1, GA-M2 and GA-M3). According to the council, the most recent housing land audit showed an indicative programmed capacity of 161 houses within Galston alone.
3. Overall, I am satisfied that the plan makes adequate provision for housing development across the Irvine Valley. While housing allocations here represent only around 4% of the plan’s total allocation, this may be reflective of the constraints (such as flood risk) that prevail in this area, as well as some evidence of lower market demand. As noted above, there is a logic to directing most development to the Kilmarnock area. I also note that the plan’s housing allocation significantly exceeds the



MATHLR. The likely expectation is therefore that not all this land will actually be developed in the plan period. As a proportion of the area-wide MATHLR, the Irvine Valley allocation comprises a larger proportion of around 7%.

4. That said, it remains the case that Newmilns in particular has no land allocated for housing in the plan, and the one small miscellaneous opportunity site identified as having potential for some residential use, at Loudoun Road (site NM-M2), would presumably have a very small capacity. I therefore consider it would not have been inappropriate for the plan to have identified at least one new housing site in the village. However, I note that opportunities are limited. It is clear that flood risk constrains some possible sites, and only two suggestions for housing releases have been made in representations. I discuss these below.

### **NEWMILNS**

#### **NM-B1(O): Brown Street (Opportunity)**

5. This is a longstanding industrial area consisting of a number of different plots on either side of Brown Street occupied by a mix of older mill buildings, more modern industrial sheds, a variety of other employment buildings, and some vacant land. Some of the existing buildings are in active use, while others appeared to be vacant.

6. This part of Newmilns is clearly in need of investment, and the masterplan provided by Vesuvius PLC provides one vision of how the area could be revitalised. However, the introduction of non-employment uses into this area would clearly restrict the scope for further business development. In particular, the building of residential units could limit the types of general industrial uses that could locate in the area without creating amenity concerns.

7. Site NM-B1(O) is the largest business/ industrial site in the Irvine Valley, and so can be considered to be something of a strategic asset. It provides opportunity space for the establishment and expansion of businesses that could provide the economic growth that the area needs. I do not therefore consider that the giving over of this land to non-employment uses should be entertained without a good level of certainty, either that the land is unsuitable for employment use or that there is little prospect of it being required for such uses.

8. The representee points to a limited market interest in taking up business and industrial opportunities in this area. The amount of vacant property and vacant land present would appear to be consistent with this claim. On the other hand, the council points to a survey of demand for business space within the Irvine Valley. This indicates 86% of respondents thought there was not enough good quality work, studio or office space in the valley, and 81% stated they would consider using such space if it were made available. I do not know the statistical robustness of this survey, but I do accept that it provides some evidence of demand for additional good quality business accommodation.

9. I also note the work that has been done to explore using part of the site for renewable energy generation. A solar farm, or other renewable energy generation facility could potentially take up a significant part of site NM-B1(O), and it appears to be

the land south-east of Brown Street that has been identified as a possibility for this use. However, I am uncertain about whether such a use would itself be compatible with the business/ industry allocation in the plan.

10. The most authoritative evidence I have is the Review of Business and Industrial Land Supply in East Ayrshire report prepared by Avison Young in December 2020. This found that there was an overall poor supply of modern speculative industrial and office facilities, and that the supply of such accommodation should be increased, especially for small/ local operators. The land at Brown Street was assessed and given a score of 15. This is at the bottom end of the range described as 'sites with a good strategic fit, providing an opportunity for local employment/ industry'. However, it is also stated that such sites 'may be suited to an alternative use in the longer term for residential or other use (subject to an appropriate masterplan)'.

11. In terms of the alternative uses suggested in the masterplan prepared for the representee, as I found at Issue 17 the housing land allocation made in the plan is more than sufficient to meet the minimum all tenure housing land requirement (MATHLR), and there is no need to allocate additional sites for housing. However, I have also noted that the plan currently identifies no opportunities for housing development in Newmilns. I have seen no evidence of any particular need for additional retail space in the village, or of what the effect of promoting a large food store on this site would be on shops in the village centre.

12. I have been provided with no detailed evidence on flood risk and access but note these as possible issues that would require to be addressed before any significant land use change could be properly assessed.

13. Overall, and on balance, I conclude there is sufficient evidence of some ongoing need and interest in pursuing industrial and business development on this land for the existing employment designation to be maintained. Some of the suggestions put forward in the representee's masterplan may be worthy of further investigation, perhaps with a view to informing the next iteration of the LDP. But I consider there are too many uncertainties to contemplate such a significant redesignation of the site at the current time. No modification is required.

#### **NM-X4**

14. This site comprises an attractive rising area of grassland and woodland to the north-west of Newmilns. Access from Newmilns Road may be feasible, but the potential loss of woodland and impact on the burn running through the site would be negative factors unless carefully managed.

15. At Issue 17 I found that the housing land allocation made in the plan was more than sufficient to meet the minimum all tenure housing land requirement, and that there was no need to allocate additional sites. That said, I have noted above that it would not necessarily be inappropriate to allocate additional land at Newmilns, given the absence of any other housing allocations in the village.

16. However, this site was not proposed at the 'call for sites' stage or included in the main issues report. It has not therefore been subject to the same full assessment and

public consultation as other proposals. No supporting information has been supplied in representations explaining how the site could be developed or constraints overcome. It is difficult to introduce new allocations at the examination stage in these circumstances. Paragraph 261 of the Scottish Government's Local Development Planning Guidance advises that it is not expected that examination reporters will recommend the addition of any site into the plan that has not previously been subject to SEA and consultation.

17. On this basis I conclude that the site should not be allocated and no modification is required.

## **GALSTON**

### **GA-H1: Belvedere View**

18. This allocation is carried forward from the existing adopted plan. It comprises three fields on the eastern edge of Galston currently used for grazing. The site is relatively well-contained by existing built development to the north, west, and along part of the southern boundary, and by Maxwood Road to the east. However, it is located on relatively high ground overlooking much of the town, so development here would be likely to be quite widely visible, albeit within the context of neighbouring development.

19. The objection to the site refers to access constraints, but it seems to me that straightforward access points exist at Belvedere View, Cairn Terrace, and potentially also off Maxwell Road. I saw no evidence of mineral workings on my site inspection, and I have no reason to doubt the council statement that the site falls within a low-risk area as defined by the Coal Authority. I have no detailed evidence regarding the ownership of the land, but it otherwise appears to be a deliverable and unconstrained site capable of providing housing units in the plan period.

20. On this basis I conclude that the allocation should be maintained.

21. NatureScot's suggestions for additions to the developer requirements for the site, such as the provision of green infrastructure, are largely generic in nature, and cover aspects that are captured by the thematic policies of the plan. The requirements for the site already require the creation of an active travel link to Stirling Crescent. The gappy hedges within the site may be of some value, but I am not convinced they are of such importance as to stipulate their retention. Given the prominent location of the site on the settlement edge, I do, however, see value in introducing a new developer requirement, as suggested, relating to a landscape framework and a defensible settlement edge. I recommend such a modification below.

### **GA-H2: Brewland Street**

22. The only representation in relation to this site relates to consultation with the Ayrshire Roads Alliance in relation to the Galston Flood Prevention Scheme. Above, the council confirms that this consultation has taken place, and that there are no known flooding issues. On this basis I conclude that no modification is required.

**GA-F1(H): Maxwood Road**

23. This site consists of a grass field to the east of Galston. It is somewhat enclosed by a large house and woodland to the north, and by an existing farm and associated trees to the south-east. However, the site has relatively weak boundaries, other than agricultural hedges to the south and east. This should ideally be addressed in any detailed development proposals. Nevertheless, I consider this would be a relatively natural extension to the town, within a reasonable walking distance of the town centre and with apparently workable access possibilities from Maxwood Road.

24. The existing adopted plan shows this as an area for future housing growth, which is again the proposal for this plan. Maintaining this designation would therefore represent a consistency of approach with the previous plan. It is clear from the council's evidence that the site has not been subject to the same level of detailed assessment as the sites allocated for development in the forthcoming plan period, but I am not aware of any particular constraint to the development of the site.

25. The single representation relating to the site does not raise objections to any specific aspects of the site, but merely states that the alternative sites discussed below should be preferred. Subject to my discussion of those sites, I therefore find that there is no reason to remove site GA-F1(H) from the plan, and that no modification is required.

**New site GA-X9: Barr Wood**

26. This area of agricultural land and woodland extends along the southern side of the A71 to the west of Galston. Development here would represent a significant linear extension of the urban area out into open countryside towards Hurlford. The open gap between these settlements would be significantly reduced, albeit not the extent that any sense of coalescence would occur. Residual open land between Barwood Gate and Galston would (unless this land were also developed) create some sense of this being a separate new settlement rather than an integral part of the existing town.

27. At its nearest point, development would be over one kilometre's walking distance from Galston town centre. It would not, therefore, be particularly effective in fostering local living and 20-minute neighbourhoods, as promoted in National Planning Framework 4 (though it would be within the 1,600 metre maximum walking distance referred to in Planning Advice Note 75). The site promoter suggests the inclusion of leisure and tourism uses in the western part of the site. Leisure uses, and potentially retail uses, could possibly enable some day-to-day needs to be met on site. However, a large mixed-use development of this nature would entail a major change to the spatial strategy of the plan that could not be contemplated without a great deal more analysis and supporting information than has been supplied to this examination.

28. The council points to a medium fluvial flood risk affecting the entirety of the area proposed for housing. While I have not been furnished with further details relating to flooding, I agree that any such risk would represent a major constraint. I accept that this land may be free of other constraints and potentially be in a marketable location and capable of access from the A71 if a new junction onto this trunk road could be justified. However, I conclude that there is simply too much uncertainty and lack of

detailed justification for me to contemplate recommending the allocation of this land at this time.

29. In any event, this site was not proposed at the 'call for sites' stage or included in the main issues report. It has not therefore been subject to the same full assessment and public consultation as other proposals. It is difficult to introduce new allocations at the examination stage in these circumstances. Furthermore, at Issue 17 I found that the housing land allocation made in the plan was more than sufficient to meet the minimum all tenure housing land requirement, and that there was no need to allocate additional sites.

30. Overall, for the above reasons, I conclude that no modification is required.

#### **New site GA-X10: Land south of Barwood Gate**

31. This land is suggested as a future housing growth site, as an alternative to site GA-F1(H). It is better related to Galston than site GA-X9 above and is somewhat contained by the urban edge and the Barwood Gate development to the north. I am not clear how access could easily be gained to the land, but this may not be an insurmountable constraint.

32. I do not absolutely rule out the potential of this land for development, but again there is a lack of information before me to support its inclusion in the plan at this time. In any event, this site was not proposed at the 'call for sites' stage or included in the main issues report. It has not therefore been subject to the same full assessment and public consultation as other proposals. It is difficult to introduce new allocations at the examination stage in these circumstances.

33. For these reasons I conclude that no modification is required.

#### **Reporter's recommendations:**

I recommend that an additional developer requirement be added for site GA-H1: Belvedere View in Volume 2 of the plan to read:

'Development proposals must incorporate a robust landscape framework, including a defensible settlement edge.'

Issue 34	Hurlford and Crookedholm	
Development plan reference:	The allocation of sites HU-H1, HU-B1 and the non-inclusion of sites CR-X3.	Reporter: Stephen Hall
Body or person(s) submitting a representation raising the issue (including reference number):		
John Duffy (107) NatureScot (157) Lomond Group (164) G Roberts (312)		
Provision of the development plan to which the issue relates:	Hurlford and Crookedholm – allocation and non-allocation of sites	
Planning authority's summary of the representation(s):		
The inclusion of site HU-H1		
<u>John Duffy (107)</u>		
The site is objected to on the following basis:		
<ul style="list-style-type: none"><li>• Impact on the environment/landscape, as the site is currently agricultural and provides resources to the local community;</li><li>• Biodiversity / flora / fauna, as the area is bounded by trees protected by a TPO, which could be at risk from the development;</li><li>• Climatic factors, as the 100 houses could result in 100 plus vehicles, with a negative impact on air quality. The additional vehicles will also have a road safety implication;</li><li>• Impact on soils, as there is potential for soil contamination and subsidence, related to the previous coal mining works; and</li><li>• Impact on water, as the site is on a higher elevation than properties on Holyoake Court it will put those properties at risk of flooding.</li></ul>		
<u>NatureScot (157)</u>		
Developer requirements should include provision of a robust landscape framework, providing a defensible settlement edge. Active travel links into the settlement and beyond should be made wherever this is practical. Development should incorporate multifunctional green and blue infrastructure, in accordance with Policy OS1, that delivers positive effects for biodiversity through enhancement of habitats and nature networks.		



## **The allocation of site HU-B1(O) and HU-B1(S)**

### Loch Lomond Group (164)

(164) object to the allocation of site HU-B1(O). The split between HU-B1(O) and HU-B1(S) does not reflect the ownership of the site or the extant planning permissions. In the existing LDP, the site associated with Malcolm Logistics is allocated as site 303B. The whole of the site in the ownership of Loch Lomond Group is allocated as site 117M for business and industrial use or community use.

The Proposed Plan splits Loch Lomond Group's ownership. Phase 1 (consented in 2015) is included in site HU-B1(S) alongside the existing Malcolm Logistics site. Loch Lomond Groups phase 2 (planning application under consideration) is included within the allocated opportunity site HU-B1(O). This split is misleading and suggests that the whole of site HU-B1(S) is in one single ownership and does not reflect the respondent's indicative masterplan.

In addition, developer requirements of the site are object to:

- The requirement for a Transport Assessment to be submitted with any future planning application. This ignores the fact that phase 1 of the Loch Lomond Group development was planned in such a way as to be capable, from a Roads perspective of serving the development of the full site.
- The provision of an active travel link along the southern boundary of HU-B1(O) linking Barnwell Drive with the Chris Hoy Cycle Way is not feasible or deliverable, in terms of land ownership and the constraints relating the nature of a bonded warehouse development.

## **The non-inclusion of site CR-X3: Main Road (Crookedholm)**

### G. Roberts (312)

Site CR-X3 should be allocated in the Plan as it represents a modest boundary extension to the boundary of Crookedholm and will help re-invigorate the settlement.

## **Modifications sought by those submitting representations:**

### **HURLFORD**

John Duffy (107) seeks the removal of site HU-H1

NatureScot (157) seeks amendment to the developer requirements for site HU-H1 to (i) include the provision of a robust landscape framework, providing a defensible settlement edge; (ii) require active travel routes where practical and; (iii) require development to incorporate multifunctional green and blue infrastructure.

Loch Lomond Group (164) objects to the way the Loch Lomond Group site has been allocated, however, it is unclear how they would like this rectified in the Plan. In terms of developer requirements relating to HU-B1(O), 164 seeks the removal of the requirement for a Transport Assessment to be submitted with any planning application

and the removal of the need to accommodate an extension to the Chris Hoy Cycle Path within operation land.

### **CROOKEDHOLM**

G. Roberts (312) seeks the inclusion of site CR-X3 as an additional residential opportunity site.

### **Summary of responses (including reasons) by planning authority:**

### **HURLFORD**

#### **Housing site HU-H1 Galston Rd, Hurlford**

John Duffy (107)

The objection and reasons for objection from (107) to the site on Galston Road are fully noted. In the first instance, the Council points out that the site is currently allocated in the East Ayrshire Local Development Plan (2017), having been considered through the Examination of that Plan. The Reporter concluded that the site is suitable for residential development. The Council contends that the same conclusion can still be reached.

In terms of the specific points of objection raised, the following response is made:

#### **Impact on environment/landscape**

The Council accepts that the use of any greenfield site on the edge of a settlement for residential development will have some environmental and landscape impact. The site requirements set out in Volume 2 outline that the developer will be required to create a woodland area, which extends across the northeastern parts of the site to protect the landscape setting, which is considered an important mitigation measure to alleviate any landscape impact.

#### **Impact on biodiversity, flora and fauna**

Regarding the trees protected under a Tree Preservation Order, the Council would point out that the trees in question are directly adjacent to, but outwith the boundary of the site. The Council is of the opinion that the integrity of these trees can be adequately safeguarded through the sensitive design of any new development and the appropriate use of planning conditions. In this respect policy NE8 Trees, Woodland, Forestry and Hedgerows places a presumption against the loss of trees protected by Tree Preservation Orders.

#### **Climatic factors**

In terms of the impact of additional traffic on air quality and road traffic, the Council is of the view that the development of the site will not exacerbate or cause any detrimental traffic or road safety issues and will not affect the amenity of existing or future residents. The Ayrshire Roads Alliance has not raised concerns and neither has the Transport Appraisal of the Plan (CD19). In addition, a Transport Assessment is

required by the site allocation in Volume 2. Further, the Environmental Report mitigation measures require active travel connections to be fully explored.

#### Impact on soils

In relation to the previous coal mining works, the Council is aware that there are historic mine shafts on the site. This is noted in the Environmental Report (CD47a-e), which requires consultation to be undertaken with the Coal Authority, which should help arrive at an appropriate design and layout. The Council is of the view that any ground stability issues can be overcome to allow development on the site. In addition, policy NE11 Soils requires proposals to '*minimise disturbance to soils and protect them from damage, including erosion and compaction*', providing an appropriate safeguard to soils on site.

#### Naturescot (157)

#### Additional developer requirements

With regards to the additional developer requirements suggested by (157), it is considered that the need for active travel routes is sufficiently covered by the mitigation measures set out in the Environmental Report. The site requirements in Volume 2 in relation to HU-H1, link to the Environmental Report, therefore it is not considered necessary to replicate these in the Plan itself. In addition, policy SS2 requires all developments to take on board the requirements set out in the Environmental Report. Further, policy T1 sets out transport requirements to be met by developers including the need for proposals to meet the sustainable travel hierarchy. Similarly, it is considered that the request to incorporate multi-functional green and blue infrastructure in accordance with policy OS1, is unnecessary, as a development would require to take account of OS1 regardless. A cross reference in Volume 2 would be considered duplication.

In terms of the request to supplement the developer requirements with a requirement to provide a robust landscape framework, providing a defensible settlement edge, it is considered that this is largely already expressed in the developer requirements. The requirements already consider the north-eastern boundary of the site, considered to be the most sensitive in terms of landscape setting. However, for completeness, if the Reporter is minded, the Council would have no objection to the wording of the current developer requirements (site specific) for site HU-H1 to be changed to:

*'The developer of the site will require to provide a robust landscape framework to provide a defensible settlement edge. Particular attention should be paid to the north-eastern boundary of the site and the creation of a woodland area, to enclose the development and protect the landscape setting of Hurlford.'*

#### **Sites HU-B1 (S) and HU-B1 (O)**

#### Loch Lomond Group (164)

#### Differentiation between HU-B1 (S) and HU-B1 (O)

The Council notes the concerns raised regarding the change to the allocation to the site at Mauchline Road, in comparison to the existing allocation in the Local Development Plan 2017. In addressing this issue, the Council firstly points out that the designation of part of the site was changed from miscellaneous to business and industry, to remove the inclusion of support for recreational use in the miscellaneous allocation. This better reflects the consents and live application and it is also considered that the adjacent large area of safeguarded open space provides sufficient recreational opportunity in this part of Hurlford.

The approach of LDP2, in terms of business and industry has been to, where practical, split business and industrial sites into safeguarded or opportunity sites. In broad terms, this has been done on the basis of whether a site is largely built out and therefore safeguarding is required, or largely still undeveloped meaning there is an opportunity for development to come forward. It is considered that this makes the allocated sites more meaningful and helps in monitoring the uptake of sites. In terms of site HU-B1 therefore, the split between safeguarded and opportunity merely reflects the situation on the ground i.e. HU-B1(O) is undeveloped and therefore there is an opportunity for development to come forward on the ground. It does not and is not intended to reflect the ownership situation. It is therefore considered that the objection raised by the respondent 164 is unfounded; the proposed designation continues to be supportive of the proposed use of the site as a bonded warehouse and bottling facility.

#### Need for a Transport Assessment

The comments of the respondent are noted in terms of the earlier phase of the development being planned in a way to serve the whole development. However, it is considered prudent to keep this requirement in as plans or ownership could change, as could the need for a Transport Assessment. Volume 2, on page 4 makes clear that *'In certain cases the scale of development will not necessitate some of the requirements listed against a site and early contact with the Council is therefore encouraged so as to streamline the application process.'* The requirement for a TA could therefore be waived, if it can be demonstrated to be unnecessary.

#### Requirement to link to the Chris Hoy Cycle Way

The Chris Hoy Cycle Way is an important active travel network, particularly the off road link between Galston and Hurlford. As described in the developer requirements for HU-B1(O), the continuation of the route through the site to Barnweil Terrace would prove a logical and valuable extension to the route. The concerns of respondent 164 are fully noted in terms of the viability of this, given the nature of the business and industrial sites. However, the wording of the developer requirement is not absolute; the developer is required to 'explore the possibility of creating an active travel route'. This is considered entirely reasonable and fully in accord with the spatial strategy of the Plan that seeks to encourage active travel as a fundamental part of the Plan. The Council would be happy to work with the developer to explore options and to see what could be done to make the link viable.

#### **Non-allocation of site CR-X3**

G. Roberts (312)

As stated in the site assessment outcome in the Housing Methodology Background Paper, Appendix 4: Kilmarnock East and Hurlford Ward (CD12), there are significant constraints present on site. In addition, sufficient land has been allocated in PLDP2 to meet the Council's housing land requirement (MATHLR) during the Plan period. Additional land for residential development is not considered necessary. The Council is of the view that the allocation of the site is not necessary or appropriate.

### Reporter's conclusions:

#### **HU-H1: Galston Rd, Hurlford**

1. This site is located on greenfield agricultural land to the north-east of Hurlford. While the site frontage to the A71 could be said to fill a gap between the existing urban area and an isolated house to the east, the wider site would represent quite a major incursion into open countryside with the potential to have significant landscape effects. Furthermore, the existing urban edge in this area currently enjoys a strong boundary in the form of a line of mature trees along an access road. In possible recognition of this, the developer requirements set out in volume 2 of the plan include the creation of a woodland area across the north-eastern part of the site, sufficient to enclose the development and protect the landscape setting of Hurlford.
2. Any greenfield release is likely to have some environmental effects, but beyond the landscape impact described above, the site does not appear to have any special value for wildlife or for public access that should warrant its special protection. Most of the land is within an 800 metre walk of the facilities of the village centre, and so aligns well with the concepts of local living and 20-minute neighbourhoods promoted by National Planning Framework 4 (NPF4). A frequent bus service passes the site frontage, and a good standard of access from the A71 appears to be achievable. I note that the Ayrshire Roads Alliance has raised no concerns, and that a transport assessment would be required to accompany any planning application.
3. The trees to the west of the site are apparently covered by a tree preservation order. However, with the application of suitable protective measures at the planning permission stage, I consider that health of these trees need not be compromised by any adjoining development.
4. The environmental report recognises that parts of the site are subject to surface water flood risk. This would need to be managed under the terms of Policy CR1 of the plan and Policy 22 of NPF4, including the possible avoidance of certain affected areas. However, given the gently sloping nature of the land, it seems to me very unlikely that the effectiveness of the site as a whole would be affected by flood risk.
5. The council accepts that historic mine shafts exist in the site, and that consultation should be undertaken with the Coal Authority. However, there is no evidence before me that indicates this potential constraint is incapable of economic mitigation, or is otherwise so severe as to threaten the effectiveness of the allocation.
6. The site is a carried forward allocation from the existing adopted LDP. Objections to it were assessed in the examination for that plan, when the reporter considered matters including impacts on the road network, flooding, ground stability, landscape impact and

the loss of greenfield land, and concluded that the allocation should be confirmed. I am not aware of any significant site-specific changes in circumstances since the time of the previous examination. It is generally not in the interests of the long-term certainty that the planning system seeks to deliver for in-principle decisions regarding sites to be revisited in these circumstances.

7. I acknowledge the potential landscape impacts of this proposal, but for the above reasons I conclude that the allocation should be maintained.

8. NatureScot has made a number of suggestions for additions to the developer requirements for this site. However, I consider that the matters mentioned are already adequately covered within the proposed plan. The developer requirements set out in volume 2 of the plan already requires woodland creation to protect the landscape setting of Hurlford. Policy T1 requires major residential development to fully embrace active travel infrastructure. And Policy OS1 provides extensive policy direction with regard to green and blue infrastructure. I therefore conclude that no modification is required to the plan.

### **Sites HU-B1(S) and HU-B1(O)**

9. Above, the council explains the approach it has applied to delineating business and industrial sites as either safeguarded (shown by a (S)) or opportunities (shown by an (O)). I appreciate the logic of differentiating established business/ industrial areas from new opportunity sites in this way and see no requirement to make an exception and depart from this approach in the case of the Mauchline Road sites. There is no need for planning designations to necessarily reflect ownership boundaries and in my experience this is frequently not the case. What matters is the planning policy approach that will be applied within the defined areas. It does not seem to me that the representee suffers from any obvious disbenefit from their landholdings being shown in the way they have been.

10. At Mauchline Road, I note that areas of HU-B1(O) are now being developed by Loch Lomond Group as Phase 2 of their development. I have therefore considered whether it would now be sensible to redesignate this land to instead fall within site HU-B1(S) as this will now become established business land. However, no party is asking for this to happen, and so I therefore consider that such a change would be beyond the scope of this examination.

11. For these reasons, I conclude that the mapping of areas HU-B1(O) and HU-B1(S) should remain unchanged.

12. As regards the requirement, stated in the proposed plan, for a transport assessment, I appreciate the argument that this may be unnecessary in the case of the Loch Lomond Group's proposals given the work that has already been done in this area. However, I consider that the plan needs to accommodate a range of scenarios with regard to how currently vacant land may be developed. This could include the Loch Lomond Group amending their proposals, or a different developer/ development altogether emerging. For this reason, I consider that it is sensible to retain the reference to a transport assessment.



13. That said, I note the statement in Volume 2 of the plan that the given requirements are indicative and can be discussed with the council's development management team. Given the council's statements above, it seems eminently possible that the council would waive any requirement for further transport assessment should the Loch Lomond Group's proposals proceed as currently envisaged. On this basis I conclude that no modification is required.

14. The provision of an active travel link along the southern boundary of site HU-B1(O) would appear to require routing through the Loch Lomond Group's active operational site. Given the nature of the company's operations, I agree with them that this does not appear to be a reasonable or practical prospect. However, the extension of the Chris Hoy cycle way to the north and east does seem to be a highly desirable objective.

15. In their evidence, the Loch Lomond Group suggest alternative possible means of extending the cycle path without dissecting their landholding. Above, the council appear to be willing to adopt a flexible approach as regards the best means of achieving this objective.

16. I consider the best way forward is to retain the reference to an active travel link in the developer requirements for site HU-B1(O), but to remove the specific reference to this necessarily being routed along the southern boundary of the site. In doing so I recognise that the best and most practical alignment for any such route may ultimately prove to be outside site HU-B1(O) altogether, and so no obvious responsibility of the landowner. However, I consider a requirement to 'explore the possibility' of such a route remains reasonable because the route could utilise part of this land. I recommend a suitable modification below.

### **Non-allocation of site CR-X3**

17. This small overgrown piece of land would apparently require access from Ralstonyards Road, a very narrow road apparently unsuitable to handle a great deal of additional traffic without significant upgrading. The land was seemingly occupied by a house at one time, and so would fall within the definition of brownfield land. However, from what I was able to observe on my site visit, the land has now heavily naturalised, and so the support offered by NPF4 for redevelopment is therefore limited.

18. The site has reasonably strong defensible boundaries in the form of mature hedgerows to the north, east and south, and I do not expect development here would be widely visible from the surrounding countryside. However, development would extend urban influence east along Ralstonyards Road, which currently has the attractive character of a quiet country lane.

19. At Issue 17 I found that the housing land allocation made in the plan was more than sufficient to meet the minimum all tenure housing land requirement, and that there was no need to allocate additional sites. Within Crookedholm, the plan makes provision for the release of a relatively large site at Grougar Road (CR-H1) with an indicative capacity of 60 units. There is therefore no need to identify additional housing land in the village.

20. The question of whether this land should be incorporated into the settlement boundary of Crookedholm was assessed as part of the examination into the current adopted LDP. The reporter at that time concluded that including this land within the settlement would have an adverse impact on the landscape character, local distinctiveness and the scenic value of the area, and declined to amend the settlement boundary. It is generally not in the interests of the long-term certainty that the planning system seeks to deliver for in-principle decisions regarding sites to be revisited unless circumstances have clearly changed.

21. The representee is critical of the scoring exercise carried out by the council in its housing site appraisal. However, I have made my own assessment of this site based on my site inspection and the submitted evidence. I have not relied on the council's Housing Site Appraisal Methodology, and it is not part of my role to critique this document.

22. Overall, I conclude that there is no need for additional land allocations in Crookedholm, and that this site has certain apparent disadvantages in particular in terms of access and impact on the rural character of Ralstonyards Road. No modification to the plan is therefore required.

**Reporter's recommendations:**

I recommend that the words '... along the southern boundary of the site ...' be deleted from the developer requirement for site HU-B1(O): Mauchline Road.

Issue 35	Kilmaurs	
Development plan reference:	Allocated Housing development opportunity sites: KM-H1, KM-H2, KM-H3, KM-H4 and the non-inclusion of sites KM-X1, KM-X4 and a new site KM-X7.	Reporter: Stephen Hall
Body or person(s) submitting a representation raising the issue (including reference number):		
Douglas Hamilton (19) Emma Parkinson (33) Monique Campbell (81) Lesley Hamilton (95) MacTaggart & Mickel Homes Ltd. (111) Donald MacLean (114) Harry Gordon (125)		Isabella Gordon (127) William Crawford (132) NatureScot (157) Kilmaurs Community Council (236) Ross MacDonald (244) Miller Homes (272) Mr and Mrs Tannock (293)
Provision of the development plan to which the issue relates:	Various housing development opportunity sites as contained in PLDP2 in Kilmaurs: KM-H1, KM-H2, KM-H3, KM-H4 and the non-inclusion of sites KM-X1, KM-X4 and a new site KM-X7.	
Planning authority's summary of the representation(s):		
All sites in Kilmaurs		
Kilmaurs Community Council (236) and Ross MacDonald (244)		
Scale of Development		
The land proposed for development around Kilmaurs is out of scale for the village. The extents and content of these sites can be viewed in Map 'Kilmaurs Overview Map – Allocated and Unallocated Sites'.		
All sites proposed are logical extensions to the village. However, although each of the sites are modest in size, when combined they equate 266 new houses in the village, an increase in the size of the village of over 20% over a single plan period. This level of growth is excessive and will result in a substantial negative impact on the character of the village and amenity of existing residents.		
Road Infrastructure and Congestion		
Roads in Kilmaurs are not going to take the higher volumes of traffic that new housing developments will bring. In particular the junctions of Sunnyside/Main Street and Main Street/Irvine Road/Fenwick Road. If the proposed plans go ahead the roundabouts at these junctions will need to be upgraded. The Sunnyside and Townend junction is very busy with village traffic and acts as a through road for those from Crosshouse/ Knockentiber/Kilmarnock looking to access the M77 and vice versa, and it also acts as		

a commuter route for traffic travelling to and from the Crosshouse Hospital. This junction is already not suitable for purpose and is very dangerous with several near misses each day and various accidents over the years. Adding several hundred houses to the south of the village will exacerbate this issue.

#### Sewage, drainage and wastewater

Sewage, drainage and wastewater are at capacity in Kilmaurs and will need upgraded prior to commencement of any new development.

#### Developer contributions in Kilmaurs

Developer contributions should be safeguarded for use within the settlement where the development takes place. If Kilmaurs is to undergo substantial expansion over the next 10 years then these developer contributions should go towards addressing the lack of facilities and infrastructure in the village, not to other parts of East Ayrshire. The Fenwick Road from Kilmaurs to Glasgow Road, Kilmarnock is in dire need of upgrading to accommodate the level of traffic. Developer Contributions should be used to upgrade this road. The play park facilities in the village are very poor and no longer suitable for purpose. It is the shame of East Ayrshire Council that these facilities have never been upgraded despite the expansion of the village in recent years. Developer contributions should be used to upgrade the play facilities in Kilmaurs, along with the changing rooms and running track, all of which are falling into disrepair.

### **KM-H1: Crosshouse Road**

#### NatureScot (157)

This is a greenfield site located at the settlement edge. It is recommended that a masterplan approach is taken to ensure that development is cohesive across the site and with existing development. A multifunctional green network should be considered at the outset of the design process to include features such as SUDs. The provision of attractive and integrated active travel connections should be also ensured, with connections to Kilmaurs railway station, the town centre, and beyond. Development should incorporate multifunctional green and blue infrastructure, in accordance with Policy OS1, that delivers positive effects for biodiversity through enhancement of habitats and nature networks.

#### Kilmaurs Community Council (236)

Access into the site is difficult and the site sits at a higher level than existing housing. These issues must be considered when designing the site.

### **KM-H2: Habbiehauld Road**

#### Monique Campbell (81)

The location of the proposed development would be both destructive and imposing to the established residential areas. The area is a popular recreational walk for the community. The infrastructure in the surrounding area is already above capacity and

struggles to cope with the current daily demands of the current residents. The village in general does not have the means to support any more development, the nursery, school, doctors, shops and recreational facilities will not sustain any more development.

Kilmaurs Community Council (236)

Support for allocation of green space and impact on residents should be minimised through landscaping.

**KM-H3: Irvine Road**

Monique Campbell (81)

The proposed development will add to the over population of the area which is already being dominated by an irresponsibly large development already in process. The road network, local facilities and amenities will not cope with further development and any more will be at the detriment of the existing local community.

**KM-H4: Standalane**

Douglas Hamilton (19), Monique Campbell (81), Lesley Hamilton (95), Donald MacLean (114), Harry Gordon (125), Isabella Gordon (127), Kilmaurs Community Council (236) and Mr and Mrs Tannock (293)

Infrastructure and Resources (81, 95)

The proposed development would be destructive and imposing on the existing local community. The area within which the site is located does not have suitable infrastructure to accommodate more dwellings. The village does not have the amenities, facilities or space, for example in schools and community facilities to support more housing development.

New housing is currently being built at Irvine Road, Kilmaurs, without any improvement to amenities or infrastructure in the village.

Standalane, the Right of Way and its use for leisure and recreational purposes (19, 95, 125, 127, 293)

Standalane, beyond Four Acres Drive is a narrow country road. It is currently unsafe for pedestrians and cyclists and at certain points in the road unsafe for drivers too. An increase in traffic will add to these problems.

Residents use the road along Standalane for recreational and leisure purposes and if this was removed it would have an impact on their mental health.

The side road land along Standalane is used frequently by horse riders, walkers and bikers and there is a walking path behind Four Acres Drive. This recreational area would be taken away altering the character of the area and having an environmental impact on the surrounding area. The amount of excess traffic and private car use will

impact upon air quality, greenhouse gas emissions, noise and pollution making it unhealthy for residents who are mostly elderly. As this site is within walking distance of the rail and bus network, development would exacerbate pollution.

The right of way would be lost.

#### Damage to existing road infrastructure (19, 95)

Recent work undertaken by Network Rail resulted to a gas leak, caused damage to the gas pipes under the road, the road itself, the site and pavements. Further sustained heavy traffic, such as that used in housebuilding could potentially cause further damage to these gas pipes. The proposed housing development could hinder or limit further repairs to the Railway Bridge given the large amount of land needed for undertaking repairs.

#### High elevation of site (19, 95)

The greenfield site is on a relatively high elevation, which is outwith the settlement boundary. This would result in new houses overlooking existing houses and could dominate the look of the whole village.

#### Rural nature of settlement (19, 95, 293)

Kilmaurs is a small rural village, which has grown in the last few years with recent housing development already stretching local services and amenities. The rural nature of Kilmaurs would be eroded. It is the Council's responsibility to ensure that villages do not expand into towns.

#### Planning history of site (95, 114, 125, 127)

The site remains unsuitable for development. A previous planning application associated with the site was refused by the Council and an appeal upheld.

#### Settlement Boundary and extension into the countryside (95, 114, 293)

The site is outwith the settlement boundary with the hedge along Four Acres Drive acting as a natural boundary. The development would constitute an inappropriate or unacceptable extension into the countryside from existing settlement boundaries.

The development would constitute an unacceptable ribboning of development along a public road in a rural location. A sided ribbon development, which the Local Authority itself seemed to oppose in its document Enabling New Housing 2019, in particular policy RES8.

#### Traffic, congestion and road safety issues (19, 95, 125, 236, 293)

The junction of Standalane and the A735 is difficult with no clear line of sight to oncoming traffic coming up the hill from Kilmaurs. The road is narrow between the T-junction and the turning into Four Acres Drive Standalane making it difficult to negotiate if vehicles are parked on the road outside the existing Standalane houses. There is



also a pavement on only one side. Any increased traffic associated with the proposed development and particularly during the construction phase will add to this problem and would be a danger on an already busy country road.

There is a major road safety issue with the B751 (Fenwick Road) from Kilmaurs to the M77. More houses will lead to more traffic on this road. The local roads in the area were not built to feed motorways, for example the B778, now carrying daily heavy commuter traffic from Stewarton to the M77 has frequent accidents. The B751 could have similar problems with increased traffic flow.

An increase in traffic and private car use will worsen pollution in the area, which will be detrimental to residents and air quality and health with greenhouse gas emissions resulting in a negative outcome.

There are issues with traffic approaching the village too fast where the proposed development is to be sited. This would need to be resolved before the development proceeds.

The volume of traffic passing through Kilmaurs village on a daily basis should not be added to. It is the Council's responsibility to ensure villages do not expand into towns and the safety of residents, whether joining traffic or crossing roads on foot, must be given careful consideration.

#### Flooding Concerns (114,127)

There are existing flooding problems being experienced in the old centre of the village during periods of heavy rain. The hydraulic pressure on the sewerage layout increases with the height from which the flows are initiated. The housing development, which is now being proposed, would therefore be at the highest point of the system and is bound to exacerbate the flooding further down the line. Scottish Water appear to have no plans to upgrade the drainage network. SUDs are temporary fixes to the problem and not sustainable. There will be more extreme weather events i.e. increased rainfall due to climate change.

Keeping the surface water from this proposed development outwith the sewer network would be problematic since the nearest natural watercourse is some distance to the north on the other side of the railway line, namely the Garrier Burn.

The area from Standalane KM-H4 through Four Acres Drive has experienced flooding for years. It has been inspected numerous times with no action taken. In addition, there are water pressure issues in the area and building more properties will make matters worse and will be detrimental to the area.

#### Preservation of arable land and redevelopment of brownfield land (114, 125)

The world food production is threatened and therefore arable land should be preserved rather than building houses on it.

Develop should be on similar sized brownfield land such as the derelict nursery school at Fenwick Road instead. This site would not require noise buffering or SUDS.

Excessive noise concerns and alterations to the rural characteristics of the area (114, 125, 127)

The longest side of the triangular site KM-H4 is the main railway line linking Kilmarnock and Glasgow. Apart from the regular passenger diesel train services, there are occasional goods trains and at weekends Inter City express trains using the line at great speed. I assume that any development would incorporate steps to reduce the noise nuisance to the potential residents. The development will alter the character of the area and result in excessive noise.

The site is classified as agricultural lowland (SHS Character type 66). Characteristics of this classification are of prominently pastoral cover settlements, with a historic core. A network of major roads and presence of heavy traffic will therefore conflict with and alter the rural characteristics of the area. The environmental impact would be considered negative.

Employment and retail opportunities (125, 127)

The properties will not encourage or contribute to employment opportunities within the town or outwith centres. The shops are closing and there is no sign of any more opening, resulting in residents travelling to other towns for goods. No more properties are needed in KM-H4 as it will cause more greenhouse emissions with extra cars in and out of the village and area, will exacerbate capacity issues in schools and worsen existing poor mobile signal issues in the area.

Community Planning Survey (95)

Vibrant Communities recently conducted a survey in Kilmaurs, gathering information about what residents appreciate about the village and what improvements they would like to see. The finding from the survey is that villagers like the rural nature of Kilmaurs, which would potentially be destroyed by building more houses. Several other themes are apparent from the survey, the results of which have been published in the Kilmaurs Community Action Plan 2021-2026. These themes relate to: traffic and congestion; and infrastructure, services and amenities capacity issues.

PLDP2 Volume 1 Schedule 3 and Volume 2 site requirements

MacTaggart & Mickel Homes Ltd. (111)

The identification of land at Standalane, Kilmaurs as a residential development site in the Proposed Plan (Proposed LDP ref. KM-H4) is supported, but through this representation some minor amendments are requested to be made to Schedule 3 (Volume 1) and the Developer Requirements (Volume 3):

- the timescale for development of the site be revised to a Short delivery timescale in Schedule 3 of Volume 1
- the requirement for a TA be revised to a TS in the Developer Requirements for the Standalane site.

(111) has submitted supporting documents (RD21, 21, 23, 24 and 25) in relation to site KM-H4.

## **Non-inclusion of site KM-X1**

### William Crawford (132)

In addition to the representation to the PLDP2, a representation was submitted to the MIR/CfSI Consultation concerning site KM-X1. It is considered that this site is suitable for a new dwelling house including associated landscaping works and should be included as an allocated housing site given the following:

### Site Location and Description

The characteristics of this site make it a suitable location for a single dwelling house. The proposal takes advantage of a brownfield site, which already has permission for storage of caravans. It is noted that the Council accepts that the site benefits from defined boundaries to the east and northeast (mature trees and hedging etc.).

The Council's strategic environmental assessment ((SEA pro forma response dated 2020) which highlights that the site is "...currently an unattractive brownfield site, therefore its development would have a positive impact on its landscape character..." is supported.

### Site Context

Analysis of the existing site context including the existing house at 48 Fenwick Road indicates that neither contribute effectively to the visual amenity of either the village or the hinterland. Due to the drafting of the Kilmaurs settlement boundary, this group of houses and buildings are cut in two by the notional boundary line, leaving the former Millholm nursery buildings located within the settlement boundary while 48 Fenwick Road is isolated on the other side of the Carmel Water. When viewed in context, the drawing of the boundary has resulted in 48 Fenwick Road being left as an unsatisfactory coda to the settlement. The isolated form of this detached villa is at odds with the surrounding pattern of nucleated clusters of buildings scattered across the settlement hinterland.

The aim of the proposal is to address the current situation and reinforce visual amenity. There would be no adverse impact on the landscape or environmental capacity of the site, with significant opportunity for biodiversity and landscape enhancements through planting of native species.

The Council's previous assessment (refer to SEA Pro forma response dated 2020) that the site is "only a short walk from the edge of Kilmaurs to the centre of Kilmaurs (Irvine Road)" is supported. The Council's view that the development of the site would not put pressure on the road network, services or facilities is also supported. Furthermore, the development of the site would not encourage ribbon development along the B751, nor set an undesirable precedent for future development in Kilmaurs and beyond.

### Flood Risk

An assessment of the risk of flooding (2017) to a proposed dwelling house adjacent to 48 Fenwick Road confirms that the estimated 200 year plus climate change flow

inundated the lower part of the site but the higher southern part of the site where development is proposed is outside the predicted flood plain. It is noted that the Council now accept that the development site would not be affected by flooding or increase the risk of flooding elsewhere.

Kilmaurs is a sustainable settlement within East Ayrshire benefiting from a healthy provision of local facilities and services. The site at Fenwick Road provides an attractive, accessible and effective option for planned growth at the edge of the settlement boundary.

(132) has submitted supporting documents (RD33, 34, 35 and 36)) in relation to site KM-X1.

#### **Non-inclusion of site KM-X4**

##### Emma Parkinson (33)

(33) proposed land on Crosshouse Road, Kilmaurs, which the boundary still appears to deviate around making the boundary more unnatural to cut it out. The land directly across the road is earmarked for development, as is land further down on the opposite side where entry to the site is dangerous. This land should be re-considered, either for small-scale dwelling, or larger development to tie in with other developments. Feedback is requested concerning what the main possibilities for this land is and the challenges that have led to its exclusion.

#### **Non-inclusion of site KM-X7**

##### Miller Homes (272)

(272) is promoting land at Kilmaurs for housing led development. The land is immediately south of site ref: KM-H3, which is under construction with completion anticipated in 2023. The site is currently located within a Rural Protection Area (RPA) policy area. It is noted that this designation seeks to protect areas of countryside from sporadic and inappropriate rural housing development. The release of this site from the RPA to be allocated as a housing development opportunity would not compromise these objectives. It would represent a logical and sustainable extension to the Kilmaurs settlement, in a location that is immediately adjacent to an existing housing site, reinforcing its marketability and deliverability credentials.

The proposed allocation site extends to approx. 10 acres and is suitable and deliverable for development. Vehicular access can be achieved via site KM-H3 and pedestrian access can be achieved via an existing path leading from the site towards the east at Crofthead Road. The train station is located at the end of this road and the wider town centre is all entirely within an 800m walk from the site. The site is sustainable and aligns with sustainability principles established in SPP. The layout of the site would accommodate an appropriate landscape strategy to reinforce defensible boundaries and the setting of the settlement. Initial investigations suggest no technical issue to delay delivery of the site. The site has not been previously promoted or assessed at earlier stages in the LDP review, therefore a site assessment has been undertaken and submitted as supporting information.

Further detail concerning site effectiveness, ownership and site assessment is provided by (272) in their representation and supporting information (RD151).

(272) has submitted supporting information relating to the site they promote (RD151).

### **Modifications sought by those submitting representations:**

#### **All sites in Kilmaurs**

Kilmaurs Community Council (236) and Ross MacDonald (244)

Although no specific modifications have been explicitly suggested, it is assumed that it is requested that all sites proposed to be allocated in Kilmaurs be removed from the Plan.

#### **KM-H1: Crosshouse Road**

NatureScot (157) and Kilmaurs Community Council (236)

Ensure that mitigation measures relating to design and access are applied at an early stage in the design process and that measures are in place to ensure the creation of a multifunctional green network, green and blue infrastructure provision and the creation of active travel connections.

#### **KM-H2: Habbieauld Road**

Monique Campbell (81)

Although no specific modifications have been explicitly suggested, it is assumed that it is requested that site KM-H2 be removed from the Plan.

Kilmaurs Community Council (236)

Although no specific modifications have been suggested, it is assumed that there is support for the allocation of green space on this site and the impact of development on residents should be minimised through landscaping.

#### **KM-H3: Irvine Road**

Monique Campbell (81)

Although no specific modifications have been explicitly suggested, it is assumed that it is requested that site KM-H3 be removed from the Plan.

#### **KM-H4: Standalane**

Douglas Hamilton (19), Monique Campbell (81), Lesley Hamilton (95), Donald MacLean (114), Harry Gordon (125), Isabella Gordon (127), Kilmaurs Community Council (236) and Mr and Mrs Tannock (293)

Remove site KM-H4 as a development opportunity site.

MacTaggart & Mickel Homes Ltd. (112)

Amend the developer requirements for site KM-H4 in Volume 2 by revising the requirement for a Transport Assessment to a Transport Statement.

#### **KM-X1**

CCC Planning Consultancy (132)

Include site KM-X1 as an allocated housing site.

#### **KM-X4**

Emma Parkinson (33)

Include site KM-X4 in LDP2 for development, either for a small-scale dwelling or a larger development to tie in with other developments in the vicinity of site KM-X4.

#### **KM-X7**

Miller Homes (272)

Allocate land south of Site KM-H3 as a housing opportunity site and include the site in LDP Volume 1, Schedule 3 as a short-term housing opportunity site.

### **Summary of responses (including reasons) by planning authority:**

#### **All sites in Kilmaurs**

Approach to allocation (236, 244)

It is anticipated that East Ayrshire's population will decline over the coming decades and there is therefore a need to address this to ensure the vitality of the area, to stabilise its population and promote population growth. To reflect market demand and the need for sustainable growth, it is recognised by the Council that a considerable level of new housing is directed to the Kilmarnock and Loudoun area within which Kilmaurs is located

The selection of each allocated housing site has been carefully made to ensure that it is as sustainably located and compliant with the principles of 20 minute neighbourhoods as possible, whilst taking into account housing growth required in the Local Authority area during the Plan period. Each site considered and selected in Kilmaurs has been assessed and the reasoning for a site's inclusion or exclusion is set out in detail in the Housing Site Appraisal Methodology, Appendix 1: Annick Ward 1 (CD9). The site assessment process has considered active travel, public transport, infrastructure, constraints and other factors to ensure that development will be undertaken in the most suitable place. Sites allocated for housing purposes in Kilmaurs, as set out in PLDP2 Volume 1, Schedule 3 (CD32), range between short,



long-term sites and site CH-F1 (H) is a future growth site. This range will assist in managing development coming forward in the village.

#### Water infrastructure (236, 244)

Scottish Water has been consulted on all sites proposed for allocation in PLDP2 and provided no comments concerning capacity issues for sites KM-H1 to KM-H4. Volume 2 of the Plan sets out developer requirements that apply to all sites. For all Kilmaurs development opportunity sites, developers are encouraged to engage with Scottish Water at the earliest opportunity to discuss the needs of their development. These site requirements include the need for early engagement with Scottish Water. In addition, Scottish Water will, if necessary deliver a new Growth Project to accommodate new LDP development opportunity sites. The Council considers that this addresses the concerns raised by the respondent (236).

#### Traffic generation and road safety (236, 244)

With regard to the issue of traffic generation and subsequent infrastructure improvements, the Council would advise the Reporter that the Ayrshire Roads Alliance has not raised any objections to the residential development opportunity sites in Kilmaurs (KM-H1 to KM-H4).

Any concerns with regards to road and pedestrian safety would be a key consideration for any subsequent planning application, for which Ayrshire Roads Alliance would be consulted to provide comments on the proposals design, layout and impacts. The Council notes these concerns and considers that they can be adequately addressed through design

#### Requirements of the Environmental report (236, 244)

The developer of any of the sites proposed in Kilmaurs in PLDP2 must accord with mitigation set out in the Environmental Report (CD47a-e), which includes directly linking to existing cycling and walking routes, including core paths and rights of way in order to reduce vehicle usage. In addition, all developers will be required to meet the site requirements set out in Volume 2 of the Plan.

#### Developer contributions (244)

In terms of developer contributions, as per PLDP2 policy INF4, developers will be required to provide, or contribute towards the cost of providing new or improved infrastructure, services, facilities and amenities, or to supplement existing provision, where these are required as a consequence of the development being proposed, on its own, or as a result of the cumulative impact of development in the area. Each case will be assessed on its own merits. The new approach to collecting and calculating developer contributions are set out in draft supplementary guidance (CD21) and address the concerns raised by (244).

#### **KM-H1: Crosshouse Road**

#### NatureScot (157) and Kilmaurs Community Council (236)

LDP2 Volume 2 sets out developer requirements, where appropriate, associated with development opportunity sites. For site KM-H1 (see Map 'Issue 35 – Crosshouse Road, Kilmaurs – KM-H1'), there are various requirements including the need for the developer to:

- engage with SEPA and the Ayrshire Roads Alliance as the site might be subject to flooding;
- provide mitigation and/or enhancement measures as set out in the Environmental Report;
- submit a Transport Assessment demonstrating that suitable access to the site can be achieved; and
- prepare a design statement in line with PAN68: Design Statements.

In addition, a specific site requirement for a park and ride facility for Kilmaurs railway station to be part of any development on site KN-H1 is set out in Volume 2 of the Proposed Plan. Furthermore, any new housing development proposals on site KM-H1 will be required to meet all relevant LDP2 policies relating to design, access, enhancement of habitats and nature networks, creation of a multi-functional green network, green and blue infrastructure provision and creation of active travel connections. These include policies SS2, DES1, NE4, OS1, T1 and T3. This will ensure that NatureScot's recommendations concerning a masterplan approach are implemented as well as addressing the concerns raised by Kilmaurs Community Council.

### **KM-H2: Habbieauld Road**

Monique Campbell (81) and Kilmaurs Community Council (236)

LDP2 Volume 2 sets out developer requirements, where appropriate, associated with development opportunity sites. For site KM-H2 (see Map 'Issue 35 – Habbieauld Road, Kilmaurs – KM-H2'), there are various requirements including the need for the developer to:

- provide mitigation and/or enhancement measures as set out in the Environmental Report;
- engage with Scottish Water at the earliest opportunity to discuss the needs of the development;
- submit a Transport Assessment demonstrating that suitable access to the site can be achieved; and
- prepare a design statement in line with PAN68: Design Statements

In addition, any new housing development proposals on site KM-H2 will be required to provide a robust and defensible settlement edge through appropriate planting along the northern boundary of the site. Any housing developed should also be consistent with the character of existing adjacent development. In addition, any proposals will be required to meet all relevant LDP2 policies relating to design, green and blue infrastructure and sustainable travel including SS2, DES1, OS1 and T1.

In terms of pressure on capacity of infrastructure, services and facilities, it is acknowledged that new development can impact significantly on a wide range of

existing infrastructure, services, facilities and amenities including education infrastructure, health and social care infrastructure and transportation infrastructure. In this regard, developers will be required to provide, or contribute towards the cost of providing new or improved infrastructure, services, facilities and amenities, or to supplement existing provision, where these are required as a consequence of the development being proposed, on its own, or as a result of the cumulative impact of development in the area. Each case will be assessed on its own merits. In addition, site requirements as outlined above will also address any capacity issues.

### **KM-H3: Irvine Road**

#### Monique Campbell (81)

The development of 90 residential units on site KM-H3 was approved in February 2020 (Planning application reference: 16/0083/PPP) (CD93) and is currently under construction. Development of the site was underway at the time of the site assessment process and is expected to complete after the adoption of LDP2 in 2023. It was therefore considered appropriate to allocate the site in LDP2. The site can be viewed in Map 'Issue 35 – Irvine Road, Kilmaurs – KM-H3'.

### **KM-H4: Standalane**

Douglas Hamilton (19), Monique Campbell (81), Lesley Hamilton (95), MacTaggart & Mickel Homes Ltd. (111), Donald MacLean (114), Harry Gordon (125), Isabella Gordon (127), Kilmaurs Community Council (236) and Mr and Mrs Tannock (293)

*High elevation of site, Traffic, congestion and road safety issues, Flooding concerns*

LDP2 Volume 2 sets out developer requirements, where appropriate associated with development opportunity sites. For site KM-H4 (see Map 'Issue 35 – Standalane, Kilmaurs – KM-H4'), there are various requirements including the need for the developer to:

- engage with Scottish Water at the earliest opportunity to discuss the needs of the development;
- engage with SEPA and the Ayrshire Roads Alliance as the site might be subject to flooding;
- provide mitigation and/or enhancement measures as set out in the Environmental Report;
- submit a Transport Assessment demonstrating that suitable access to the site can be achieved; and
- prepare a design statement in line with PAN68: Design Statements

The above requirements will address issues relating to water and waste water infrastructure, flood risk, transport and road infrastructure impacts, mitigation and enhancement measures on site and design & access.

In addition, any new housing development proposals on site KM-H4 will be required to enhance the existing landscape framework within the site and undertake an effective settlement edge treatment through appropriate planting. Development should have a

positive interface with Standalane through an active frontage and should be cohesive with existing development to the south. It is acknowledged that an area of flood risk is present adjacent to the site boundary and there will therefore be a need to determine whether a flood risk assessment will be required. Furthermore, any proposals will be required to meet all relevant LDP2 policies relating to design, landscape, residential amenity, flood risk, green and blue infrastructure, environmental protection and sustainable travel including SS2, DES1, CR1, OS1, NE12, T1, T3, RES3 and NE1.

#### Rural nature of settlement and rural characteristics

The PLDP2 contains a robust and effective policy framework, which seeks to protect landscape and the built environment, most notably policies SS2, DES1, HE1, HE2 and NE1. Policy SS2 criterion (ii) requires proposals to ***“be fully compatible with surrounding established uses and have no unacceptable impacts on the environmental quality of the area”***. Policy DES1 requires development to demonstrate the Six Qualities of Successful Places. Policy DES1 criterion 1.1 requires proposals to ***“ensure that the siting, layout, scale, massing, materials and design enhance the quality of the place and contribute to the creation of a structure of buildings, spaces and streets that is coherent, attractive, and with a sense of identity”***. Policy DES1 criterion 1.2 requires proposals to ***“reflect the characteristics of the site and its context, safeguarding and enhancing features that contribute to the heritage, character, local distinctiveness and amenity”***. Policy NE1 seeks to protect ***the “setting of settlements and buildings within the landscape”***. As such, the council consider that that the current wording of the PLDP2 makes provisions and seeks to protect the character of the rural settlements and their setting.

Any proposed loss of a right of way should be addressed at the planning application stage. If necessary, a Footpath Diversion Order could be proposed and the details of an alternative route addressed at the design concept stage.

Given part of site KM-H4 is situated within close proximity to the railway line, early engagement with Network Rail will be encouraged.

#### Planning History

The planning history of the site is noted by the Council and has been taken into consideration as part of the site assessment process, which has informed the allocation of all sites in the PLDP2. However, it was considered that development on site KM-H4 would result in a natural extension of the settlement in that area with minimal adverse landscape impact and subject to appropriate mitigation, the site was considered suitable for allocation in PLDP2.

#### Settlement boundary and extension into the countryside

The allocation of site KM-H4 would result in the land being included in the settlement boundary of Kilmaurs. The Council therefore do not agree that the development would constitute an inappropriate or unacceptable extension into the countryside from existing settlement boundaries.

### Infrastructure and Resources

In terms of infrastructure, services and facility capacity concerns, it is important to highlight that the planning system seeks to ensure that all new developments are sensitively designed and have minimum environmental and amenity impacts. Where development proposals place additional demands on existing infrastructure or facilities that would necessitate new facilities or exacerbate deficiencies in existing provision, the Council will require the developer to meet or contribute to the cost of providing or improving such infrastructure or facilities.

As per the site requirements set out in Volume 2, developers of site KM-H4 will be required to undertake a Transport Assessment. Any concerns with road safety would be a key consideration for any subsequent planning application, for which Ayrshire Roads Alliance would be consulted to provide comments on the proposals design, layout and impacts. The Council notes these concerns and considers that they can be adequately addressed through design.

LDP2 policy INF4 requires developers to make a financial contribution where necessary. Draft supplementary guidance on developer contributions (CD21) sets out the methodology employed in calculating the level of developer contribution, which may be required as a result of new development. It provides detailed guidance as to when and where developer contributions are likely to be required and sets out detail relating to the formulation, consideration and costing of contributions associated with development proposals.

In preparing the draft supplementary guidance (CD21), planners worked collaboratively with officers from the Council's Education Service, the Ayrshire Roads Alliance and NHS Ayrshire and Arran to determine the impact of development on infrastructure, services and facilities and in creating the methodology for calculating contributions.

### Arable land and development of brownfield land

Issues relating to world food production are not material planning matters.

In terms of the development of brownfield land, the PLDP2 seeks to prioritise brownfield sites within settlements for development. The Council would therefore support in principle development on such sites. In allocating land within the development plan, the approach has sought to prioritise brownfield sites, however, to ensure an effective housing land supply and the ability of the Plan to meet the MATHLR, it has been necessary to allocate sites in greenfield locations. Where this has been necessary, sustainable locations have been identified in terms of ensuring good access to services and reducing car reliance. The approach has also sought to avoid good and prime quality agricultural land.

### Excessive noise concerns

Any development proposed on site KM-H4 will be required to enhance the existing landscape framework within the site and undertake an effective settlement edge treatment through appropriate planting. In addition, the developer, as part of the planning application process will be required to notify any neighbours of their proposal

and that will include Network Rail.

### Employment and retail opportunities

The selection of each allocated housing site has been carefully made to ensure that it is as sustainably located and compliant with the principles of 20 minute neighbourhoods as possible, whilst taking into account housing growth required in the Local Authority area during the Plan period. Each site considered and selected in Kilmaurs has been assessed and the reasoning for a site's inclusion or exclusion is set out in detail in the Housing Site Appraisal Methodology, Appendix 1: Annick Ward 1 (CD9). The site assessment process has considered active travel, public transport, infrastructure, constraints and other factors to ensure that development will be undertaken in the most suitable place. In addition, the PLDP2 Spatial Strategy and certain policies relating to skills and employment and town centres seek to support the role of East Ayrshire's town centres, direct opportunities to local town centres and overall support a wide range of uses.

### Community Planning Survey

The Council fully acknowledge what residents appreciate about the village and what improvements they would like to see and separate work will be progressed, in terms of community action planning and placemaking in the local community, which Vibrant Communities will be involved in. The Council's response to matters relating to traffic and congestion; and infrastructure, services and amenities capacity issues have been addressed in the wider response concerning site KM-H4.

### PLDP2 Volume 1 Schedule 3 and Volume 2 site developer requirements

The determination of short, medium and long-term timescales has been informed by the MATHLR work undertaken, the housing site assessment work undertaken and the housing land audit has been taken into consideration. Whilst Schedule 3 places sites into 'Short', 'Medium' and 'Long' term categories, it is important to note that these are indicative of when sites might be developed. The Council therefore does not agree with (112) that Schedule 3 should be amended, in terms of the long-term timescale of site KM-H4 to short-term.

(112) refers to Housing Site Appraisal Methodology background paper (CD8), critiquing the outcomes and scoring in relation to heritage assets, landscape character and townscape. It is not considered appropriate or necessary to change HSAM scoring at this stage of the Plan preparation process as doing so would have no outcome on the determination made by the Council on the suitability of sites. Comment may however be made on the comment pertaining to the marketability criterion. In this respect, it should be noted that the HSAM employs the findings of a survey of house builders to determine marketability; flood risk within the site as mentioned in the representation is addressed by another HSAM criterion.

(112) requests that the developer requirement for site KM-H4 for a transport assessment to be submitted, as set out in PLDP2 Volume 2, page 71 be revised to a transport statement. PLDP2 Volume 2 on page 4 highlights that the list of requirements for each site as depicted in Volume 2 is indicative and may not be exhaustive. It also



states that applicants are, therefore encouraged to consult East Ayrshire Council's Development Management team before any planning application is submitted to discuss their proposals. The Council is therefore of the view that the suggested modification is not necessary as any applicant would have the opportunity to demonstrate that the requirement is not necessary due to the particular nature of the proposal.

### **KM-X1 – Suggested new site at Fenwick Road**

William Crawford (132)

Site KM-X1 (see Map 'Issue 35 – 48 Fenwick Road, Kilmaurs – KM-X1') was not included as a development opportunity site for the following reasons:

- it is located further from the centre of Kilmaurs than other existing or promoted sites and is spatially isolated from the settlement boundary as it is currently defined.
- It can deliver only a small number of houses and would therefore not contribute greatly to housing land requirements.

It was considered that other existing and proposed sites in Kilmaurs would meet the principles of the 20-minute neighbourhood to a greater degree. On that basis, it was not considered appropriate to allocate the site in LDP2. The site assessment outcomes (CD8) highlighted that there was no risk of flooding on site, however the reasons set out above for the non-inclusion of the site in LDP2 outweighed this outcome.

Sufficient land has been allocated in PLDP2 to meet the Council's housing land requirement during the Plan period. Additional land for residential development is therefore not necessary. The Council is of the view that the allocation of the site is not necessary or appropriate.

### **KM-X4 – Suggested new site at Crosshouse Road**

Emma Parkinson (33)

As stated in the site assessment outcome in the Housing Methodology Background Paper: Appendix 1 - Annick Ward 1 (CD9) the site would not be appropriate for small-scale development or as part of the development of site KM-H4. Although site KM-X4 (see Map 'Issue 35 – Crosshouse Road (S), Kilmaurs – KM-X4') is brownfield or previously developed in nature, the site is small and relatively isolated. Access would require to be taken from a sharp bend over the adjacent railway bridge. The narrow site is spatially separate from the settlement as a whole and has a railway line immediately adjacent, the mitigation of which may result in a substantial overall reduction of developable area. On that basis, it was not considered appropriate to allocate the site in LDP2. In addition, sufficient land has been allocated in PLDP2 to meet the Council's housing land requirement during the Plan period. Additional land for residential development is, therefore not considered necessary. The Council is of the view that the allocation of the site is not necessary or appropriate.

## **KM-X7 – Suggested new site at Crofthead Farm**

### Miller Homes (272)

The site (see Map 'Issue 35 – Land south of Site KM-H3, Kilmaurs – KM-X7') being promoted by (272) had not been submitted to the Council prior to the PLDP2 consultation, being the Call for Priorities, Issues and Proposals (2017), the MIR consultation (Summer 2020) or the post MIR Call for Priorities, Issues and Proposals (Autumn 2020). It has not been assessed as part of the assessment work undertaken for all sites included in the PLDP2. In addition, all sites proposed for allocation in PLDP2 in the Kilmarnock and Loudoun sub-market area comprise a buffer of more than 50% above the minimum all-tenure housing land requirement MATHLR.

Whilst a detailed assessment of the site is not appropriate at this stage, some observations are offered by the Council:

- Although the site is around 800 metres from Kilmaurs and, therefore within relatively close proximity to local services and facilities, the Council is of the opinion that other sites proposed to be included in LDP2 are within more sustainable locations which are favourable, in terms of the 20-minute neighbourhood principle.
- Similar to the reasons to why site KM-X3 (CD9) was not included in PLDP2, the site is considered to be too large for requirements at present in terms of the settlement and the wider Sub Housing Market Area. In addition, although (272) states in their supporting statement (RD151) that access to the site would be through site KM-H3, access options are likely to be the subject of a Transport Assessment. The development of the site could potentially adversely impact Crofthead Road and potentially adversely impact Irvine Road, in terms of increased traffic volume from the site and that of site KM-H3.
- Sufficient land has been allocated in PLDP2 to meet the Council's housing land requirement during the Plan period.
- Allocating more sites in Kilmaurs would constitute as overdevelopment, given the size of the settlement.

For these reasons, the Council is of the view that it is not considered appropriate to allocate the site as part of LDP2. If the Reporter is minded to agree, the Council could consider the site for allocation, subject to further discussion as part of the preparation of LDP3. It is, therefore not considered necessary to allocate any additional sites in Kilmaurs and the inclusion of further sites is therefore not required.

### **Reporter's conclusions:**

#### **General comments**

1. I addressed the overall level and distribution of the housing allocation at Issue 17. There I found that the council's generous approach to housing land supply could be supported as being in alignment with national policy, and, in particular, with National Planning Framework 4's (NPF4's) expectation to promote an ambitious approach. It should also serve to make available a wider range and choice of site and so improve the functioning of the housing market. I also found the distribution of the housing

allocation between the three sub-housing market areas to have been based on a robust approach, broadly in line with existing population levels and evidence of need and market demand.

2. The plan estimates the capacity of the four allocated housing sites in Kilmaurs to be 266 units. This equates to around 5% of the total allocation for the Kilmarnock and Loudoun sub-area. I also note that sites KM-H1 and KM-H3 are carried forward allocations from the existing adopted plan (KM-H3 being largely built out). The newly proposed allocations at KM-H2 and KM-H4 together have an indicative capacity of 73 dwellings (1.5% of the Kilmarnock and Loudoun sub-area total). As proportions of the area-wide figure, these do not appear excessive.

3. However, I do accept that if all four sites were developed over a short period, this would represent a significant scale of change for the village. That said, I also noted at Issue 17 that a likely consequence of the council's ambitious approach is that some sites will remain undeveloped and continue in their current use over the medium term. Consequently, there is a real possibility that not all four of the Kilmaurs allocations will be developed in the plan period.

4. Kilmaurs has a relatively good level of service provision for a village of its size, including a railway station, range of bus services, primary school, convenience store and a number of other shops and food outlets. I therefore consider that Kilmaurs matches quite well the concept of a 20-minute neighbourhood, as promoted in NPF4, in that people can meet many of their day-to-day needs within a relatively short walk. I have not seen any persuasive evidence that existing facilities are so overstretched as to be unable to accommodate some further development. As such, I find this to be a relatively sustainable strategic location towards which to direct some additional growth.

5. The village has an attractive historic core, but much of the settlement is made up of more recent development of a suburban character. As such, I do not consider some additional peripheral development need necessarily have a detrimental effect on the character of the village, providing high design standards are applied.

6. I have not been furnished with definitive evidence on traffic generation and effects, though I note no adverse comment has been forthcoming from the Ayrshire Roads Alliance. However, it would seem inevitable that the level of development proposed must increase traffic levels to a degree. This may require some further traffic management measures to be implemented, including potentially around the particular junctions in the village centre mentioned in representations. These matters can be fully assessed at the time of any detailed proposals. However, I am not convinced that additional traffic generation would be so high as to be incapable of mitigation or call into question the principle of further development.

7. All developers will be required to comply with Policy T1 of the plan, and (under the terms of Policy SS2) the mitigation requirements set out in the environmental report. These include embracing active travel infrastructure and linking to cycling and walking routes. These measures should go some way to minimising additional traffic generation from new development.

8. I note the concerns raised regarding drainage and wastewater capacity. There has

been no adverse comment from Scottish Water regarding these matters, and ultimately it will be the responsibility of developers to demonstrate that their developments can be properly serviced. It would be very unusual if there were not a technical solution available to address these matters, and the cost of the necessary additional infrastructure would be borne by the developer.

9. Under the terms of Policy INF4 of the plan, and Policy 18 of NPF4, developers will be required to make financial contributions towards the costs of providing or improving any off-site infrastructure required to make the development acceptable in planning terms. Any such contributions must relate to the impacts of the proposed development. Typically this means any contributions being spent locally. The sums received should not be used to make good deficiencies elsewhere in the council area unrelated to the proposed development.

10. To summarise, I acknowledge the scale of the housing allocation proposed in Kilmaurs, but do not find this to be wholly disproportionate in the context of the wider spatial strategy of the plan. Kilmaurs is a broadly sustainable location towards which to direct new development, and I am not convinced that the capacity concerns raised are incapable of being satisfactorily mitigated. I discuss matters related to the individual proposed sites below.

#### **KM-H1: Crosshouse Road**

11. The site comprises agricultural land to the south of the village. The northern part of the allocation is now largely contained by the Langmuir Quadrant estate and the railway line and is largely invisible from the wider landscape. Part of this land is apparently ear-marked for an extension to the existing park-and-ride site at Kilmaurs station.

12. The southern part of the allocation would extend the built-up area out into open countryside, and potentially have something of an urbanising effect across the rural landscape between Kilmaurs and Knockentiber. The site is bounded by low hedges that would not serve to provide any effective landscape screen. That said, the existing Langmuir Quadrant development has already extended development above the ridgeline that previously defined the southern edge of the village, so some of this urbanising effect has already come to pass.

13. As noted by the community council, access into the site from the B751 does not appear straightforward due to the road geometry and a change in levels between the road and the site. However, I doubt this is an insurmountable constraint. The site is largely located within an 800 metre walk of the train station, primary school and other services and facilities of the village. I therefore consider development would be compatible with the concepts of local living and 20-minute neighbourhoods promoted by NPF4.

14. The site is the residual undeveloped portion of an existing allocation in the current adopted LDP. I am not aware of any significant site-specific changes in circumstances since the time of the previous examination. It is generally not in the interests of the long-term certainty that the planning system seeks to deliver for in-principle decisions regarding sites to be revisited in these circumstances.

15. For these reasons I conclude that this allocation should be retained in the plan.

16. NatureScot makes a number of recommendations regarding the masterplanning of the site. Broadly, I find that the matters mentioned are already covered by the generic policies of the plan and the mitigation measures set out in the environmental report. In particular, Policy OS1 sets out detailed policy on the provision of blue and green infrastructure, and Policy T1 requires development to fully embrace active travel infrastructure. No modification is required.

#### **KM-H2: Habbieauld Road**

17. This triangular area of agricultural land is relatively well-contained by the railway line to the east, the houses of Habbieauld Road to the west, and Standalane Cottage to the north-east. The northern boundary is undefined, but I note the developer requirement included in volume 2 of the plan to provide a robust and defensible settlement edge here through appropriate planting. Subject to such planting being carried out, I consider that housing development here would have a relatively good landscape fit.

18. Direct access to the site from Habbieauld Road appears straightforward, though I note that Habbieauld Road itself contains a single-track pinch point where it passes under the railway line between the site and the village centre. That said, there are alternative vehicular routes to the site, so I do not expect this factor represents an absolute constraint. The site is around 800 metres walk from the village centre, so I find it to be consistent with the concepts of local living and 20-minute neighbourhoods promoted by NPF4. I discuss the wider suitability of Kilmaurs to accommodate additional housing above but note here that developers will be required by Policy INF4 to mitigate any otherwise unacceptable impacts on infrastructure or services.

19. The site appeared to be in active agricultural use at the time of my site inspection, and I saw no evidence of any particular recreational or open space function. It certainly did not appear to be promoted as such. As with any grass field on an urban edge, I expect some use is made of the land for dog-walking etc. but I note that the ongoing presence of a large playing field to the west of Habbieauld Road should continue to provide a good open space resource for local residents. Any direct amenity effects on neighbouring housing (such as overlooking) can be assessed at the detailed stage but are not relevant to the determination of the principle of development at this location.

20. Overall I am satisfied that site KM-H2 represents a logical urban extension with limited impacts. I conclude that no modification is required.

#### **KM-H3: Irvine Road**

21. The development of this site was underway and substantially complete at the time of my site inspection. No modification is therefore required.

#### **KM-H4: Standalane**

22. The site consists of a level field, which was under a hay crop at the time of my site inspection. It is relatively well-contained by the existing urban edge, the railway line and

by Standalane road with its associated roadside hedge. However, development here would undeniably extend the urban area further north into what is now open countryside. It would also impose a more urban character on Standalane Road, which currently has a pleasant rural feel. Overall, I do not find that the site to be widely visible from within the village.

23. To mitigate the impacts that could be created, I note the inclusion of developer requirements in volume 2 of the plan to enhance the existing landscape framework within the site and undertake an effective settlement edge treatment through appropriate planting. It is also stated that development should have a positive interface with Standalane through an active frontage and should be cohesive with existing development to the south. I accept that, with these mitigations in place, the landscape and urban design impacts of the proposal should be acceptable in principle.

24. The site is within 800 metres walk of the primary school and the main shopping area of the village. I therefore consider it to be consistent with the concepts of local living and 20-minute neighbourhoods promoted by NPF4.

25. In terms of access, I assume this would be taken from Standalane Road. This would presumably require some widening up to the site access point, but this appears feasible. I found Standalane's junction with the A735 Townhead to be of a good standard, and apparently capable of handling the additional traffic.

26. The outlook from the rear of some properties on Four Acres Drive would be affected by any development, but the planning system does not exist to protect private views. Direct amenity impacts, such as overlooking, appear eminently manageable at the detailed planning stage through the application of appropriate set-back distances etc.. Any noise impacts arising from rail traffic could similarly be addressed at the detailed stage.

27. No right of way or particular recreational use of the land was evident to me on my site visit. As with any greenfield land on an urban edge it may be that this land is used from time to time for activities such as dog-walking, but it does not seem to me that the site has any special status in this regard. If a right of way is present, it should be possible to maintain this through any development.

28. It is to be expected that any development would be equipped with modern sustainable drainage systems and so avoid creating any additional flood risk elsewhere in the village. That said, I note that the developer requirements for the site recommend early contact with SEPA and the Ayrshire Roads Alliance flooding officer.

29. I discuss the general requirement for additional housing in Kilmaurs, and the village as a whole's suitability to accommodate more development above. But I note here that any developer would be required to mitigate the impact of their development on local infrastructure under the terms of NPF4 Policy 18 and of Policy INF4 of the proposed plan. This could include the payment of financial contributions towards the improvement of infrastructure, facilities or service where this was found necessary to make the development acceptable in planning terms.

30. For the above reasons, I conclude that site KM-H4 is appropriate for housing



development and that no modification is required.

31. The site promoter suggests the site should be shown in Schedule 3 of the plan as having a short term timescale, rather than long term. My understanding of these timescales is that they are purely indicative, and do not constrain potential applicants from pursuing their proposals earlier than anticipated. On this basis, and in the absence of definitive evidence that the site will come forward in the short term, I conclude that no modification is required.

32. The site promoter also seeks the replacement of the requirement for a transport assessment with a requirement for a transport statement. While the site promoter has produced a Summary Technical Due Diligence Report, which includes a section on access and transport, I am not clear as to the level of detailed transport appraisal work that has been done for this site. The glossary to the plan indicates that a transport statement is a more basic document than a full transport assessment, but I do not have the evidence before me to be fully satisfied that this is all that would be required. I note the council's statement above that it may be prepared to be flexible on this matter, and this basis I conclude that no modification is required.

33. It is not part of my role to critique the council's housing site assessment methodology (HSAM), or to recommend any changes to that document. I base my conclusions on this and other sites on my own assessment.

#### **KM-X1 – Suggested new site at Fenwick Road**

34. The site consists of a small paddock associated with an existing dwelling. It is relatively well-contained in landscape terms but would extend the built-up area rather than in-filling to any existing development. It is not clear to me why development here would create a more successful edge to the village than the current situation. Rather, it would serve to intensify development in this peripheral location.

35. The site accesses directly onto the B751 close to a bend, so visibility standards may be difficult to achieve. There is also no footpath alongside the B751 at this point, so residents would be forced to walk in the road to access the facilities of Kilmaurs.

36. In any event, the site is too small to consider as a separate housing allocation: only a single house is proposed. Nowhere else in the plan are single house plots shown as separate allocations, and in my experience it is uncommon for sites for fewer than four homes to be shown separately in LDPs.

37. I have considered whether a more appropriate course of action might be to simply extend the settlement boundary to encompass this land. But given my findings above regarding the extension of the built-up area and potential access issues, I conclude that the plan should remain unchanged.

#### **KM-X4 – Suggested new site at Crosshouse Road**

38. This narrow site is located between the railway line and the B751 to the south of Kilmaurs. According to the council it has previously been developed, but it has now extensively naturalised and presents an attractive landscape setting to this approach to

the village.

39. The existing settlement boundary deviates around the land, and the site appears to be a natural infill plot when viewed on a plan. However, when seen on site, the existing settlement boundary appears much more logical, following as it does the strong defensible boundaries of the B751 and the railway line. In practice, development here would be quite isolated from the rest of the village.

40. I have already concluded that there is no need to allocate additional housing land in Kilmaurs, and this small site would, in any event, make only a very small contribution to the housing land supply.

41. For these reasons, I conclude that the settlement boundary in this location remains appropriate, and that this site should not be identified for housing development. No modification is required.

#### **KM-X7 – Suggested new site at Crofthead Farm**

42. This site consists of an area of farmland around Crofthead Farm. Development here would represent a significant extension of the village into open countryside, the site being bounded by open farmland on three sides, and by housing allocation KM-H3 to the north. Access is claimed to be possible through site KM-H3, which is currently being developed by the promoter of site KM-X7, but Crofthead Road would not be suitable without significant upgrading.

43. At Issue 17 I found that the housing land allocation made in the plan was more than sufficient to meet the minimum all tenure housing land requirement, and that there was no need to allocate additional sites. Within Kilmaurs itself, the plan makes a reasonable allocation of four sites for development in the plan period with capacity for 266 homes. Above, I have found these sites to be effective and/ or suitable for allocation in the plan. On this basis, there is no requirement to identify additional land, such as site KM-X7, for allocation in this plan.

44. I also note that this site was not proposed at the 'call for sites' stage or included in the main issues report. It has not therefore been subject to the same full assessment and public consultation as other proposals. It is difficult to introduce new allocations at the examination stage in these circumstances.

45. For these reasons, I conclude that this site should not be allocated for housing at this time, and no modification to the plan is required.

46. For the future, it seems to me that the site could form an effective housing site in technical terms and is located close enough to the services and facilities of the village centre to be consistent with the concepts of local living and 20-minute neighbourhoods promoted by NPF4. It is likely that it is the potential landscape impact of development is the main constraining factor to development here.

#### **Reporter's recommendations:**

No modifications.

Issue 36	Kilmarnock North	
Development plan reference:	Residential allocations KK-H1, KK-H5, KK-H12, KK-F2(H), KK-X5, KK-X8, KK-X9, KK-X10, KK-X37, KK-X36, KK-M5, KK-B6(O) & KK-B6(S)	Reporter: Stephen Hall
Body or person(s) submitting a representation raising the issue (including reference number):		
J Brown (3) B Thomson (55) Scott Rooney (56) NatureScot (157) Martin Aitken (202) Hallam Land Management Ltd (206) Nicola Matthews (214) Manvir Aujla (216) Elaine Wilson (217) Deborah Rye (223) John Costello (225) Diane Black (226) Jillian McMath (227) Emma Rodgers (232) Jordan Rodgers (233) William Arnott (235)	Kilmaurs Community Council (236) Martin O'Neil (237) Steven Brown (243) Ross Macdonald (244) Adrian Nitu (245) Lucia Petrescu (246) Fiona Thomson (263) Lorna Farquhar (264) Tina Aitken (265) Lynsay McEwen (286) Yvonne Murchie (292) Philip C. Smith (Commercials) Ltd and Strathearn Estates Ltd (294) Linzi McHarrie (296)	
Provision of the development plan to which the issue relates:	The inclusion and non-inclusion of opportunity sites in Kilmarnock (North): KK-H1, KK-H5, KK-H12, KK-F2(H), KK-X5, KK-X8, KK-X9, KK-X10, KK-X36, KK-X37, KK-M5, KK-B6(O) & KK-B6(S)	
Planning authority's summary of the representation(s):		
<b>KK-H1 - Altonhill</b>  <u>245</u> considers that the indicative dwelling capacity of site KK-H1 should be reduced from 800 units to 100 units to retain open green space.  <u>56, 202, 214, 216, 213, 223, 225, 227, 232, 233, 235, 243, 245, 246, 263, 264 &amp; 265</u> , express concern that development and/or occupation by residents of site KK-H1 would produce air, noise, other environmental pollution or otherwise affect the health and wellbeing of people in the Altonhill area.  <u>56, 202, 214, 216, 223, 224, 225, 226, 227, 232, 233, 235, 237, 243, 245, 246, 263, 264 &amp; 265</u> consider that development of site KK-H1 would adversely affect or reduce green infrastructure, open space, natural habitats and biodiversity. In this respect, they also note that the P-LDP2 Spatial Strategy defines a Rural Protection Area (RPA) in the Kilmarnock & Loudoun Sub-Housing Market Area.		

56, 202, 223, 225, 227, 232, 233, 235, 237, 243, 245, 246, 263, 264 & 265 consider that development of site KK-H1 would lead to an increase in traffic, require road upgrades or enlargement adjacent to existing properties and otherwise adversely affect road safety. Certain respondents consider that the development of KK-H1 in addition to nearby ongoing residential development would compound any issues.

202, 214, 223, 225, 227, 232, 233, 235, 243 & 265 state that development KK-H1 would result in flooding and/or that the site is identified by SEPA as being subject to a high risk of surface water flooding, noting the western part of the site is affected to the greatest degree. They consider that development of the site would be contrary to the SEPA Ayrshire Local Plan District Draft Flood Risk (LPD12) Management Plan 2022-2028 Objective 202 which states that an effort should be made to 'avoid inappropriate development that increases flood risk in Kilmarnock'. In addition, (214) highlights issues relating to drainage, which some residents have had to address and that new development could exacerbate these issues.

202, 223, 225, 227, 232, 233, 235, 243, 245, 246, 263, 264 & 265 state that development of site KK-H1 would emit carbon emissions and result in increased household waste, which would be contrary to the East Ayrshire Climate Change Strategy.

56, 214, 217, 226, 237 & 243 consider that development of KK-H1 would add to pressure on local schools, shops, medical, dental and other facilities/amenities, note that commercial units at Western Road were never developed or that school rolls in the area are already reaching capacity, as noted in the local press. Certain respondents consider that development of KK-H1 in addition to nearby ongoing residential development would compound any issues.

216 & 237 consider that additional homes are not required in the area and that overdevelopment would occur.

56 & 223 express concern that any new residential development would result in overshadowing and reduce the circulation of air.

226 notes the total indicative housing capacity in the Kilmarnock & Loudoun Sub-Housing Market Area as presented in P-LDP2 and the split between 'Short Term' and 'Medium Term' sites, and asks for a definition of those timescales. They note that the indicative capacity for KK-H1, KK-H4 and KK-H12 as presented in P-LDP2 each differs and that they consider that a fewer number of dwellings than is indicated for KK-H1 would likely be developed onsite.

226 suggests that any development at KK-H1 should have its own access route and be separated from the existing development at John Walker Drive by a green corridor to support biodiversity and provide green open spaces for residents in the existing and new development. In this, they deem that separating the two areas would also avoid construction pollution and construction traffic affecting adjacent residents.

236 & 244 consider that the development of KK-H1 would result in the coalescence of Kilmarnock and Kilmaurs. They suggest that a landscape boundary or enhancements to the existing green network be introduced to prevent visual and landscape impact on

Kilmaurs and the status of the Kilmaurs Conservation Area.

245, 246, 263 & 264 note that the site performed poorly against the criteria of the LDP2 Environmental Report.

245, 246, 263 & 264 note that the site requirements for KK-H1 as detailed on p.61 of Vol 2 of P-LDP2 require the retention of the network of hedgerows within the site. However, they consider that the wording does not make such a requirement compulsory and that the retention of the hedgerows would not be sufficient to counterbalance the negative consequences of any development of the site. They consider the wording unclear in that it does not state whether the hedgerows in question are those already part of the Altonhill estate, these not being open to inclusion or consideration for the newly proposed development.

245, 246, 263 & 264 consider that a requirement detailed on p.61 of Vol 2 of P-LDP2 for the developer to introduce active travel links to connect site KK-H1 to other areas would negatively affect or cause disturbance to people residing in the adjacent existing Altonhill estate.

245, 246, 263 & 264 considers that a requirement detailed on p.61 of Vol 2 of P-LDP2 for the developer to provide educational, community and retail facilities within KK-H1 would add to an increase in population in the area in a negative manner and would create traffic issues for residents in the area.

245, 246, 263 & 264 states that site KK-H1 should be retained as a green space dedicated to wild life, to be used for recreation purposes and educational purposes for already existing schools in the area.

### **KK-H5 - Glasgow Road (E)**

286 & 296 express concern that any new residential development would result in overlooking, overshadowing or otherwise reduce privacy. They also consider that development of site KK-H5 would produce noise and other environmental pollution or otherwise result in disruption.

286 & 296 considers that development of site KK-H5 would lead to an increase in traffic and that road infrastructure in the area is insufficient to accommodate further development.

286, 292 & 296 state that the area of green space in the north of Kilmarnock is gradually reducing or limited in size and/or that development of site KK-H5 would adversely affect natural habitats and biodiversity.

### **KK-H12 – Northcraigs**

#### **Extension to the extent of KK-H12 to the South East (206)**

206 considers that KK-H12 should be increased in size to include an area of white land to the south east. This is illustrated as KK-X40 in Map: Issue 36 - Site southeast of KK-H12, Kilmarnock - KK-X40. It is noted that the area of land to the southeast of KK-H12

is identified as white land in PLDP2 yet falls within the red line boundary of planning application ref. 22/0005/AMCPPP. They request that it is included within the proposed allocation KK-H12.

#### Extension to the extent of KK-H12 to the west (206)

It is proposed that land within Buntonhill Farm (see site KK-X36 on Map: Issue 36 – Buntonhill Farm (Extension to KK-H12) , Kilmarnock - KK-X36), which lies outside the settlement boundary of Kilmarnock as presented in PLDP2, is included within site KK-H12. They note that a master planning exercise that they have undertaken demonstrates around a third of the western part of KK-H12 as presented in PLDP2 would not be developable. They consider that development would not be possible in the area in question due to the presence of a gas main which runs southwest to northeast, and the resultant alignment of a spine road that would be required to access this site and any future development to the south west (i.e. KK-F2(H)).

With respect to the aforementioned spine road, they note that it would form a continuation of Southcraig Avenue and would link with future housing development on the north-west and west of Kilmarnock through future housing growth area KK-F2(H) and the northern part of proposed allocation KK-H1, connecting onto Kilmaurs Road (A735). They consider that such provision would accord with an aspiration of Ayrshire Roads Alliance for the provision of a relief road. In this, they maintain that the road would be delivered to ‘core road’ standards and that it is already partially completed. They note that the road would turn towards the south-west from site KK-H12 as presented in PLDP2, but that road geometry precludes a satisfactory alignment within the balance of KK-H12 as presented in PLDP2 because of the narrowness of the site from west to east, combined with the existing central location of the gas main and its wayleave.

The gas main, they state, creates a no-build constraint above the main itself and within a wayleave of 20m either side of the pipe, resulting in a linear undevelopable >40m area within the centre of the site from north to south. They maintain that crossing the gas main, although possible, would be technically problematic, as it must cross the gas main at 90 degrees thereby reducing flexibility in geometry and junction spacing, and increasing road construction costs. Furthermore, they note that the route of the road within future housing growth area KK-F2(H) and proposed housing allocation KK-H1 also requires it to cross the gas main twice due to the position of Grassmillside farm, which is not included within the future housing growth area.

With these factors taken into account, they recommend that to provide a sufficient area for the road alignment, that additional land as illustrated on their plans (See supporting document RD90) should be included within KK-H12 to create an extended allocated residential opportunity site.

**Note:** There are further details and appraisals within representation 206 that set out why they consider site KK-H12 as presented in PLDP2 should be extended to the southeast and west should it be allocated in LDP2 (See supporting documents RD84, RD85, RD87 and RD90).



### Site KK-H12 Developer Requirements (157)

157 states that the developer requirements should mirror those of other allocated sites along the settlement edge. They recommend the following wording: “The Council will require the northern and western boundaries of the site to be planted with trees to provide a soft urban edge to the developments concerned, for screening and amenity purposes and to ensure sensitive integration of the housing areas with adjacent areas of countryside”.

157 also recommend that provision of active travel links is included in the developer requirements, particularly where links can be made to the wider path network including the Kilmarnock Infinity Loop, Core Paths and EA Cycle Routes. They recommend that development should incorporate multifunctional green and blue infrastructure, in accordance with Policy OS1, that delivers positive effects for biodiversity through enhancement of habitats and nature networks. They consider that adding these elements to the developer requirements for the site would embed the mitigation measures identified in the SEA Environmental Report. They note that careful consideration should also be given to lighting, to reduce light pollution impacts.

### **KK-F2(H) - Land at Grassmillside (Alt)**

#### Objection to the extent of KK-F2(H) (206)

206 considers that there are limited opportunities for the expansion of Kilmarnock due to the spatial constraints presented by the A77, A71, the River Irvine valley and proximity to Kilmaurs and Crosshouse to the west. In this respect, they consider that the area of Buntonhill Farm in northwest Kilmarnock provides an area of potential expansion without the risk of coalescence with other settlements. They consider that the B751 the road connecting the B751 to the A735 Kilmaurs Road to the north provides a future potential defensible settlement boundary which would avoid narrowing the gap between Kilmarnock and Kilmaurs to any greater degree than is proposed between allocation KK-H1 at Altonhill and Kilmaurs.

To support expansion in northwest Kilmarnock, they consider that the Plan should include an expansion westwards of KK-F2(H) to include the area for the aforementioned spine road.

**Note:** There are further details and appraisals within representation 206 that set out why they consider site KK-F2(H) as presented in PLDP2 should be extended to the northwest (See supporting documents RD88 and RD90).

#### Objection to the inclusion of KK-F2(H) (294)

294 objects to the identification in PLDP2 of KK-F2(H) as a Future Housing Growth Area and considers that KK-X8 would constitute a more appropriate Future Housing Growth Area to be identified in LDP2 because it scored higher against the criteria of the Housing Site Appraisal Methodology (HSAM).

### **Allocation of an additional Future Housing Growth Area (206)**

206 requests the inclusion in LDP2 of a third Future Housing Growth Area in Kilmarnock, in the Buntonhill Farm area (map: Issue 36 – Buntonhill Farm (FGA), Kilmarnock - KK-X37). 206 maintain that doing so would provide developer confidence in the master planning of north-west and west Kilmarnock in order to enable decisions to be taken, which would avoid creating constraints in future, particularly with regard to infrastructure provision and road design.

**Note:** There are further details and appraisals within representation 206 that set out why a third Future Housing Growth Area should be identified at Buntonhill Farm (See supporting documents RD88).

### **KK-X5 - Land at Northcraig Reservoir**

55 requests that site KK-X5, which is not proposed for allocation in PLDP2, be allocated as a housing site in LDP2. They propose a mixed-use allocation using a masterplan approach, with an indicative residential capacity of 80 units, noting that the site is 1.5km from existing shops and 650m from an existing bus stop. They consider that development would commence in 2025 and complete within six to ten years. They state that the site is subject to low to medium surface-water flood risk but no fluvial flood risk and that use of SuDS could address any issues arising. They note that SEPA has confirmed the site is not subject to contamination and that a coal mining risk assessment undertaken has concluded that there is no risk. They consider that utilities could be introduced as required.

They consider that development of the site would bring about long-term benefits for the area and would address current infrastructure deficiencies. In this regard, they note or indicate an intention to construct a 10m wide roadway on the B751 and junction improvements to address safety and traffic management concerns, and improve links between the north of Kilmarnock and other settlements.

They proposed to introduce multifunctional green networks, planting and landscaping, to integrate with the adjacent previously developed Northcraig Reservoir (KK-X8) and the provision of active travel networks. They note that NatureScot in their submission to the Main Issues Report consultation recommended a masterplan approach and intend to accord with this suggestion.

They note that on 25/08/2020 a party expressed interest in acquiring the site for development subject to planning and other consents, with a stated commitment to apply for planning consent within six months of the site's identification as a residential opportunity site in LDP2.

**Note:** There are further details and appraisals within representation 55 that set out why they consider site KK-X5 should be allocated in LDP2 (See supporting document RD7).

### **KK-X8 - Northcraig Reservoir**

294 asks for KK-X8, a 10.3ha site with an approximate capacity of 200 units, to be identified as Future Housing Growth Area in LDP2. They describe the former reservoir

as being bounded around its perimeter by a bund of approximately 3m to 4m in height that previously retained water. They note that the site is currently vacant, with long grass and vegetation and that allocated sites for residential and business development lie to the west and east respectively. They note that there is an existing landscape buffer at the north of the site, which could provide a long-term defensible settlement boundary to prevent coalescence with surrounding settlements.

They state that the site is accessed via two separate roads, each 5.5m wide. One was completed by the developer of KK-H12. It connects with the small red square shaped area on a supporting document (See RD127). An additional road that will connect to the southwest of KK-X8 is being constructed by the developer of KK-H12. They state that each road includes mains services and the owner of site KK-X8 benefits from servitude rights of access and egress over the roads (which the developer of KK-H12 is obliged to procure as adopted). The owner of site KK-X8 also benefits from servitude rights to connect into and use gas, water, electricity and drainage services within KK-H12, subject to securing requisite consents and, if necessary, are entitled to upgrade and boost the infrastructure therein for the purposes of developing KK-X8.

They note that according to the East Ayrshire Housing Land Audit 2020 development of 600 dwellings within the adjacent KK-H12 will take place in the years up to 2035, averaging at 34 units per annum. In this respect, they consider that KK-X8 would constitute a logical Future Housing Growth Area once development at KK-H12 has completed. They consider no significant constraints would hinder future development of the site, that it offers good accessibility to the A77 and that any residential development can be accommodated on the local road network. They maintain that housing development in the area would also be capable of benefiting from the public transport and cycling accessibility improvements delivered as part of the emerging development to the south.

They make a number of comments with respect to the findings of the HSAM. They concur with the statement in the HSAM that a vehicular connection could be made to KK-H12. With respect to the comment in the HSAM that KK-X8 is more isolated from the rest of Kilmarnock than a number of other proposed sites, whilst they acknowledge that the site is currently isolated, they maintain that the site is less than 500m from the proposed neighbourhood centre at KK-M6. In this respect, they contend that the completion of KK-H12 would permit development within KK-X8 to connect with those services.

With respect to a comment by NatureScot that the site has naturalised to a significant degree since the reservoir ceased to be in operation and their support for suggestions that it should be designated as a Local Nature Reserve (LNR), 294 maintains that they are not aware of any such proposals and have received no associated correspondence from NatureScot. In terms of comments in the HSAM pertaining to surface water flooding, whilst they acknowledge that the site was inundated in December 2021, the issue stemmed from construction activities at KK-H12 and that it has now been resolved. They maintain that the site is not significantly constrained in terms of surface water flooding, and is largely dry, with only slight ponding following periods of heavy rain.

With regard to the statement in the HSAM that alternative sites in north and west

Kilmarnock are preferable to KK-X8, 294 notes that KK-F2(H) and KK-H1 each scored lower than KK-X8 against the criteria of the HSAM and that they consider it unclear why KK-X8 was not selected on that basis.

They note that the HSAM for KK-F2(H) identifies a number of significant constraints on the site, including significant adverse landscape and visual impacts and potential coalescence of Kilmarnock and Kilmaurs. The HSAM concludes that “it is...not considered appropriate to allocate the site in LDP2’. In this regard, they object to the identification of KK-F2(H) as a Future Housing Growth Area in PLDP2, and contend that the HSAM indicates that KK-X8 would be a more appropriate future housing site. They consider that a statement made in a Council document that future growth of Kilmarnock should take place in a westerly or north-westerly direction accords with their ambition that KK-X8 should be identified as a Future Housing Growth Area in LDP2

**Note:** There are further details and appraisals within representation 294 that set out why they consider the site should be identified as a Future Housing Growth Area in LDP2 (See supporting documents RD127 & RD128).

#### **KK-B6(O) - Northcraig/Rowallan**

##### Re-allocation of part of the site as a miscellaneous opportunity (206)

206 considers that part of site KK-B6(O) should be removed from the business and industrial allocation and re-allocated as a miscellaneous opportunity site, led by a masterplan and containing a range of uses, including residential, employment and open space. A proposed masterplan is included as supporting information (RD91). The land which it is proposed be removed from KK-B6(O) is identified as KK-X9 on Map: Issue 36 – Northcraigs, Kilmarnock - KK-X9.

The allocation as a miscellaneous opportunity site, master planned with around 130 dwellings and an element of business use would enable KK-M6 to be positioned as a hub for adjacent existing and planned residential development and existing and proposed employment land/business park to the east.

The proposal would respond to existing surrounding land uses, would have a simple street hierarchy creating a well-connected site and would offer an attractive live and work community in northwest Kilmarnock.

**Note:** There are further details and appraisals within representation 206 that set out why they consider an additional miscellaneous opportunity site should be allocated in LDP2 (See supporting documents RD 83 and RD91).

#### **KK-B6(S) – Rowallan Business Park**

##### Re-allocation of part of the site for Class 1 and Class 3

206 requests that part of the site allocated as KK-B6(S) be removed from the business and industrial allocation and allocated for Class 1 and Class 3 use. The area in question is identified as site KK-X10 on Map: Issue 36 – Part of KK-B6, Rowallan

Industrial Estate, Kilmarnock - KK-X10. The site has not been developed during successive local plans, despite benefiting from servicing.

A report commissioned by 206 (supporting document RD152) concludes that of 430ha of employment land in East Ayrshire that approximately 12ha of employment land is currently for sale, corresponding to 6 years of availability. The development of employment land amounts to a fraction of the allocation supply, therefore there is an overprovision of employment land in East Ayrshire and that associated take-up and development rates are low. The demand for employment land in East Ayrshire will remain broadly at existing modest levels for the medium to long term. The site, which must compete for development with more attractive locations elsewhere in the central Scotland, presents a negative first impression of the Rowallan Business Park when accessing the site from Glasgow Road.

The removal of the site from KK-B6(S) would not have a negative impact upon East Ayrshire's employment land supply. The allocation of the site for Class 1 and/or Class 3 development to serve existing businesses within the Rowallan Business Park and attract passing trade would make the Rowallan Business Park more attractive for further investment.

**Note:** There are further details and appraisals within representation 206 that set out why they propose the change to site KK-B6(S) (See supporting document RD82).

#### **KK-B6(O) (Northcraig/Rowallan) and KK-B6(S) (Rowallan Business Park)**

##### Objection to both KK-B6(O) and KK-B6(S) (3)

3 objects to the Business and industrial allocations KK-B6(O) and KK-B6(S) on the following grounds:

- Proximity to family housing estate, which continues to grow
- Impact on wildlife conservation
- Increase in noise levels and traffic volumes on insufficient road infrastructure will impact on peace, tranquillity and quality of life.

#### **KK-M5: Western Road (Area Centre)**

106 recommends that co-location comments be included in the developer requirements.

#### **Issues Raised In Relation to Non Planning Related Matters**

223 state that development at KK-H1 could result in loss of views from properties.

214, 223, 296 state that development at KK-H1 or KK-H5 could have negative impacts on property values in the area.

214 wishes to be compensated should flooding of their garden occur.

216 asks for their Council Tax bill to be reduced if more houses are developed.

245, 246, 263, 264 consider that development at KK-H1 would adversely affect the mental health of adjacent residents.

245, 246, 263, 264 note that site KK-H1 is not owned by the Council.

56 states that they were informed that site KK-H1 fell within the green belt.

#### **Modifications sought by those submitting representations:**

##### **KK-H1 – Altonhill**

56, 202, 214, 216, 217, 213, 223, 224, 225, 226, 227, 232, 233, 235, 237, 243, 245, 246, 263, 264 & 265 object to the proposed allocation of the site and wish for it not to be allocated in LDP2.

Should KK-H1 be allocated, 226 suggests that any development at KK-H1 should have its own access route and be separated from the existing development at John Walker Drive by a green corridor to support biodiversity and provide green open spaces for residents in the existing and new development. In this, they deem that separating the two areas would also avoid construction pollution and construction traffic affecting adjacent residents.

Should KK-H1 be allocated, 245 & 246 considers that the indicative dwelling capacity of the site should be reduced to 100 units to retain open green space.

245 & 246 state that site KK-H1 should be retained as a green space dedicated to wildlife, to be used for recreation purposes and educational purposes for already existing schools in the area.

206 requests that additional land should be included within KK-H12 to create an extended allocated residential opportunity site and address stated constraints pertaining to the presence of a gas main.

236 & 244 suggest that a landscape boundary or enhancements to the existing green network be introduced to prevent visual and landscape impact on Kilmaurs and the status of the Kilmaurs Conservation Area.

##### **KK-H5 - Glasgow Road (E)**

286, 292 & 296 object to the proposed allocation of the site and wish for it not to be allocated in LDP2.

##### **KK-H12 - Northcraigs**

206 considers that KK-H12 should be increased in size to include two additional areas of land, one to the southeast and another to the west.



### **KK-F2(H) - Land at Grassmillside (Alt)**

206 seeks the designation of an area at Buntonhill Farm in northwest Kilmarnock as a third Future Housing Growth Area in Kilmarnock, in the Buntonhill Farm area which 206 refers to this area as KK-F3(H) (identified as site KK-X37 on Map: Issue 36 – Buntonhill Farm (FGA), Kilmarnock - KK-X37).

206 seeks an expansion westwards of KK-F2(H) to include an area set out in their submitted documents (RD90), so as to allow for the development of a relief road to connect KK-H1 and KK-H12.

### **KK-X5 - Land at Northcraig Reservoir**

55 requests that site KK-X5, which is not proposed for allocation in PLDP2, be allocated as a housing site in LDP2.

### **KK-X8 - Northcraig Reservoir**

294 asks for KK-X8, a 10.3ha site with an approximate capacity of 200 units, to be identified as Future Housing Growth Area in LDP2.

### **Re-allocation of part of site KK-B6(O) – Rowallan/Northcraigs**

206 seeks the allocation of the westernmost part of KK-B6(O) (identified on Issue 36 – Northcraigs, Kilmarnock - KK-X9) as a miscellaneous opportunity site.

### **Re-allocation of part of site KK-B6(S) - Rowallan Industrial Estate**

206 requests the re-allocation as part of site KK-B6(S) as a site to support Class 1 and Class 3 development in LDP2.

### **KK-B6(O) (Northcraig/Rowallan) and KK-B6(S) (Rowallan Business Park)**

3 seeks the removal of the above sites from the Plan.

### **KK-M5: Western Road (Area Centre)**

106 recommends the following comment be added to the site developer requirements: “Adjacent to Western Road Civic Amenity Site (WML/W/0020050). Normal operations have the potential to cause nuisance through odour and noise beyond the site boundary.”

### **Summary of responses (including reasons) by planning authority:**

#### **KK-H1 - Altonhill**

#### **Indicative Capacity of Site (245 & 226)**

It should be noted that a capacity of 800 units was selected in order to accord with the

figure presented by the party that had submitted the site and to ensure that a sufficient landscape buffer could be provided in the westernmost part of the site to avoid coalescence with Kilmaurs and any adverse impact on the Woodhill Burn. Indeed, these requirements are set out within the KK-H1 site description on p.61 of Vol 2 of PLDP2. This capacity corresponds to a relatively low 14 dwellings per hectare. It is not considered appropriate or necessary to reduce the indicative capacity of the site to 100 units, as no evidence has been suggested in the representation that might indicate why such a number is preferable, nor has it been suggested within which part of the site those units would be developed. In principle, the Council is firmly of the view that higher densities are required for a more sustainable approach to development. This is backed up by the NPF 4 (CD4) which, notes at page 48 as a policy outcome, 'Development is directed to the right locations, urban density is increased and unsustainable growth is prevented.'

With regard to any discrepancy between the indicative capacity of KK-H1, KK-H4 and KK-H12, it should be noted that each site proposed for allocation in P-LDP2 is subject to its own unique characteristics. Development within KK-H4 must not take place within the land south of Bonnyton Road. Development at KK-H12 is anticipated to be significantly underway by the time LDP2 is adopted, thereby reducing the capacity from 600 units as set out in the 2017 LDP (CD48) to 485 units as presented in P-LDP2 (approx. 115 units are expected to have been built).

Environmental Pollution (56, 202, 214, 216, 213, 223, 225, 227, 232, 233, 235, 243, 245, 246, 263, 264 & 265)

In terms of any noise, air, or other environmental pollution would arise from development of KK-H1, it is considered that the design of the development and planning conditions attached to the development of the site could avoid or mitigate such issues arising.

Biodiversity & Rural Protection Area (56, 202, 214, 216, 223, 224, 225, 226, 227, 232, 233, 235, 237, 243, 245, 246, 263, 264 & 265)

In terms of any impact of development on natural features and biodiversity within the area encompassed by KK-H1, it should be noted that the Environmental Report (CD47d) states the following. That 'appropriate screening and planting should be utilised throughout the development in order to mitigate its impact on landscape character', and that 'setting and existing trees and hedgerows should be retained'. These requirements are considered sufficient to mitigate any loss of undeveloped green space that would take place upon development and, because the site is currently entirely in use for agricultural purposes, could improve biodiversity within the site rather than detract from it. It should be noted that the developer of the site must comply with the requirements set out in the site description in order for any proposal to comply with the Plan. Regarding the location of the hedgerows in question and the applicability of the site requirements, the wording applies to those hedgerows that are located within the area of the site itself.

With respect to those comments that state development should not take place at KK-H1 because the site lies within the Rural Protection Area (RPA), it should be noted that the proposed amendment of the Kilmarnock settlement boundary would encompass

KK-H1. The site would therefore not fall within the RPA and the provisions of P-LDP2 Policy RH1: Housing in the Rural Protection Area would consequently not apply.

Traffic, Transport & Active Travel (56, 202, 223, 225, 227, 232, 233, 235, 237, 243, 245, 246, 263, 264 & 265)

With regard to the issue of traffic generation, road safety and necessary infrastructure, the Council would advise the Reporter that the Ayrshire Roads Alliance has not raised any objections. A Transport Appraisal commissioned by the Council to support LDP2 (see CD19) does not express any particular concerns with respect to site KK-H1; any recommended mitigation set out within the Appraisal applies to locations elsewhere in East Ayrshire. The site information for KK-H1 in p.33 of Vol 2 of the P-LDP stipulates that a Transport Assessment must be submitted as part of any detailed proposals for the site, to identify and address the transport effects of the development.

As stated in the site requirements, the developer of the site must ensure that appropriate active travel links are provided and must introduce a network of paths to encourage sustainable travel within the site, with connections to the wider network including to Kilmarnock and Kilmaurs. In this respect, it is considered that the introduction of travel networks within and linking to KK-H1 would complement rather than detract from existing adjacent development. Any nuisance that might arise would substantially be offset by the positive outcomes associated with active travel.

Flood Risk (202, 214, 223, 225, 227, 232, 233, 235, 243 & 265)

With regard to comments that the site is at considerable risk of flooding and that development therein would be contrary to SEPA policy, it should be noted that SEPA has offered no objection to the allocation of the site. Whilst it is acknowledged that parts of the site are at risk of surface water flooding, it is anticipated that any such risks could be addressed through the application and development processes, indeed, the site requirements for KK-H1 require the developer to contact the relevant flood management authorities to discuss their proposals. Any development of the site must comply with P-LDP2 Policy CR1: Flood Risk Management.

Carbon Emissions (202, 223, 225, 227, 232, 233, 235, 243, 245, 246, 263, 264 & 265)

Regarding the release of carbon emissions from any development of KK-H1, it should be noted that the Environmental Report (CD47d) requires any developer of KK-H1 to 'use zero carbon materials and construction methods and...embrace renewable energy methods to minimise carbon emissions'. Furthermore, the development of the site must comply with Policy SS1: Climate Change, Policy RE3: Low and Zero Carbon Buildings, Policy WM1: Waste Management in New Development and, if applicable, Policy CR2: Emissions to ensure that climate impact is minimised. Whilst some carbon emissions are an inevitable consequence of new development and the need to provide land to meet housing needs, the Council is of the view that there are no particular issues specific to this site that would result in an unacceptable impact in this respect.

Education, Medical & Retail Facilities (56, 214, 217, 226, 237, 243, 245, 246, 263 & 264)

The Council is of the opinion that the development of KK-H1 would not detrimentally affect education and medical facilities in the area. The Council would point out that the Council's Education department had raised no objection in the preparation of the Local Development Plan and inclusion of this site. With respect to education and medical facilities, it should be noted that such provision is required according to the provisions of P-LDP2 Policy INF4: Developer Contributions. INF4 will be implemented where a development will place additional demands on infrastructure, services, facilities and amenities that would necessitate new facilities or exacerbate deficiencies in existing provision.

In addition to INF4, PROP10 on p.67 of Vol 2 of P-LDP2 also applies to KK-H1 and states that the developer of the site may be required to provide educational, community and retail facilities within the site. With regard to pressure on shopping facilities, whilst such provision is a commercial concern, it should be noted that, in addition to the requirements of PROP10, KK-M5 lies within reasonable walking distance of KK-H1. The development of a neighbourhood centre comprising of footfall generating uses in accordance with Table 4 of Volume 1 of P-LDP2 would be acceptable within that site; it is understood that this is the area mentioned in certain representations. Therefore, the Council considers that there would not be any adverse pressures on educational, medical or retail provision within Kilmarnock because of this development.

Regarding those comments that PROP10 would serve to increase in population in the area and lead to additional traffic, it should be highlighted that the requirement is a response to development pressure rather than a cause of it. Any facilities would be developed to serve the development of sites KK-H1 and KK-H4, indeed as mentioned, the principles concerning developer contributions legally mandate that such provision can only take place when it would demonstrably arise from planned development.

#### Overdevelopment (216 & 237)

With regard to those comments that maintain that additional homes are not required in the area and that overdevelopment would occur, it is considered that KK-H1 constitutes an important and effective site within which development could help to meet the Council's housing land requirements. The suggestion that site KK-H1 should continue to constitute farmland would mitigate against such an achievement. As mentioned, the capacity of the site has been restricted to account for the proximity of Kilmaurs and a watercourse within the site and it is considered that any issues of overdevelopment that might arise would be addressed as part of the development management process. In general terms, the Council has taken a proportionate approach to the land allocation, with sites, of differing sizes and characteristics allocated throughout the authority area. Whilst it is recognised that large sites have been identified in Kilmarnock this is considered a sustainable approach to development, focussing on the largest settlement where there is a concentration of services, good transport links and sites that are effective and deliverable within the Plan period.

#### Proximity of Dwellings (56 & 223)

Concerns pertaining to overshadowing and the circulation of air could be addressed as part of the design of the development and planning conditions would be attached to the development to avoid or mitigate such issues arising.

### Access & Separation of Development (266)

With regard to the request that development within KK-H1 should have its own access route, it is considered likely that access would be gained from the A735 at a location capable of accommodating a large junction. In this respect, it is considered unlikely that the existing access for Altonhill farm would be suitable. Regarding the request that the site should be separated from the existing adjacent development at John Walker Drive by a green corridor, it is noted that the landscape strip to the rear of Cardhu Crescent does not fall within the KK-H1 site boundary; a green corridor therefore already exists to some extent. The presence of a gas main in the area is, irrespective of these requests, likely to preclude any development of road infrastructure and housing in the area immediately adjacent to homes at Cardhu Crescent.

### Coalescence (236 & 244)

It should be noted that no coalescence between Kilmarnock and Kilmaurs would occur, as each settlement boundary does not meet the other. Indeed, there is a gap of around 500m between each settlement boundary as proposed in P-LDP2 and the distance between KK-H1 and the Kilmaurs Conservation Area is around 700m. Nevertheless, to address any concerns about coalescence, a requirement for the developer of the site to create a 'robust and defensible boundary along the western boundary of the site to prevent coalescence with Kilmaurs' has been included in the KK-H1 site description.

### Environmental Report (245, 246, 263 & 264)

It is recognised that any new site is likely to have some negative environmental impacts associated with its development. Because of this, the aforementioned Strategic Environmental Assessment (SEA) was carried out and the outcome of this used in conjunction with the HSAM, to come to a decision on which sites were suitable for development. The findings of the SEA for KK-H1 and associated mitigation measures are included within an Environmental Report (CD47d, Appendix 11.17), which was published alongside the Proposed Local Development Plan. The SEA on its own does not tell us whether a site is suitable for development or not. However, the assessments can help to highlight possible mitigation measures, which could be carried out on particular sites in order to make what might otherwise be considered unsuitable development acceptable. Where negative impacts are identified, the Environmental Report highlights mitigation to reduce those impacts. This mitigation must, upon approval of a planning application be undertaken by any party that wishes to develop the site.

With the above factors taken into consideration, the Council is of the view that site KK-H1 should be allocated for residential development in LDP2.

### **KK-H5 - Glasgow Road (E)**

### Traffic, Transport & Active Travel (286 & 296)

With regard to the issue of traffic generation, road safety and necessary infrastructure, the Council would advise the Reporter that the Ayrshire Roads Alliance has not raised any objections. A Transport Appraisal commissioned by the Council to support PLDP2

(see CD19) does not express any particular concerns with respect to site KK-H5; any recommended mitigation set out within the Appraisal applies to locations elsewhere in East Ayrshire. The site information for KK-H5 in p.33 of Vol 2 of the PLDP2 stipulates that a Transport Assessment should be submitted as part of any detailed proposals for the site, to identify and address the transport effects of the development.

#### Impact on Biodiversity (286, 292 & 296)

With regard to comments pertaining to impact of development on natural features and biodiversity within the area encompassed by KK-H5, it should be noted that the Environmental Report (CD47d) states the following. That 'native woodland should be retained within the development' and that 'an appropriate level of planting and screening should be incorporated in to the design and layout of the proposal'. These requirements are considered sufficient to mitigate any loss of undeveloped green space that would take place upon development and, because the site is currently entirely in use for agricultural purposes, could improve biodiversity within the site rather than detract from it. It should be noted that developer of the site must comply with the requirements set out in the site description in order for any proposal to comply with the Plan.

#### Proximity of Dwellings (286 & 296)

Concerns pertaining to overshadowing are detailed matters that would be dealt with at planning application stage.

With the above factors taken into consideration, the Council is of the view that site KK-H5 should be allocated for residential development in LDP2.

### **KK-H12 - Northcraigs**

#### Additional Area to Southeast (206)

With regard to the request to include an area of white land to the southeast of KK-H12 within the site boundary, the Council is of the view that doing so is not necessary given that the land in question already falls within the scope of the planning application mentioned in the representation. Its inclusion within the site boundary would make no material difference to the development of KK-H12 because it lies within the Kilmarnock settlement boundary. The site in principle is already considered an acceptable location for residential development.

#### Additional Area to West (Buntonhill) (206)

Regarding the request for the allocation of additional land to extend site KK-H12 to the west, the Council is of the view that the following factors must be taken into consideration. Principally and of key importance, it is considered that sufficient land has been proposed for allocation in P-LDP2 to meet the Council's MATHLR during the Plan period. It is anticipated that the development of site KK-H12 will continue beyond the end of the LDP2 period and the inclusion of additional land, irrespective of any constraints placed upon the westernmost part of site KK-H12 as presented in P-LDP2, is not deemed necessary.



The site in question has not been subject to assessment and discussion within the planning service or with EAC internal consultees in order to arrive at a view as to its suitability for allocation. The representation includes no details to support its identification in terms of determination of environmental constraints or other factors that might establish its suitability, other than the presence of a gas pipeline to the southeast. It would not therefore be prudent to allocate land without first having undertaken, for example, a strategic environmental assessment of the site's appropriateness for development. The site as proposed appears to have no defined boundaries and does not correspond to any natural features or field pattern, instead having been drawn solely to correspond to the geometry of the suggested spine road.

Whilst the Council acknowledges the constraint placed upon development at KK-H12 by the gas pipeline, any solution or cost incurred is nevertheless a matter for the developer of the site; any reduction in unit numbers that might arise could be accommodated comfortably within the aforementioned 50% buffer above the MATHLR. Essentially, a reduction in unit numbers on this site would not undermine the ability of the Plan to deliver the MATHLR. It should be noted however that the site layout presented in application ref. 22/0005/AMCPPP does not preclude the development of a spine road leading to the west or south-west. The developer could therefore undertake construction of dwellings in the westernmost part of the site, leaving an appropriate buffer for the gas pipeline and then during a later Plan period continue development westwards, should the land in question at that time be considered appropriate for allocation. At this point in time, the Council is of the view that allocation of the site is not necessary or appropriate.

#### Site Specific Requirements (157)

The Council would have no objection if the Reporter were agreeable to the inclusion of the wording suggested by 157 in the site requirements for KK-H12. As outlined within the developer requirements (general) for KK-H12 (Volume 2, page 64), any subsequent application will need to address the mitigation measures as outlined within the Strategic Environmental Assessment for the site, this is also a requirement of Policy SS2 criterion (vii). The Council propose to integrate these comments into the "Mitigating Impacts on Natural Features" section of the SEA site proforma for KK-H12. This would adequately address the points raised by (157). However, should the Reporter be minded to amend the developer requirements for KK-H12 to integrate the comments provided by 157, then the Council suggest the following wording: **"Screening and planting, by way of trees and hedging, should be provided along the northern and western boundaries of the site to reduce the visual impact of the development on the surrounding landscape"**.

The further recommended additions to the developer requirements made by 157 in relation to connectivity and path linkages, multifunctional green and blue infrastructure, positive impacts for biodiversity and light pollution are not considered to be necessary by the Council as these elements are covered by existing PLDP2 policy requirements, such as DES1, OS1, NE4, T3 and NE12. As such, the Council do not consider it necessary to integrate these into the developer requirements for the site.

With the above factors taken into consideration, the Council is of the view that KK-H12 should be allocated for residential development in LDP2 but that there is no current

requirement or demonstrated justification to extend site to the west of KK-H12 to include the area detailed in representation (206).

### **KK-F2(H) - Land at Grassmillside (Alt)**

#### Proposed Extension to KK-F2(H) (206)

Whilst it is proposed that an extension to KK-F2(H) should be made to permit the development of a spine or peripheral road through the area to the north and west of Grassmillside farm and to avoid the presence of a gas pipeline within the site as presented in P-LDP2, a number of factors mitigate against such an amendment. It is noted that the extent of the expansion required has not been mapped by the respondent, however, the Council assume it should relate to the site of preferred relief road route as set out in supporting information (RD90).

The entire Grassmillside site was initially presented to the Council during the Call for Sites process, encompassing the area as suggested in the representation. However, NatureScot in their response to consultation (CD56) for the Interim Environmental Report stated that 'development...would result in significant adverse landscape and visual impacts'. They also stated that it would 'present a significant extension to the urban character of Kilmarnock and would set an unfortunate precedent for future development, eroding the rural setting and potentially leading to the coalescence of Kilmarnock and Kilmaurs'. The Council concurs with these statements.

For these reasons, it was decided to limit the area exclusively to the south and east of that site, to the eastward slopes that face towards Kilmarnock. A significant proportion of this area was identified in the 2005 Entec landscape study (CD53a) as being an area of medium to low landscape sensitivity to development and upon visiting the site, it was apparent that development could be accommodated within that area and could link well to existing development to the east. The area as proposed in the representation does not benefit from these landscape considerations.

Whilst the development of a peripheral route to link KK-H1 and KK-H12 to the strategic road network has some merit, there are far wider considerations for new peripheral route that have not been fully explored, including the climate change implications associated with any new road building. It is the Council's view that designation of the entire site could have significant adverse landscape repercussions. As stated with relation to the proposed extension of site KK-H12 adjacent, there is no particular requirement to provide such a link during the LDP2 period.

Access to site KK-F2(H) is not dependent upon the creation of a spine road as promoted. The existence of a roundabout with only two arms at Southcraig Drive and Flotta Place adjacent to site KK-F2(H) indicates that a connection could be made in that area in such a way as to avoid the issue of crossing the gas pipeline multiple times. It is therefore evident that provision has been made to allow future expansion to take place from existing development.

The non-identification of the entire site as a Future Housing Growth Area would not impinge on any effort on the part of the developer of site KK-H12 or KK-H1 to make allowance for future connections. Indeed, mapping provided in the representation

suggests that allowance for the creation of a spine road in future could be made during the development of sites KK-H1 and KK-H12, unconstrained by any future decisions on the north west expansion of Kilmarnock. In this respect, it is noted that a roundabout adjacent to KK-H1 could at a later date allow for a through route from Southcraig Drive from the A735 via site KK-H1 and KK-F2(H), subject to the approval of Ayrshire Roads Alliance. Mapping from representation (206) indicates that such a solution already forms part of their thinking in terms of the master planning of the area.

In closing, it is considered that the presence of the gas pipeline and any issues that it may cause with regard to the limitation of the developable area of the sites in question is a commercial matter for the developer of the sites and is not sufficient to outweigh any adverse landscape impact precipitated by the westward expansion of Kilmarnock.

It is considered for the aforementioned reasons that there is no reason to amend the area of KK-F2(H) in LDP2 to encompass land to the west of Grassmillside farm.

#### Objection to Identification of KK-F2(H) (294)

For the reasons set out above, it is considered that site KK-F2(H) comprises a reasonable and logical direction of residential growth for Kilmarnock, if limited to the slopes east of Grassmillside farm. With regard to scoring against the HSAM, the methodology was not the sole or final determinant in the selection of sites and a range of other factors and weighting was applied using officer judgement and consultation with local elected members and internal consultees to arrive at a view on allocation. For the reasons given in this response with relation to site KK-X8, it is considered appropriate to continue to support the identification of KK-F2(H) as a Future Housing Growth Area in LDP2.

With the above factors taken into consideration, the Council is of the view that site KK-H1 should be identified as a Future Housing Growth Area in LDP2.

#### **Additional Future Housing Growth Area at Buntonhill Farm (KK-X37)**

##### Proposed Future Housing Growth Area at Buntonhill (206)

With regard to the suggestion that an area of approximately 62ha at Buntonhill Farm should be identified as a Future Housing Growth Area in LDP2, whilst the Council concurs that a west and northwest direction constitutes a broadly appropriate area of growth for Kilmarnock, it is considered that the area as suggested is inappropriate in terms of location and scale.

The site could accommodate more than 1700 dwellings at an average density, which would constitute a substantial future housing land supply. However, in a similar fashion to the extension of KK-H12 as presented by the same party, the area as suggested has not been subject to any assessment to determine its suitability with regard to establishment or constraints, sustainability or other factors. The Entec landscape study (CD53a-c) identifies the area as one not suitable for development that may be required to preserve the setting of settlements and prevent coalescence.

The representation considers the B751 to the A735 Kilmaurs Road to comprise a future

potential defensible settlement boundary for Kilmarnock, which would avoid narrowing the gap between Kilmarnock and Kilmaurs. However, the road lies immediately to the south of the Rowallan Castle estate, residential development at which is ongoing. Development within the area as suggested could in time result in an extension of the Kilmarnock settlement boundary to encompass the Rowallan Castle estate, significantly altering perceptions of the settlement, and could encourage further growth northwards. The impact of such growth on the Rowallan Estate, an inventory Garden and Designed Landscape which contains a number of listed structures, would need to be fully assessed so as not to undermine the setting and integrity of the Estate, these include: Rowallan Castle (A listed), Gardeners Cottage (B listed), Stables (B listed), Summerhouse and Walled Garden (B listed) and Lodge (B listed).

Two Future Housing Growth Areas have been identified in Kilmarnock in P-LDP2, KK-F1(H) and KK-F2(H), each of which is considered to comprise a logical extension of the settlement that would avoid considerable landscape impacts, and which would be spatially limited in terms of further projection of the settlement envelope away from current boundaries. Combined within them there is scope to accommodate more than 1100 dwellings. These two areas are considered sufficient for the purposes of LDP2 and are broadly similar in scale and capacity to those presented in the 2017 LDP.

Whilst it is understood that future growth areas comprise land that indicate an approximate direction of potential development in the following LDP, it is considered for the aforementioned reasons that KK-X37 should not be identified as a Future Housing Growth Area in LDP2.

### **KK-X5 - Land at Northcraig Reservoir**

#### Proposed Housing Opportunity KK-X5 (55)

It states in the representation that KK-X5 lies 1.5km from existing shops and 650m from an existing bus stop. The HSAM arrived at a similar conclusion, noting that walking distances to the nearest primary school, secondary school, medical centre and town centre would be considerable in length. The site is isolated from other residential areas in Kilmarnock and lies north of the existing Rowallan Industrial Estate. In this regard, whilst the development of nearby sites would improve active travel connections somewhat and the site benefits from certain access arrangements, provision of links would rely on the allocation of KK-X8 adjacent, allocation of which is not considered appropriate, and would regardless continue to result in considerable walking distances to services.

Whilst a mix of uses is proposed in the representation, it is not specified what these might be and, in the context of several other miscellaneous and other allocations in northwest Kilmarnock, the addition of a further site with a mix of uses is not considered necessary. A start date of 2025 in terms of the development of the site has been suggested, however, it has not been established why that might be the case beyond assertions that a party has expressed interest in acquiring the site and that a planning application would be made. The total indicative residential capacity in the Kilmarnock & Loudoun Sub-Housing Market Area includes a surplus of around 50% above the 3330 MATHLR, more than half of which is allocated in the north and west Kilmarnock area. There is therefore no requirement to allocate additional land in the area during the

LDP2 period.

Regarding the use of a masterplan approach to development, it is noted that it is small site and volume 2 of the P-LDP only requires a masterplan on large, strategic sites. This is considered a proportionate and fair approach. The area in question is identified in the Entec landscape study (CD53a-c) as an area not suitable for development that may be required to preserve the setting of settlements and prevent coalescence. Further development in the direction of Fenwick & Laigh Fenwick is therefore not considered desirable.

With the above factors taken into consideration, the Council is of the view that site KK-X5 should be not allocated for residential development in LDP2.

### **KK-X8 - Northcraig Reservoir**

#### Proposed Future Housing Growth Area (206)

The Council is of the view that Proposed Future Growth Area (KK-F2(H)) represents a sufficient and logical indication of the direction of travel for future residential development in north Kilmarnock. Whilst the suitability of KK-F2(H) is addressed in a separate sub-issue, it should be noted that its allocation is supported by the Council. Even with the presence of a gas pipeline at KK-F2(H) the total indicative capacity of site KK-X8 is considerably lower; the former site is approximately 32ha in area compared to 10.2ha at the latter.

A second future growth area in North Kilmarnock would be inappropriate, given the scale of residential development set out in this Plan and that has taken place over previous Plan periods in this part of the town.

Whilst it is acknowledged that site KK-X8 is accessible relative to several other sites proposed in the area, that it is not subject to substantial flood risk, that it could be serviced and that its location is broadly in line with the long-term growth of Kilmarnock, the site in question is nevertheless not considered necessary or suitable for identification.

NatureScot in their representation to the Interim Environmental Assessment consultation stated that they 'understand that (the site in question was) being considered as a potential Local Nature Reserve (LNR)'. They continued that they endorsed this proposal, 'as it would be easily accessible to the local community, providing opportunities for engagement with natural heritage in an urban setting'.

Whilst the Council is not proposing the site be designated as a Local Nature Reserve at this time, and indeed work the Council has commissioned to review potential and existing Local Nature Conservation Sites does not recommend identifying this area as an LNCS, the site is valuable locally for recreation and as an accessible part of the countryside on the edge of the town. This is demonstrated by the rights of way that circle the site and the Core Paths that provide access to it.

Given the naturalisation of the site, its value for local recreation and the identification of another Future Housing Growth Area that is both larger and lacks the constraints, the



Council is of the view that site KK-X8 should not be identified as a Future Housing Growth Area in LDP2.

### **Re-allocation of part of Site KK-B6(O) (206)**

The respondent (206) suggests part of site KK-B6(O) be re-allocated as a miscellaneous opportunity site, identified as site KK-X9 on Map: Issue 36 – Northcraigs, Kilmarnock - KK-X9.

The Council maintains its view that the business and industrial allocation at KK-B6(O) should be retained in its entirety, as it is considered one of the most marketable and strategic in the Local Authority area. Indeed, the Rowallan Business Park scored sixth highest of all 2017 LDP allocated business/industrial sites in the ‘Review of Business & Industrial Land Supply in East Ayrshire’ (CD50).

The Review furthermore states that ‘Rowallan Business Park has good, established business activity on site with strong access provision to the east of the site where development has taken place’ and that it is a ‘well-located site with already established employment use and good access to the M77 motorway’. It continues that, despite pressure for the site to be developed for other purposes as sought in this representation, the business park ‘has been noted to have ongoing interest and is well placed for business and industrial use and should remain allocated within the LDP’. The Council concurs with this statement and considers that it applies to the entirety of KK-B6(O) as detailed in P-LDP2.

### **Housing Element & Composition of Development (206)**

With regard to the request for the Miscellaneous Opportunity Site as proposed in the representation to include an element of housing, it should be noted that it is anticipated that development within KK-H12 will continue throughout the LDP2 period and that further allocation adjacent during the Plan period is therefore not necessary. The total indicative residential capacity in the Kilmarnock & Loudoun Sub-Housing Market Area includes a surplus of around 50% above the 3330 MATHLR, more than half of which is allocated in the north and west Kilmarnock area. There is therefore no requirement to provide land to allow for development of additional dwellings during the Plan period

Whilst the representation includes as supporting information a site plan detailing the approximate location of each element or use proposed, the site description for a Miscellaneous Opportunity Site is more open and includes only a list of acceptable uses. There is therefore the potential that should housing form an element, that the site, which is around 8.6ha in area, could ultimately accommodate more than 200 homes. Comments in the representation pertaining to how the site might be developed could only be confirmed once planning consent had been granted.

With the above factors taken into consideration, the Council is of the view that the site should not be allocated as a miscellaneous opportunity site in LDP2, and should continue to fall within the KK-B6(O) allocation.



### **Re-allocation of part of site KK-B6 - Plot A, Rowallan Industrial Estate**

The respondent (206) suggests part of site KK-B6(O) be re-allocated as a miscellaneous opportunity site, identified as site KK-X10 on Map: Issue 36 – Site southeast of KK-H12, Kilmarnock - KK-X40.

#### Marketability of Site (206)

Whilst development has not yet occurred at the site, it is evident from reference to servicing that the site is capable of being developed; any lack of activity is therefore a consequence of matters outwith the scope of the LDP. That there is competition between such sites throughout central Scotland is considered typical of market forces. The Council maintains its view that the business and industrial allocation at the site in question should be retained, as it is considered one of the most marketable and strategic in the Local Authority area. In this respect, comments pertaining to the overall availability of employment land in East Ayrshire as a whole are not considered applicable, as the Rowallan Business Park scored sixth highest of all 2017 LDP allocated business/industrial sites in the 'Review of Business & Industrial Land Supply in East Ayrshire' (CD50). It is also worth noting that LDP2 removes a large business and industrial site at the north of Kilmarnock that was allocated within the 2017 LDP (LDP1 site 152B), and indeed preceding Local Plans. The removal of the site was a reflection of the lack of any activity over a number of years and the aim of ensuring the Plan is realistic in its approach to site allocation. It is important, for investment and business growth, to maintain opportunities for business and industrial development at the north of Kilmarnock, a highly accessible and established location, therefore the retention of site KK-B6(O) and (S) is critical to this.

#### Gateway to Rowallan Business Park (206)

Although the site is small in scale, it nevertheless performs an important function in terms of presenting a gateway to the business park within which high quality business or industrial development could take place and, contrary to assertions made in the representation, it is not considered particularly unsightly at present, nor does it present a negative impression to passers-by. The site boundary is well maintained, with hedgerows and mature trees and it is considered unlikely that Class 1 or 3 commercial development therein would improve its appearance.

#### Development of Site for Commercial Uses (206)

The PLDP2 Spatial Strategy pursues a managed approach to the development of Class 1 and Class 3 outside of defined town centres and, where not in those centres, primarily directs such uses to certain miscellaneous opportunity sites. Whilst the representation proposes that the site could constitute one such area, it should be noted that a miscellaneous opportunity site has already been proposed in PLDP2 some 150m to the west, at KK-M6, within which development of footfall generating uses would be acceptable. The addition of another miscellaneous opportunity is not considered necessary or appropriate and it is considered that doing so could reduce the commercial attractiveness of KK-M6.

The assertion that the development of Class 1 or 3 uses would make the Rowallan Business Park more attractive for further investment is not supported by any evidence.

Indeed, these uses are considered ancillary to those sites that feature Class 4, 5 and 6 uses. This relationship is in fact supported by PLDP2 Policy IND3: Alternative Use of Business and Industrial Land or Premises, which states the following. That ‘within business/industrial-allocated sites that other employment generating uses may be supported where they complement and do not dilute the primary business and industrial function of the area. Any such proposal will only be supported where it can be demonstrated that there are alternative land or premises available within the settlement or area to meet future business and industrial requirements, and the proposal complies with all other relevant LDP policies, including town centre policies’.

With the above factors taken into consideration, the Council is of the view that the site should not be allocated as a miscellaneous opportunity site in LDP2, and should continue to fall within the KK-B6(S) allocation.

### **De-allocation of KK-B6(O) and KK-B6(S)**

#### History rationale behind the allocations (3)

In response to the objection to the inclusion of the business and industrial allocations, the Council would firstly point out that the site allocations are largely brought forward from the current 2017 LDP1. The key difference being that to improve transparency and aid monitoring, the site has been split into being partly safeguarded and partly an opportunity.

Rowallan Business Park is a well-established location for business and industrial use within Kilmarnock. It is well located for the road network and scored well in the Employment Land Review (CD50), commissioned to inform LDP2. The site, both the safeguarded and opportunity element, form an important part of East Ayrshire’s overall land allocation for business and industrial use. It is large, well located and largely free from constraints. In addition, LDP2 has removed a significant strategic industrial site at North Kilmarnock (152B in the LDP 2017), therefore the retention of KK-B6 is considered crucially important in terms of retaining and increasing employment opportunities in this part of Kilmarnock. Should this site allocation be removed, the implication would be that North Kilmarnock would essentially be a location for residential development only. The removal of an opportunity for employment uses does not correlate well to the aim of both the Plan and NPF4 of achieving 20 minute neighbourhoods and encouraging local living.

#### Compatibility with residential use (3)

In terms of the particular concerns of 3, the Council does not believe that at this location the allocation of business and industrial use is incompatible with neighbouring residential use. KK-H12 is already partly built out with the development currently underway on site. The part of the site that has been developed is the part that directly backs onto KK-B6, which at the time of approving the residential development was allocated for business and industrial use. There has therefore long been an acceptance that the two uses can be developed at this location. The Council continues to maintain this position.

### Wildlife value (3)

Whilst much of the land is greenfield, the Council is not aware that it is of any particular merit in terms of wildlife and biodiversity. Whilst the development of greenfield site will always have some impacts on these matters, the Council is of the view that the release of some greenfield land is essential to meet the aims and visions of the Plan, particularly in terms of economic recovery in this instance. However, the policies of the Plan, particularly NE4 will ensure that biodiversity protection and enhancement is fully considered at application stage.

### Traffic implications (3)

No issues have been raised with this site through the LDP2 transport appraisal or through consultation with ARA. In addition, any future business and industrial development will at the planning application stage, be required to undertake a Transport Assessment as per the developer requirement set out in Volume 2. This will ensure that detailed access arrangements are sufficient before development can proceed.

### **Co-location in KK-M5 (106)**

At the time of preparing the Proposed LDP2, SEPA had flagged up, as per their representation, 21 sites which had co-locational issues. The co-locational issues raised in their representation relate to sites which had not been assessed for this at the time of writing and, for this reason, these were not included in the developer requirements as was the case in the sites that had been assessed at MIR stage. Any such co-locational concern will likely be dealt with at the planning application stage. However, in the interest of clarity, the Council has changed the text in the SEA to reflect the recommendation. The mitigation and enhancement measures contained within Environmental Report are required to be met through policy SS2 (vii). This is considered to be sufficient to implement the recommendation, and as such the Council is of the view that no change to the wording of the Plan is required.

### **Reporter's conclusions:**

#### **KK-H1 - Altonhill**

1. This site represents a major strategic release of currently agricultural land to the north-west of Kilmarnock. The Glasgow – Kilmarnock railway line forms the south-western boundary (beyond which is further allocated housing land at site KK-H4 Fardalehill). From here the land rises to a high point at Altonhill Farm. The eastern and northern boundaries are formed by the Woodhill Burn, which sits in a shallow valley and forms a physical barrier, but is not a particularly strong landscape feature.
2. Development would be very prominent in the landscape, in particular as viewed from the A735 on the approach from Kilmaurs. The edge of Kilmarnock is currently barely visible from here due to intervening high land, so the effect will be to significantly extend the urban visual influence of the town across a large area of countryside to the south and east of Kilmaurs. To an extent it may be possible to mitigate these impacts through structural planting within and on the edge of the development. I note that the

developer requirements for the site in volume 2 of the plan include a site-wide landscape framework. But due to the rising nature of the land, I consider that some significant impact would be inevitable.

3. Development would also narrow the landscape gap between Kilmarnock and Kilmaurs. However, due to intervening woodland there would not be any intervisibility between the two settlements. The developer requirements for the site demand a robust and defensible western boundary specifically to prevent coalescence. I consider that there would be a reduced sense of separation, particularly as experienced by travellers on the A735, but that the proposal could not be said to result in coalescence between Kilmarnock and Kilmaurs.

4. The land is currently in agricultural use, and contains a number of trees, hedgerows and minor watercourses. In common with most greenfield sites, I therefore expect it will be of some value to wildlife. However, it is not covered by any biodiversity designation, and there are no adverse comments from specialist wildlife agencies or groups. The developer requirements for the site include retaining and enhancing the existing network of hedges, and incorporating an appropriate buffer to the Woodhill Burn. Overall I expect any biodiversity impacts could be adequately mitigated.

5. Similarly, as for any area of open land on an urban edge I expect there may be some informal use of these fields by local people for dog-walking etc.. However, the land does not appear to be promoted for public access, and I saw no particular evidence of any intensity of use. I conclude that the land does not appear to have any special value as accessible open space.

6. It is proposed that vehicular access would be taken off a new roundabout on the A735 to the west of the existing urban edge. On the face of it, this would seem to be workable. Any new development would be likely to increase traffic levels to a degree, but the A735 into Kilmarnock is designed to a high standard and appears capable of accommodating high traffic levels. I also note the policies in the plan to encourage active travel, and that the developer requirements for this site include active travel links to adjoining development, and a network of paths with connections to the wider network. These measures may serve to reduce motorised journeys to an extent.

7. In terms of public transport, parts of the site are distant from the existing bus services at Kilmaurs Road. However, the site promoter's argument that the scale of the proposed development would be sufficient to justify the creation or diversion of bus routes into the site appears plausible.

8. The site is relatively distant from the centre of Kilmarnock. Some local shops and other community facilities exist within the established residential area to the east, but even these would be quite distant from parts of site KK-H1 and are not obviously easily accessible. The council points to site KK-M5 at Western Road, which is allocated for a neighbourhood centre, but this site is also quite distant from site KK-H1. Therefore, I consider that it would be essential for new community facilities to be provided as part of the north-western expansion of the town, in order for this development to be properly compliant with the concepts of local living and 20-minute neighbourhoods as promoted in National Planning Framework 4 (NPF4).

9. In this regard I note the references in the developer requirements for proposal PROP10 (which includes this site) to securing the provision of educational, community and retail facilities through conditions or planning obligations. On the assumption that these facilities would be delivered, I am therefore content to conclude that the development does have the potential to conform with the 20-minute neighbourhood concept. Such new provision would also help relieve any pressures on existing facilities, which is a concern expressed in some representations.

10. Turning to some of the other particular matters raised in representations, I concluded at Issue 17 that the council's generous approach to housing land supply is to be supported. This land represents one of the council's key sites for delivering that land supply. I understand the phasing for the various stated in schedule 3 of the plan is only indicative. The reality must be that a site of this scale would be built-out over many years. It is the case that the site is shown within the rural protection area in the existing adopted LDP, but it is also shown as a future housing growth area. The council is at liberty to revisit the extent of the rural protection area in a review of the plan in the light of the pressures and opportunities applying at the time.

11. The council acknowledges that parts of the site are at risk from surface water flooding. However, given the sloping nature of the land it seems very unlikely that this is a significant constraint over much of the site. I expect any flood risk could be adequately mitigated either by avoiding development in the affected areas or through appropriate design measures. I also note the absence of any adverse representation from SEPA.

12. Any local amenity concerns, such as the potential for overshadowing or noise should be capable of resolution at the detailed design stage through the application of the appropriate generic policies of the plan.

13. Overall, I am reasonably satisfied that site KK-H1 could form an effective housing site and an attractive residential environment. My biggest concern is over its potential landscape effects, particularly the impact of development on the higher land around Altonhill Farm. Hence, I sought the views of the council and the site promoter on the implications of removing the area north of the minor road to Knockentiber from the allocation.

14. Having read the responses to my request, I am now satisfied that the case for releasing all this land is sound. In particular, I acknowledge that the broad and long-term desire to expand Kilmarnock in a north-westerly direction was established in the existing adopted plan where this general area was shown as a future housing growth area. I also appreciate the strategic spatial logic to expanding in this direction given the constraining features of dual carriageways and the River Irvine to the east and south of the town.

15. There are also advantages in making a larger strategic release at this time, as opposed to smaller incremental allocations in successive plans. This provides a better opportunity to plan in a co-ordinated way for the provision of the necessary community facilities such as schools and shops that are required to make this a successful 20-minute neighbourhood. It could also provide the critical mass to make such facilities, and also the provision of public transport services, viable. Finally, the removal of the

northern part of the allocation would leave the residual area somewhat isolated without an obvious vehicular access point.

16. A balance requires to be struck between these advantages and the undoubted negative landscape effects of the allocation. While I doubt that all this land is necessarily required for the achievement of the plan's housing targets, I have set out above the advantages of identifying it for development at this time. I conclude that these advantages outweigh any disadvantages, and that the allocation should proceed unamended. No modification is required.

#### **KK-H5 - Glasgow Road (E)**

17. This site comprises two small grass fields located between Glasgow Road to the west and the heavily-wooded valley of the Fenwick Water to the east. Existing housing lies to the north, west and south. The site is therefore well-contained within the established urban area.

18. There are already two existing residential properties on the eastern side of Glasgow Road in this location (one apparently in use as a kennels), and site KK-H5 effectively wraps around these on three sides. Ensuring that any new development has a satisfactory relationship with these properties would clearly be an important consideration at the detailed design stage. But it seems to me that ample space exists to ensure that amenity problems such as overlooking and overshadowing can be avoided.

19. Glasgow Road itself at this point is a major thoroughfare, and I doubt that the small number of trips that would be generated by a development on this small site would have any significant effect on the functioning of this road. Precise access arrangements would need to be carefully considered given the proximity of the Southcraig roundabout to the north and a junction with a minor road to the south, but I doubt these constraints are insurmountable. I note the developer requirements for the site include the submission of a transport assessment.

20. As with any greenfield site on the urban edge, the openness of this land will be appreciated by local residents, and the land will have some value for wildlife. The developer requirements for the site given in volume 2 of the plan include retaining the existing hedges and semi-natural woodland along the eastern boundary. I consider that these provisions should serve to protect the most important natural features of the site. The land is not subject to any wildlife designation, and no professional body with a biodiversity expertise has made any adverse representation. Overall, I do not believe that this site has any special value that means it should be ruled of consideration for development.

21. In summary, I consider that this site is well-integrated into the existing urban area, and appears capable of being developed without causing significant adverse effects. No modification is required.

#### **KK-X40 – Northcraigs**

22. This land apparently already benefits from planning permission in principle for



housing development as part of the wider Northcraigs consent. At my site inspection it was apparent that the land had been levelled and cleared of all vegetation and so seemed to have been made ready for development.

23. I appreciate the representee's argument that there seems little reason not to now show this as housing land on the LDP proposals map. However, I am conscious that, despite its planning status, it could still be promoted for other purposes. It does appear that a proposal to build houses here would be likely to be found to be acceptable, given that this is 'white land' within the settlement boundary and in an established residential area. However, a positive housing allocation might prevent other potentially beneficial uses coming forward here. I am also conscious that the proposal to positively allocate this land for housing does not appear to have been consulted on through this development plan process.

24. On balance, I therefore prefer that the land remains as 'white land' for the time being. In reaching this conclusion, I am not taking a view that housing is necessarily an undesirable use for the land. No modification is required.

### **KK-H12 – Northcraigs**

25. The council is relatively supportive of NatureScot's suggestion to include additional developer requirements in relation to boundary planting in volume 2 of the plan. However, I am unclear as to the extent to which these matters may already have been agreed in the planning permissions, which I understand have already been granted for housing on (at least part of) this land. I am reluctant to introduce new requirements in these circumstances.

26. In any event, I note that Policy SS2(vii) of the proposed plan obliges developers to implement the enhancement and mitigation measures set out in the environmental report. Above, the council commits to making changes to the environmental report to reflect NatureScot's comments. In these circumstances, a change to the plan is not strictly required.

27. Others of the additional developer requirements suggested by NatureScot are already adequately covered by the generic policies of the plan, such as Policy T1 that requires developers to embrace new active travel infrastructure, and Policy OS1 which contains extensive policy relating to green and blue infrastructure. No modification is required.

### **KK-X36– Northcraigs, KK-X37 – Buntonhill, and KK-X3 – westward extension to site KK-F2(H)**

28. Hallam Land Management present ambitious and far-reaching proposals for a significant further extension of the urban area of Kilmarnock to the north-west, initially into site KK-X36 immediately to the west of KK-H12, and ultimately into a large area of existing farmland further to the north and west (KK-X37 and KK-X3). However, at Issue 17 I found that the housing land allocation made in the plan was already more than sufficient to meet the minimum all tenure housing land requirement, and that there was no need to allocate additional sites. Within Kilmarnock, the plan already proposes very large new housing land allocations, most notably at Altonhill (800 houses) and

Fardalehill West (800 houses). In these circumstances I find there is no need to identify further housing development land, in Kilmarnock or elsewhere, at this time.

29. I also note that these sites were not proposed at the 'call for sites' stage or included in the main issues report. They have not therefore been subject to the same full assessment and public consultation as other proposals. It is difficult to introduce new allocations at the examination stage in these circumstances. Paragraph 261 of the Scottish Government's Local Development Planning Guidance states that it is not expected that the reporter will recommend the addition of any site into the plan that has not previously been subject to SEA and consultation.

30. A part of the justification for the proposed extensions is to compensate for the loss of land within KK-H12 required to accommodate a gas pipeline wayleave. I accept that the presence of the pipeline may limit the developable area of KK-H12 (though presumably the land could be used as open space within the development). I also accept that there may be a cost to taking a road across the line of the pipeline. But it nevertheless appears to me from the submitted framework plan (document RD 84) that a reasonable amount of developable land remains in the western portion of site KK-H12.

31. The prospect of a link road through to Kilmaurs Road may have some long term merit but seems to me a very unlikely prospect in the short to medium term, at least in advance of the possible future allocation and development of site KK-F2(H) (currently shown only as a future growth area). The transport appraisal carried out by Atkins on behalf of the council and in consultation with Transport Scotland did not identify this scheme as being required to support the spatial strategy of the current emerging proposed plan. That said, the framework plans submitted by the representee show how the necessary connections for any possible future link road can be built in to the road layouts for sites KK-H1 and KK-H12.

32. In all these circumstances, I do not find it necessary for me to comment in any detail on the particular advantages and disadvantages of sites KK-X36, KK-X37 and KK-X3, either as potential allocations or future growth areas. The development of this land would clearly have the potential to have far-reaching effects on a host of matters including landscape character, urban form, transportation, infrastructure capacity, and the council's wider spatial strategy for developing Kilmarnock. These are considerations that cannot be fully explored in this examination, but could potentially be fed in to a future review of the plan. These sites could also be subjected to the required public consultation and environmental assessment exercises at that time. No modification is required.

#### **KK-F2(H) - Land at Grassmillside (Alt)**

33. This land consists of agricultural land to the west of Kilmarnock. It is relatively well-contained by existing housing development to the east, by a large farm complex on the western boundary, and by the allocated sites of KK-H12 and KK-H1 to the north and south. The land slopes gently towards the east (i.e. towards the urban area) so I agree with the council that development here may be less disruptive in landscape terms than certain other sites. That said, I expect parts of the western edge of any development would still be widely visible from further west without significant structural

planting along the western boundary. Access appears viable from a roundabout at the western end of Southcraig Drive, as well as potentially through site KK-H12.

34. Of the non-allocated sites proposed to the north-west of Kilmarnock, this land is closest to the town centre, and is close to certain facilities such as Onthank Primary School. Overall, and from the information before me at this time, I consider this could be an appropriate location for future housing growth, and conclude that no modification to the plan is required.

35. It is not part of my role to critique the council's housing site assessment methodology (HSAM), or to recommend any changes to that document. I base my conclusions on this and other sites on my own assessment.

#### **KK-X5 - Land at Northcraig Reservoir**

36. This site to the north of Kilmarnock appears to comprise an area of unmanaged former farmland. Mature hedges and the minor road along the north-eastern boundary would provide relatively strong boundaries, and access to the north would seem to be achievable. I am not aware of any particular constraints affecting the land. However, development here would represent an extension of the built-up area of Kilmarnock further north into open countryside at a time when there is no need to identify additional housing land.

37. Residential development here would also produce an isolated pocket of housing (especially if site KK-X8 to the south were not also allocated). Furthermore, the site is distant, in terms of safe walking routes, from the facilities and services that potential residents would require on a day-to-day basis. Therefore, development here would not currently sit well with the concepts of local living and 20-minute neighbourhoods promoted by NPF4. I agree with the council that these links could potentially improve in future, especially if site KK-X8 to the south-west were ever to be developed. However, that scenario is not in immediate prospect.

38. At Issue 17 I found that the housing land allocation made in the plan was already more than sufficient to meet the minimum all tenure housing land requirement, and that there was no need to allocate additional sites. Within Kilmarnock, the plan already proposes very large new housing land allocations, most notably at Altonhill (800 houses) and Fardalehill West (800 houses). In these circumstances I find there is no need to identify further housing development land, in Kilmarnock or elsewhere, at this time.

39. In terms of other potential uses, such as employment, I note that the Northcraig/ Rowallan business/ industry opportunity site sits immediately to the south-east and remains largely undeveloped. That land is better related to the existing urban area and to the road network that site KK-X5.

40. Overall, for the reasons stated, I do not support the allocation of this land for housing or any other development at this time, and I conclude that no modification to the plan is required.

## **KK-X8 - Northcraig Reservoir**

41. This site comprises a disused bunded reservoir, now covered in long grass. The site is well screened by the bunds themselves, and by a row of trees along the northern boundary where the site abuts open countryside. To the south-west lies a part of site KK-H12 where housing development has now taken place. Allocated business/ industry land sits to the south-west.

42. As a former reservoir, I consider the land could be said to constitute brownfield land. As such its redevelopment would gain a measure of support from NPF4, which calls on LDPs to set out opportunities for the reuse of such land. That said, the site has naturalised to an extent, and NPF4 also states that the biodiversity value of brownfield land which has naturalised should be taken into account.

43. I have no reason to doubt the representee's claims that a suitable access can be formed through the existing development land to the south-west. In terms of local living and 20-minute neighbourhoods, I note that most of the site is within an 800 metre walking distance of the neighbourhood centre proposed at site KK-M6.

44. I noted during my site inspection that informal footpaths had developed on top of the bunds around the site, and I encountered several people using these in the course of my visit. I am therefore satisfied that the site is valued by local people as an outdoor recreation resource. As with any naturalising site, the land will doubtless be of some increasing value to wildlife. However, it is not subject to any biodiversity designation, and I note the council's evidence that there are no plans to designate a local nature reserve or local nature conservation site here.

45. Given the bunded nature of the site, and its history as a reservoir, flooding may clearly be a concern. I note the site promoter's evidence on this matter, but I expect this issue would need to be investigated more thoroughly before a firm commitment to housing development here could be made.

46. The representation seeks for this land to be identified as a future growth area. I found at Issue 17 I found that the housing land allocation made in the plan was already more than sufficient to meet the minimum all tenure housing land requirement, and that there was no need to allocate additional sites. However, this is not to say that further land may not be identified for its longer term potential.

47. I find that this land does have a number of strong advantages as a potential development site. Most notably it is arguably brownfield and seems to me unlikely to revert to agricultural use. It also has strong defensible boundaries, and development would have a relatively limited landscape impact on the wider countryside. The site is within walking distance of a proposed neighbourhood centre. However, I acknowledge that the site is naturalising and appears to be valued by local people for outdoor recreation.

48. The council's main counter-argument is that there is no need to identify further future housing growth sites in Kilmarnock, given the two such sites already included in the plan and the scale of other housing allocations. As far as I am aware, there is no established methodology that can be used to determine what scale of long term

housing growth land should be included in LDPs. However, it does seem to me that the overall scale of growth that is underway and planned in north Kilmarnock is already very large. I have already found that site KK-F2(H) is an appropriate site to identify for further potential growth. In this context, I am not satisfied that a case can be made to identify yet further land in this area.

49. On this basis I conclude, on balance that it is not necessary to identify site KK-X8 as a future housing growth area at this time.

50. It is not part of my role to critique the council's housing site assessment methodology (HSAM), or to recommend any changes to that document. I base my conclusions on this and other sites on my own assessment.

#### **Re-allocation of part of Site KK-B6(O)/ KK-X9 – Northcraig/ Rowallan**

51. The suggestion is that the currently undeveloped western portion of site KK-B6(O) be reallocated as a miscellaneous opportunity site. A submitted indicative development framework shows residential development across the western part of the area. It appears to me from this and the other evidence submitted that it may be a desire to secure some residential development here that is the main driver behind this representation.

52. I recognise that this land has been allocated for business/ industrial use for some time without being developed, and that housing development could prove more economically viable at the current time. However, I found at Issue 17 that the housing land allocation made in the plan was already more than sufficient to meet the minimum all tenure housing land requirement, and that there was no need to allocate additional sites. Within Kilmarnock, the plan already proposes very large new housing land allocations, most notably at Altonhill (800 houses) and Fardalehill West (800 houses). In these circumstances I find there is no need to identify further housing development land, in Kilmarnock or elsewhere, at this time.

53. It is also important to maintain a supply of attractive and available business and employment land in order to support the local economy. NPF4 expects LDPs to allocate sufficient land for business and industry, taking into account business and industry land audits, in particular ensuring that there is a suitable range of sites that meet current market demand, location, size and quality in terms of accessibility and services.

54. In this context, the council points to the Review of Business and Industrial Land Supply in East Ayrshire report prepared by Avison Young in 2021. This finds Rowallan Business Park to be among the top-scoring sites in an employment land assessment. The site is noted as having ongoing interest, being well placed for business and industrial use, and to be a popular business location. The report recommends that the site should remain allocated within the LDP.

55. The representee has commissioned their own report from Colliers that finds there to be an over provision of employment land in East Ayrshire, and that demand will remain at modest levels for the medium and long term.

56. I find both reports to be authoritative and persuasive. However, Colliers' analysis is more focussed on the area-wide situation. It seems to me that, if there is indeed an over-supply of business land in East Ayrshire, then the best response might be to deallocate or reallocate the least attractive sites. Whereas I am satisfied from the Avison Young report that land at Rowallan is among the more popular locations. Given the economic development priorities that East Ayrshire has, I find it to be natural and worthy of support for the plan to seek to reserve the more marketable business land for that use.

57. For these reasons, I find that it is important that site KK-B6(O) at Rowallan remains as a business and industry opportunity site in the plan. I acknowledge that the submitted indicative development framework has some positive features, but many of these could equally be features of a business-led development. No modification is required.

### **Re-allocation of part of site KK-B6 - Plot A, Rowallan Industrial Estate**

58. The representation seeks the reallocation of this prominent vacant site at the entrance to Rowallan Business Park for commercial development.

59. Many of the arguments set out in relation to site KK-X9 are also relevant here. In summary, it may be that demand for business/ employment land in East Ayrshire is modest, but Rowallan is one of the best placed sites for attracting investment. I expect this site (Plot A) should be particularly attractive given its prominent location. While I can appreciate that these same attributes would make the site potentially attractive to commercial development, it is understandable that the council might wish to prioritise the potential of this land for economic development.

60. In its current state, the site is an open piece of grassland lined with managed trees and shrubs. I do not accept that the site has an untidy appearance or presents a negative first impression of the business park that needs to be improved through development as a matter of urgency.

61. Nor am I convinced that the release of this land for commercial development would necessarily improve the attractiveness of the remainder of the business park to further investment. Rather, it would dilute the business-focussed character of the Rowallan site.

62. Finally, I see no over-riding benefit in allocating this land for commercial development. Site KK-M6 exists nearby, and is intended as a neighbourhood focus for footfall-generating uses. Any commercial development at Plot A would appear to be particularly focussed on attracting car-based customers, and would have the potential to draw custom from apparently more sustainable locations such as the town centre.

63. Overall, for the reasons stated, I am satisfied that the retention of this site within the KK-B6(S) business and industry allocation is appropriate and no modification to the plan is required.



**De-allocation of KK-B6(O) and KK-B6(S)**

64. I have outlined above the importance of this land to East Ayrshire's industrial and business land supply. The allocation is also of long-standing, having been carried forward from at least the previous iteration of the LDP. It is in the interests of minimising the need to travel for some employment land to be provided in the north of Kilmarnock, and this site is already partially occupied by a range of businesses.

65. It is the case that any interface between business and residential areas needs to be managed carefully, perhaps through planning conditions or restricting consents close to housing areas to class 4 uses. However, many business and employment uses can operate successfully close to residential areas without causing significant amenity concerns.

66. I am not aware that this land has any particular importance for biodiversity interests. Traffic accesses the business park along a short section of Southcraig Avenue. It does not require to pass through any residential areas.

67. I conclude that these allocations should be retained.

**Co-location in KK-M5: Western Road (Area Centre)**

68. The council reports above that it has addressed this matter through an amendment to the environmental report. Under the provisions of Policy SS2(vii), developers are required to implement the various enhancement and mitigation measures contained in the environmental report. I therefore consider that this matter has been adequately addressed, and no modification to the plan is required.

**Reporter's recommendations:**

No modifications.

Issue 37	Kilmarnock South	
Development plan reference:	Residential allocations KK-H2 & KK-H14	Reporter: Stephen Hall
Body or person(s) submitting a representation raising the issue (including reference number):		
Mr & Mrs McIntosh (51) Alexander Frew (65) Lithgow Wilson (70) Angela Keen (75) David & Fiona McAuchtrie (134) NatureScot (157) Brian McCluskey (160)	Charles John McNulty (178) Michael McCluskey (186) Mrs Maughan (187) Margaret Ann McCluskey (194) William Law (199) William Stevenson (200) A Scott (273)	
Provision of the development plan to which the issue relates:	The inclusion of opportunity sites in Kilmarnock South (Ward 5): KK-H2 & KK-H14	
Planning authority's summary of the representation(s):		
<p><b>KK-H2 – Bridgehousehill</b></p> <p><u>157</u> recommends that provision of active travel links is included in the developer requirements, particularly to the Kilmarnock Infinity Loop, which would run along the northern edge of the site. They state that development should incorporate multifunctional green and blue infrastructure, in accordance with Policy OS1, that delivers positive effects for biodiversity through enhancement of habitats and nature networks. They consider that adding these elements to the developer requirements for the site would embed the mitigation measures identified in the SEA Environmental Report. They state that careful consideration should also be given to lighting, to reduce light pollution impacts.</p> <p><b>KK-H14 – Treesbank</b></p> <p><u>51, 70, 75, 134, 160, 178, 186, 187, 199 &amp; 200</u> state that development at KK-H14 would adversely affect vehicular movements on Loreny Drive and other roads in the area, increase air pollution and compromise safety.</p> <p><u>51, 65, 75, 134, 160, 178, 186, 194, 199, 200 &amp; 273</u> state development of site KK-H14 would adversely affect wildlife and the environment because development would destroy natural habitats and that the Council &amp; the Scottish Government consider the preservation of green spaces and the sustainability of our natural environment to be a top priority. Representations state that the site includes species protected by the Wildlife &amp; Countryside Act 1981</p> <p><u>70, 134, 190, 199 &amp; 200</u> state that development of KK-H14 would negatively affect water and wastewater infrastructure capacity, electricity and gas supplies.</p>		

51, 65, 70, 75, 134, 160, 178, 186, 187, 194, 200 & 273 state that the site is an amenity space used for people to exercise, learn about nature, forage and walk their dogs, and that development would therefore have an adverse social impact. It is noted that there are no other similar green spaces in the area and that a car or bus journey would be required to reach other spaces, some of these journeys involving dangerous road crossings.

51, 65, 134, 160, 200 & 273 state that there are former mine workings within the site, continuing to state that the site has been borehole tested and found to be unsuitable due to the presence of mine working and coal seams.

70, 75, 134, 160, 178, 199, 200 & 273 state that the area experiences problems with drainage and that the addition of homes within KK-H14 would remove natural water run-off and soak-in, which would exacerbate problems. Flooding of Loreny Drive, the Craigie Burn and Simon's Burn, Loreny Industrial Estate, Caprington Avenue and the Burnpark playing fields is highlighted. It is noted that land within KK-H14 slopes downhill and towards the existing housing and that development would lead to further water runoff and that the disruption of soil, along with the removal of plants and trees, could cause a potential for flood water to impact existing housing development in the area. They continue that movement of earth within KK-H14 has disrupted the natural water drainage system; this has resulted in the gardens of Loreny Drive residents and surrounding area being flooded.

70, 75, 134, 160, 178 & 200 state that Shortlees is classed as deprived and that development would add to pressure on local shops, services, schools, waste management and other amenities.

70, 134, 160 & 200 express concern about nuisance associated with any construction work that would take place were the site to be developed.

134, 160, 194 & 200 note that one or more applications for residential development made within KK-H14 and adjacent land have been withdrawn or rejected by the Council's planning service due to concerns about flooding and other issues, and that an appeal against the decision was submitted to the Scottish Government and subsequently withdrawn. It is stated that the landowner of the site is preparing revised plans.

134 states that KK-H14 is the natural context setting for a listed building (Dovecote, Treesbank) on the Treesbank Estate.

157 states that the site is located at the edge of the existing settlement, in an area with features such as trees and hedgerows associated with the designed landscape of Treesbank House to the south. They recommend that the developer requirements include providing a landscape framework that retains and enhances the existing trees and hedgerows of the site. They also recommend that provision of active travel links is included in the developer requirements, particularly where links can be made to the wider path network including the Kilmarnock Infinity Loop. They state that development should incorporate multifunctional green and blue infrastructure, in accordance with PLDP2 Policy OS1, that delivers positive effects for biodiversity through enhancement of habitats and nature networks. Adding these elements to the developer requirements

for the site would embed the mitigation measures identified in the SEA Environmental Report. They state that careful consideration should also be given to lighting, to reduce light pollution impacts.

160 & 178 state that development at KK-H14 would overlook and overshadow properties on Loreny Drive and the area as a whole.

194 states that KK-H14 performed poorly against the criteria of the LDP2 Environmental Report, that any mitigation mentioned would not be sufficient to offset the overwhelmingly significant negative impacts identified in the Report and that the site should not have been proposed for allocation because of those impacts. They also consider that development of KK-H14 would not be in conformity with the statement in Vol 1 of PLDP2 that 'LDP2 is proactive in the creation of successful places' as the development would entail significant negative impacts. They further state that development would be contrary to PLDP2 commitments pertaining to 'the climate emergency and effects'.

199 requests that an environmental survey be completed of the area.

#### Issues Raised In Relation to Non Planning Related Matters

Development at KK-H14 could result in loss of views from properties.

Development at KK-H14 could result in loss of property value.

Development at KK-H14 could result in residents moving away from the area.

Football fields adjacent to site KK-H14 no longer exist because of Council cutbacks.

#### **Modifications sought by those submitting representations:**

##### **KK-H2 – Bridgehousehill**

157 recommends inclusion of wording in the site description.

##### **KK-H14 – Treesbank**

51, 55, 70, 75, 134, 160, 178, 186, 187, 194, 200, 273 object to the proposed allocation of the site and seek for it not to be allocated in LDP2.

157 recommends inclusion of wording in the site description.

#### **Summary of responses (including reasons) by planning authority:**

##### **KK-H2 – Bridgehousehill**

##### Developer Requirement (157)

The respondent suggests modification of the developer requirements for site KK-H2 to

with active travel provision (linked to the Kilmarnock Infinity Loop) and multi-functional green and blue infrastructure. As outlined within the developer requirements (general) for KK-H2 in volume 2, any subsequent application will need to address the mitigation measures as outlined within the Strategic Environmental Assessment for the site, this is also a requirement of Policy SS2 criterion (vii). The Council suggest updating the “Mitigating Impacts on Natural Features” section of the SEA site proforma for KK-H12 to incorporate these comments. This should adequately address the points raised by (157).

#### **KK-H14 – Treesbank**

##### Traffic (51, 70, 75, 134, 160, 178, 186, 187, 199 & 200)

With regard to comments pertaining to traffic issues by, it should be noted that the developer of the site must, as detailed in site requirements set out on p.65 of Vol 2 of P-LDP2, undertake a Transport Assessment to determine and if necessary mitigate any impact on the road network. A Transport Appraisal (CD70) commissioned by the Council to support LDP2 does not express any particular concerns with respect to site KK-H14 or Shortlees; any recommended mitigation set out within the Appraisal applies to locations elsewhere in Kilmarnock.

##### Loss of Open Space & Impact on Natural Features (51, 65, 70, 75, 134, 160, 178, 186, 187, 194, 199, 200 & 273)

Representations state that wildlife within the site would be adversely affected by any residential development and that the site is currently used as an amenity space.

In terms of the former comment, it should be noted that the P-LDP2 Environmental Report (CD47) sets out mitigation that any developer of the site would be required to undertake to offset any impact on the natural environment. Whilst this mitigation would not preserve the site in its present condition, it would nevertheless reduce any impact incurred. Criterion vii of Policy SS2 requires that the mitigation measures outlined in the Environmental Report (CD47) be taken into account in the preparation and assessment of development proposals.

The Reporter should note that KK-H14 as presented comprises a substantial reduction in site area compared to site 317H as presented in the 2017 LDP (CD23). This change was made in order to omit those areas of site 317H that constituted ancient woodland, were subject to a Tree Preservation Order (CD71) or formed part of a Local Nature Conservation Site (ref. WD29). In this respect, an effort has been made to restrict development to a relatively unproblematic area. NatureScot has offered no objection to the allocation of the site.

The identification and mitigation of impact on any species protected by the Wildlife & Countryside Act 1981 or any other legislation, as alluded to by representation 199 and those above, would be addressed as part of the planning process to accompany any proposed development of the site. The environmental policies of P-LDP2, specifically NE4, NE6 and NE8, provide a robust framework for assessing impact on species and biodiversity.

With regard to the use of the site as an amenity space, it should be noted that whilst local residents may use site KK-H14 as an informal recreational area, no area of the site in question forms part of the defined area of Safeguarded Open Space in Kilmarnock in P-LDP2. It is noted that a review of the open space of all settlements was carried out internally to inform the P-LDP2. Similarly, the site was not identified as such in the 2017 LDP (CD23). LDP policy stipulates that the applicant would be required to provide a requisite area of publically accessible open space within the development and, in this regard, the area of recognised and safeguarded public open space in Kilmarnock would increase rather than decrease.

#### Impact on Historic Environment (134)

The site area was also amended from that of 317H so that historic environment features would be omitted from the site. In this respect, the listed building cited in representation 134 (ref. LB18512) and others within the Treesbank estate would not physically be affected. The Environmental Report (CD47) signposted on p. 65 of Vol 2 of P-LDP2 requires any developer of the site to consider the presence of nearby listed buildings and to seek the input of a conservation-accredited architect to ensure that any impact on the buildings themselves and their setting would be minimised. Planting and screening should also be utilised in order to reduce any negative impacts on historic environment features

#### Water and wastewater infrastructure (70, 134, 190, 199, 200)

Detailed matters relating to impact on water and wastewater infrastructure as set out by representations would be dealt with at planning application stage, however, it should be noted that Scottish Water has raised no objection to the proposed allocation of the site. Provision of electricity and gas supplies are matters to be addressed by any developer of the site.

#### Undermining (51, 65, 134, 160, 200 & 273)

Concern is expressed about undermining issues that may affect the site and/or adjacent land. The site lies within the Coal Authority Development High Risk Area. This is highlighted within the Environmental Report (CD47) and hooked in to the Plan via policy SS2 and the developer requirements associated with the KK-H4 site allocation within volume 2. It would be addressed as part of any detailed planning application. Coal Authority mapping does not depict any mine entries within the site.

#### Flooding (70, 75, 134, 160, 178, 199, 200 & 273)

With regard to flooding, a small area of the north-westernmost part of the site is subject to surface water flooding although the majority of the site, which slopes northward as cited by several representations, experiences no such risk. SEPA has not objected to the proposed allocation; they furthermore concur with the requirement in Vol 2 of P-LDP2 that the developer of the site should address any flood risk to which the site may be subject.



Health and Education 70, 75, 134, 160, 178 & 200

The Council is of the opinion that the development of KK-H14 will not detrimentally affect infrastructure and facilities. The Council would point out that the Council's Education department had raised no issues in the preparation of the Local Development Plan that would indicate that there are insurmountable capacity issues within Grange Academy or Shortlees Primary School. NHS Ayrshire and Arran has also not objected to the development of the site in terms of the provision of their service responsibilities within the settlement. Therefore, the Council consider that there would not be any adverse pressures on educational and medical provision within Shortlees or Kilmarnock as a whole because of this development. Notwithstanding, P-LDP2 includes within its provisions Policy INF4: Developer Contributions, which will be implemented where a development will place additional demands on infrastructure, services, facilities and amenities that would necessitate new facilities or exacerbate deficiencies in existing provision. In effect therefore, where infrastructure capacity issues in terms of education and health and social care may occur, there is a mechanism to address it.

Access to Services

The shopping area at Central Avenue, Shortlees has been identified as a suburb centre in the P-LDP2 when this was not the case in the 2017 LDP (CD23) and will therefore benefit from the suite of town centre policies set out from p.104 to p.109 of Vol 1 of the P-LDP.

Overlooking & Nuisance (70, 134,160, 178 & 200)

In terms of concerns of overlooking of adjacent residents as set out in representations 160 & 178, these detailed matters would be dealt with at planning application stage. Representations 70, 134, 160 & 200 consider that the environmental health impacts and nuisance would arise from development. In this regard, it is considered that the design of the development and planning conditions attached to the development of the site could avoid or mitigate such issues arising.

Developer Requirements (157)

The respondent suggests modification of the developer requirements for site KK-H14 to include the provision of a landscape framework that retains and enhances existing trees and hedgerows, along with active travel provision and multi-functional green and blue infrastructure. As outlined within the developer requirements (general) for KK-H14 in volume 2, any subsequent application will need to address the mitigation measures as outlined within the Strategic Environmental Assessment for the site, this is also a requirement of Policy SS2 criterion (vii). The Council suggest updating the "Mitigating Impacts on Natural Features" section of the SEA site proforma for KK-H14 to incorporate these comments. This should adequately address the points raised by (157).

Assessment against SEA (194)

With respect to comments by 194 that the site performed poorly against the criteria of

the LDP2 Environmental Report (CD47) and that any mitigation mentioned would not be sufficient to offset the overwhelmingly significant negative impacts identified in the Report, it is recognised that any new site is likely to have some negative environmental impacts associated with its development. Because of this, the aforementioned Strategic Environmental Assessment (SEA) was carried out and the outcome of this used in conjunction with the Housing Site Appraisal Methodology, to come to a decision on which sites were suitable for development. The findings of the SEA are included within an Environmental Report (CD47), which was published alongside the P-LDP2. The SEA on its own does not tell us whether a site is suitable for development or not. However, the assessments can help to highlight possible mitigation measures, which could be carried out on particular sites in order to make what might otherwise be considered unsuitable development acceptable. Where negative impacts are identified, the Environmental Report (CD47) highlights mitigation to reduce those impacts. As mentioned, this mitigation must, upon approval of a planning application be undertaken by any party that wishes to develop the site.

#### Effectiveness of Site (134, 160, 194, 200)

Representations note that several planning applications have been made within the area of KK-H14 but that none have progressed to approval. The Council acknowledges that no consent has yet been granted. However, the site in question has been programmed as effective in the 2019, 2020 and 2021 Housing Land Audits (CD72-74) and the Council's Housing service has expressed interest in the development of the site as part of the most recent Strategic Housing Investment Plans (SHIP) (CD35). The site is therefore considered effective and it is anticipated that any issues arising from previous planning applications could appropriately be addressed in order to unlock the site for development.

With the above factors taken into consideration, the Council is of the view that site KK-H14 should be allocated for residential development in LDP2.

#### **Reporter's conclusions:**

##### **KK-H2 – Bridgehousehill**

1. This site on the south-eastern fringes of Kilmarnock occupies the gap between the existing built-up area and the A77. The allocation is carried forward from the existing adopted plan, and there are no representations seeking its removal. A development of 100 affordable homes was underway in the central part of the site at the time of my site inspection.
2. The only representation pertaining to this site, from NatureScot, relates to the developer requirements set out in volume 2 of the plan. References are sought to active travel links and green and blue infrastructure, and the impact of lighting is mentioned.
3. I consider that these matters are largely already covered by the generic policies of the plan. Policy T1 requires developers to fully embrace new active travel infrastructure, and Policy OS4 contains extensive policy direction regarding the integration of green and blue infrastructure. Policy NE12 requires all development

proposals to incorporate design measures which minimise or reduce light pollution. The council also commits, above, to revising the environmental report to incorporate NatureScot's comments. Policy SS2 of the plan requires developers to implement the relevant enhancement and mitigation measures contained in the environmental report. For these reasons, I conclude that no modification to the plan is required.

4. As an aside, I note that the proposed developer requirements include tree planting on the northern and western boundaries of the site. I suspect this could possibly be an error, and the reference should be to the southern and eastern boundaries, as these will form the new settlement edge. However, there is no representation relating to this matter and so it would be beyond the scope of this examination for me to recommend any modification.

#### **KK-H14 – Treesbank**

5. The site comprises an area of grassland and regenerating scrub on the southern edge of Kilmarnock. It does not appear to have been subject to any agricultural or other active use for some time. A number of informal footpaths through the site indicate its use by local people to access the countryside, presumably for activities such as dog-walking. The site is attractive in its current state, and in its naturalising condition is likely to be of increasing value to wildlife.

6. In landscape terms the site is contained by existing housing along Loreny Drive to the north-east, by the A77 (and its substantial roadside planting) to the south, and by mature woodland and tree belts to the west. The land rises from north to south, and may currently provide a green backdrop to certain views from within Kilmarnock to the north. However, overall, I consider it to be relatively well contained in landscape terms.

7. Access appears possible from Loreny Drive at the eastern corner of the site. This road is of a reasonable standard and, superficially, appears to have sufficient capacity to accommodate traffic from the development.

8. This site forms part of a larger area of land that was allocated for housing development in the existing adopted LDP, and I am not aware of any significant site-specific changes in circumstances since the adoption of that plan. It is generally not in the interests of the long term certainty that the planning system seeks to deliver for in-principle decisions regarding sites to be revisited in these circumstances.

9. As it is, the current proposal is to allocate a smaller area of land than was previously the case and omit areas that the council recognises constitute ancient woodland, are subject to a tree preservation order, or form part of a local nature conservation site. In total, I estimate the area of the proposed site being less than half that of the existing allocation. While I expect it was never the intention to develop the whole of the larger site, I must conclude that an effect of this proposed change should be to reduce the potential negative effects of this proposal from that supported in the adopted plan.

10. Turning to the individual matters raised in representations, of most concern to me is the potential loss of a valued area of natural open space for local people. It is the case that the site does not currently benefit from any open space designation, and any

development would itself be required to include a component of public open space. However, any smaller area of replacement provision would be unlikely to retain the special value and character the area displays at present. I consider this to be a significant downside of the site's allocation. I also note that the site falls within the Treesbank Non-Inventory Garden and Designed Landscape, though it seems to me that the land has less obvious value in this regard than other land further west.

11. I note the council's comment that the transport appraisal of the plan did not express any concerns regarding this site. But this was a high-level study that does not appear to have drawn any conclusions about individual sites. The development requirements for the site include undertaking a transport assessment. This will serve to address how local impacts can best be mitigated but does not assist in my deliberation as to whether the site is acceptable in principle in transport terms. That said, I take some comfort from the absence of any adverse comment from the Ayrshire Roads Alliance. Overall, I am satisfied, based on the evidence submitted and on my site inspection, that the site is capable of being accessed satisfactorily.

12. The centre of the site is around 800 metres from Shortlees Primary School and the row of shops on Central Avenue. A regular bus service uses Loreny Avenue close to the site. I therefore consider the allocation to be consistent with the concepts of local living and 20-minute neighbourhoods promoted by National Planning Framework 4 (NPF4).

13. I have noted the potential wildlife value of the site. However, it is not subject to any particular biodiversity designation, and no organisation with a special expertise in these matters has objected to the principle of the allocation. I cannot avoid acknowledging the potential for some negative effect, but this requires to be balanced against the benefits of the development and its established planning status. I also note that the environmental report requires existing trees and hedges to be retained, which should safeguard at least these elements of the nature conservation value of the site. (Policy SS2 requires developers to implement the mitigation measures set out in the environmental report.)

14. I note that parts of the site (presumably along the north-eastern boundary) are subject to medium-high surface water flood risk. It is likely that this constraint could limit the developable area to an extent but, given the sloping nature of the bulk of the site, I do not consider this factor is likely to render the site as a whole ineffective. Any development will be expected to provide modern standards of sustainable urban drainage. I would not, therefore, expect there to be any increase in run-off as compared to the current situation.

15. The site is predominantly located within the Coal Authority's High Development Risk Area, though the council states that no mine entries are mapped within the site. The full implications of this constraint are apparently unknown at present but will be for the developer to address in due course. Ultimately, if significant undermining is detected and found to be incapable of economic mitigation, then the site would remain undeveloped.

16. Comments have been made regarding pressures on utilities and local services. These are matters for the council and the developer to address in taking forward

detailed proposals. Any developer would be required to mitigate the impact of their development on local infrastructure under the terms of NPF4 Policy 18 and of Policy INF4 of the proposed plan. This could include the payment of financial contributions towards the improvement of infrastructure, facilities or service where this was found necessary to make the development acceptable in planning terms.

17. The site does not appear to me to have any particular importance to the setting of any listed building. In any event this would appear to be a consideration that can be satisfactorily addressed at the detailed design stage.

18. Local amenity issues, such as overlooking, overshadowing, and disturbance during the construction phase all appear to be capable of resolution through the detailed design of any scheme or through planning conditions.

19. In summary, I recognise some real disbenefits to the development of this land, particularly the loss of a valuable area of informal naturalising open space to local people. However, I must balance this against the fact that this land has an established planning status as an allocated housing development site in the adopted LDP. I have not identified any site-specific changes in circumstance sufficient to warrant a departure from this established position. The site also has the potential to make a valuable contribution towards meeting the area's housing needs. For these reasons, on balance, I conclude that this allocation should be maintained, and that no modification to the plan is required.

**Reporter's recommendations:**

No modifications.

Issue 38	Kilmarnock West	
Development plan reference:	Residential allocations KK-H3, KK-H4, KK-X21 & KK-X23, Ayrshire Growth Deal allocation KK-A1 and Business & Industry future growth area KK-F1(B)	Reporter: Stephen Hall
Body or person(s) submitting a representation raising the issue (including reference number):		
Iain McDonald (82) Margaret Morran (99) SEPA (106) Lands Improvement Holdings (133) Jim Caldwell (155) NatureScot (157) Norman Elsey (170)		Wendy Burton (218) Fiona Robinson (228) Ross Macdonald (244) Amanda Buitelaar Ltd (260) NHS Ayrshire & Arran (270) Braehead Metals Ltd (287)
Provision of the development plan to which the issue relates:	The inclusion of opportunity sites in Kilmarnock (West): KK-H3, KK-H4, KK-X21, KK-X23, KK-A1 & KK-F1(B)	
Planning authority's summary of the representation(s):		
<b>KK-H3 – Fardalehill (E)</b>		
<u>106</u> recommends that co-location comments be included in the developer requirements.		
<u>157</u> recommends that provision of active travel links is also included in the developer requirements, particularly where links can be made to the wider path network including the Kilmarnock Infinity Loop, Core Paths and EA Cycle Routes. They state that development should incorporate multifunctional green and blue infrastructure, in accordance with Policy OS1, that delivers positive effects for biodiversity through enhancement of habitats and nature networks. They consider that adding the above elements to the developer requirements for the site would embed the mitigation measures identified in the SEA Environmental Report and that careful consideration should also be given to lighting, to reduce light pollution impacts		
<u>131</u> states that planning permission in principle (ref. 09/0098/OL) has already been granted for KK-H3 and that requirement for further submissions as part of future detailed planning applications are set out in the conditions attached to the PPP. They note that the site requirements for KK-H3 as set out in Vol 2 of P-LDP2 note that a masterplan in line with PAN 83 and various other actions and assessments must be taken by the developer of the site. They question the requirement for such work given that consent has already been granted and a masterplan undertaken to inform detailed applications. They also consider that a requirement for the developer of the site to plant trees at the northern and western boundaries of the site is inappropriate because of the allocation adjacent of site KK-H4 and the resultant requirement to access the site via		



KK-H3. They recommend wording to be inserted in lieu of the present site requirements.

#### **KK-H4 – Fardalehill (W)**

170 considers that the indicative dwelling capacity of site KK-H4 should be reduced to 200 units so as to retain open green space and prevent the coalescence of Kilmarnock and Crosshouse.

218 expresses concern that the development of site KK-H4 and/or its occupation by residents would produce light, air, noise, and dust pollution, and result in parking by building site workers.

218 & 228 state that the development of site KK-H4 would result in the loss of a large area of green space and that it is counterintuitive to require the provision of green space at the development at KK-H3 in the context of this removal.

218 & 228 considers that development of site KK-H4 would lead to an increase in traffic and traffic-produced air pollution, and would affect public transport. They further state that the local road network could not support a development of the size proposed.

270 requests that any development within site KK-H4 should adequately take into account the impact traffic may have on emergency vehicle and other ingress and egress to University Hospital Crosshouse.

218 expresses concern that that any developer would have to comply with the provisions of PROP10, but that required facilities would not be completed until after homes had been completed.

244 expresses concern that development of site KK-H4 would result in coalescence with Crosshouse or Kilmaurs, which they maintain would be contrary to Scottish Planning Policy. They consider that no further expansion in this direction should be authorised and that if it is, that substantial boundary planting should be undertaken to prevent urban sprawl and enhance the existing green network.

228 & 270 state that there is a lack of capacity or provision in terms of medical services and/or school places in the area to support any development at KK-H4 and/or that capacity issues have been raised in relation to development at the adjacent site KK-H3. 270 states that that six GP practices in Ayrshire and Arran, the boundaries of which fall within the KK-H4 site boundary, would experience capacity and staffing challenges because development at KK-H4 would result in around 2800 new registrations

228 expresses concern about the potential proximity of homes within the site to Bonnyton Road, which could result in overlooking.

#### **KK-H7 (Irvine Road)**

287 objects to the allocation of site KK-H7. The respondent operates a metal recycling facility 5 metres from the boundary of site KK-H7, which may disturb future residents and create 'bad neighbour' issues going forward.

An objection is made to the lack of a noise impact requirement set out on Page 62 of Volume 2. The developer requirements do not mention the need for any noise mitigation measures to prevent any 'bad neighbour' issues arising from the adjacent building. A Noise Impact Assessment that was prepared in support of a previous application on the site set out necessary mitigation procedures to alleviate noise impact; bunds, planting, acoustic glazing as well as layout and design features. If the site is going to be allocated, it is unreasonable that the site specific developer requirements do not set out any requirements in relation to such noise mitigation.

The housing methodology assessment used to assess the housing site is objected to on the basis that noise amenity issues are not considered. Noise is a significant constraint which will impact the residential amenity of future occupants so should have been considered in the assessment; site KK-H5 would have a low score in relation to noise impacts.

The allocation of site KK-H7 is contrary to:

- Policy NE12 Water, air, light and noise pollution which requires that 'all new development should ensure that significant adverse noise impacts on surrounding properties and uses are avoided'
- Policy RES3 Residential amenity which notes that 'new housing developments will not be permitted in locations where existing, established, adjacent uses are likely to have an unacceptable impact on the amenity of future residents'.
- Policy TC5 as, whilst in a town centre context, it presumes against residential development in close proximity to bad neighbour developments including those that will affect residential properties through noise impact. This policy reinforces the fact that allocation requirements should note the expected noise mitigation measures.
- SPP and Draft NPF4 as it does not protect future occupants from industrial noise.

#### **KK-X21 - Moorfield Kilmarnock (A)**

260 ask for the Kilmarnock settlement boundary to be amended to include site KK-X21 (not KK-X22 as identified in the representation) (See Map Issue 38 – Moorfield Kilmarnock (A) – KK-X21) and for the site to be allocated as a residential opportunity site with an indicative capacity of up to 60 dwellings, or as a miscellaneous opportunity site.

They maintain that the site constitutes cleared, brownfield land, formerly being the site of an abattoir, and is of an urban rather than rural character. They consider that the site makes no positive contribution to any wider rural setting considerations and that its development would not result in the loss of agricultural land.

They note that the site benefits from direct access from Dundonald Road, achieved via the large roundabout at the junction of the A759 and B706 and would otherwise be connected to transport infrastructure. They continue that if developed the site would include open space, landscaping and amenity space.

They note that the site's development potential allocated as 'miscellaneous development opportunity' in the East Ayrshire Local Plan (2010) and as a 'Future

Housing Growth Area' in the East Ayrshire Local Development Plan (2017). They consider that provides context for their submission and their preference that the site should be allocated for development in in LDP2.

They note that Surface Water Flooding mapping indicates potential for pluvial flooding in a small area at the northern boundary of the site but that it is anticipated the development's SUDS design would reduce contributing surface water flows, and, in turn, the potential area of inundation. A geo-environmental assessment has, they contend, suggested no obvious impediment to residential development and they consider that all necessary utilities could be provided.

They consider that the site performed well in the tests of effectiveness within PAN 2/2010 and that site offers an effective residential development opportunity, capable of contributing to the delivery of new homes and the maintenance of a 5-year housing land supply during the LDP2 period. Should the site be deemed either unsuitable or not required for residential development, they request that its development potential for other, non-residential uses be recognised by its identification as a Miscellaneous Opportunity site.

**Note:** There are further details and appraisals within representation 260 that set out why they consider the site should be allocated in LDP2 and steps the applicant would take to comply with Plan policy as part of any development of site KK-X21 were it to be allocated in LDP2 (See supporting documents RD96-114 & RD150).

### **KK-X23 - Moorfield Kilmarnock (B)**

155 asks for site KK-X23 (not KK-X24 as identified in the representation) (see Map Issue 38 – Moorfield Kilmarnock (B) – KK-X23) to be allocated as a residential opportunity site with an indicative capacity of around 600 dwellings, or as Future Housing Growth site. They consider the site viable and deliverable in the context of East Ayrshire Council's future housing strategy and PLDP2 Spatial Strategy, and capable of delivering housing completions towards the end of the next plan period. They consider that the site would provide a long-term defensible and sustainable settlement boundary for Kilmarnock at the River Irvine and that the site is well placed in terms of walking, cycling, public transport and the private car.

They state that, contrary to the Housing Site Appraisal Methodology (HSAM) consideration of a site capacity of around 1337 units, that around 60% of the site would be developable and that the remaining area, which is at risk of flooding, would be utilised and enhanced to provide open space, create a green network, and provide ecological benefits.

They note that the site was identified as 'Future Growth Area 3' in the 2017 LDP. In this respect, they agree with the Council's position from the 2016 examination of the 2017 LDP, which states that the site could accommodate around 250 dwellings, that the site would not lie at the wrong site of the A71 in terms of cohesion with the rest of Kilmarnock and that the site was otherwise developable. (155) set out further detail concerning the LDP Examination in their representation.

In relation to the findings of the HSAM that pertain to KK-X23 and the flood-prone

nature of land within the site, they consider that housing development could be restricted to those areas not at risk of flooding. They do not agree with the statement by NatureScot that that it would be challenging to deliver sustainable development at KK-X23 and maintain that a masterplan approach to the development of the site would create an attractive place for people to live in a safe and well-connected environment. With respect to further comments by NatureScot, they agree that the site presents an opportunity to create a network of paths and recreation spaces along the River Irvine, with associated biodiversity benefits. They are aware of the Scottish Water infrastructure located on site, which they do not consider to present a significant constraint on development.

They note that the HSAM states that the A71 presents a substantial barrier to movement and would spatially separate any development from the rest of the Kilmarnock and place any dwellings at a considerable distance from services and facilities. In this respect, they contend that the A71 does not present a barrier, that various active travel and transport links to the rest of Kilmarnock are available or could be improved and that several other sites in P-LDP2 have been proposed for allocation to the south of the A71.

With regard to the marketability of the site, they note that Kilmarnock is an established location for new housing because of its strategic location on the A77/A71 and that several large house builders have been attracted to the town. They consider that because the majority of housing activity is currently focused on the north and north west of Kilmarnock, that site KK-X23 is preferable to other potential future growth areas, which rely upon a large number of completions on existing sites before future growth can take place. They consider that no justification for why other Future Housing Growth sites were proposed for inclusion has been made. They contend that allocation of KK-X23 would attract interest from house builders.

**Note:** There are further details and appraisals within representation 155 that set out why they consider the site should be allocated in LDP2 and steps the applicant would take to comply with Plan policy as part of any development of site KK-X23 were it to be allocated in LDP2 (See supporting document RD57).

### **KK-A1 – Ayrshire Engineering Park**

106 recommends that co-location comments be included in the developer requirements.

244 expresses concern that development of site KK-A1 would result in coalescence with Crosshouse or Kilmaurs, which they maintain would be contrary to Scottish Planning Policy. They consider that no further expansion in this direction should be authorised and that if it is, that substantial boundary planting should be undertaken to prevent urban sprawl and enhance the existing green network.

82 expresses concerns pertaining to the coalescence of Crosshouse and Kilmarnock and that past East Ayrshire planning proposals, they believe relating to housing, have indicated that coalescence should not occur. They consider that the three fields immediately adjacent to Crosshouse should not be developed in order to avoid coalescence of Crosshouse and Kilmarnock and maintain that doing so would leave

sufficient room for expansion at the Ayrshire Engineering Park.

82 states that development should not take place at KK-A1 because the site lies within the Rural Protection Area (RPA) and that development within the site would not accord with associated LDP policy.

99 states that KK-A1 should not be allocated because site borders or lies close to a play park, dwellings, a school and nursery. They maintain that development would result in noise and light pollution or would otherwise constitute a danger to the public.

99 considers that development of site KK-A1 would lead to an increase in traffic and that there is sufficient land for development within the existing Moorfield site at KK-B4(S) and KK-B5(S), the development of which would not result in an increase in traffic at Crosshouse.

157 considers that development of KK-A1 could lead to coalescence between Kilmarnock and Crosshouse. They recommend that a masterplan be prepared for this site, setting out a landscape framework that provides defensible edges and incorporates SuDS features. They state that consideration should be given to sustainable transport measures and the provision of attractive and integrated active travel connections. They continue that development should incorporate multifunctional green and blue infrastructure, in accordance with Policy OS1, that delivers positive effects for biodiversity through enhancement of habitats and nature networks and that careful consideration should be given to lighting, to reduce light pollution impacts.

99 asks why KK-A1, a green space, was selected when sites elsewhere in Kilmarnock, including previously developed land, are considered more suitable or are a higher priority for development, for example, site KK-M4.

#### **KK-F1(B) – Moorfield (W)**

244 expresses concern that development of site KK-F1(B) would result in coalescence with Crosshouse or Kilmaurs, which they maintain would be contrary to Scottish Planning Policy. They consider that no further expansion in this direction should be authorised and that if it is, that substantial boundary planting should be undertaken to prevent urban sprawl and enhance the existing green network.

#### **Issues Raised In Relation to Non Planning Related Matters**

99 & 218 state that they moved to their property because of its rural or near-rural location

218 considers that development of site KK-H4 could result in an increase in crime.

#### **Modifications sought by those submitting representations:**

##### **KK-H3 – Fardalehill (E)**

106 recommends the following comment be added to the developer requirements: “130m from Southhook WTS (WML/W/00002240) - Normal operations have potential to

cause odour and noise beyond the site boundary.”

157 recommends that provision of active travel links is also included in the developer requirements, particularly where links can be made to the wider path network including the Kilmarnock Infinity Loop, Core Paths and EA Cycle Routes. They state that development should incorporate multifunctional green and blue infrastructure, in accordance with Policy OS1, that delivers positive effects for biodiversity through enhancement of habitats and nature networks. They consider that adding the above elements to the developer requirements for the site would embed the mitigation measures identified in the SEA Environmental Report and that careful consideration should also be given to lighting, to reduce light pollution impacts

133 ask that the following wording be added to the site requirements for KK-H3: ‘Proposals for the landscape treatment of the northern and western boundaries of Fardalehill East should take cognisance of proposals for Fardalehill West, where possible’. They also ask for the wording within the site requirements for KK-H3 to be amended to remove reference to the requirement for a DIA and masterplan in line with PAN 83.

#### **KK-H4 – Fardalehill (W)**

170 seeks a reduction in indicative capacity from 800 units to 200 units

218, 228 & 244 object to the proposed allocation of the site and wish for it not to be allocated in LDP2.

244 asks for boundary planting to be undertaken at KK-H4 if it is allocated in LDP2.

#### **KK-H7 – Irvine Road**

287 seeks the removal of site KK-H7. If it is to be retained in the Plan, 287 seeks additional developer requirements to be added into the developer requirements on Page 63 of Volume 2 to ensure that noise mitigation measures are required.

#### **KK-X21 – Moorfield (A)**

260 asks for the Kilmarnock settlement boundary to be amended to include site KK-X21 and for the site to be allocated as a residential opportunity site or a miscellaneous opportunity site. The site should not be included in the Rural Area map and removed from the Rural Protection Area.

#### **KK-X23 – Moorfield**

155 asks for site KK-X23 to be allocated as a residential opportunity site, or as a Future Housing Growth Site.

#### **KK-A1 – Ayrshire Engineering Park**

82 seeks the retention of the three fields immediately adjacent to Crosshouse in the Rural Protection Area (RPA) in order to avoid the coalescence of Crosshouse and



Kilmarnock.

99 objects to the proposed allocation of the site and wish for it not to be allocated in LDP2.

106 recommends the following comment be added to the site developer requirements: "Within 1000m of PPC/W/0030071 Metals Recycling - Braehead Metals, Irvine Road; PPC/B/1024880 Breedon Aggregates - Concrete Plant Moorfield Ind Est; WML/L/1018925 & WML/W/0220081 Metals Recycling - RM Easdale Ltd, Irvine Road. Metal Recycling Sites & Concrete Plant - Normal operations have the potential to cause noise and dust beyond the site boundary. WML/L/1031276 Crosshouse Hospital - Clinical waste. WML/W/0220119 Waste Transfer Station - Billy Bowie Special Projects Ltd, Moorfield Ind Est - Normal operations have the potential to cause noise and odour beyond site boundary. PPC permit has been surrendered for composting activity at Billy Bowie site. This had been the subject of odour complaints and SEPA enforcement action in relation to offensive odour."

157 recommend that a masterplan be prepared for this site, setting out a landscape framework that provides defensible edges and incorporates SuDS features. They state that consideration should be given to sustainable transport measures and the provision of attractive and integrated active travel connections. They continue that development should incorporate multifunctional green and blue infrastructure, in accordance with Policy OS1, that delivers positive effects for biodiversity through enhancement of habitats and nature networks and that careful consideration should be given to lighting, to reduce light pollution impacts.

244 asks for boundary planting to be undertaken at KK-A1 if it is allocated in LDP2.

#### **KK-F1(B) Moorfield West**

Whilst 244 does not explicitly object to the allocation, it is assumed that they request its removal from the Plan.

#### **Summary of responses (including reasons) by planning authority:**

#### **KK-H3 – Fardalehill (E)**

With regard to the recommendations by 106 to add a comment regarding co-locational issues in the developer requirements for the site, at the time of preparing the Proposed LDP2, SEPA had flagged up, as per their representation, 21 sites which had co-locational issues. The co-locational issues raised in their representation relate to sites which had not been assessed for this at the time of writing and, for this reason, these were not included in the developer requirements as was the case for the sites that had been assessed at MIR stage. In this instance it is noted that planning permission has already been granted for the site and development commenced. However, for completeness, the Council has changed the text in the SEA to reflect the recommendation. This is considered to be sufficient to implement the recommendation, and as such the Council is of the view that no change to the wording of the Plan is required.

Similarly, with regard to the recommendations by 157 and the statement by 133 concerning site requirements set out in p.61 of Vol 2 of PLDP2, it should be noted that as above development of this site is already underway, planning consent having been granted in March 2022 (CD60). The site layout associated with that consent does not specifically make provision for access to KK-H4 and landscaping proposals have been approved. It is considered that development of the site would preclude such requirements and that inclusion is consequently not required. As noted by 157, their suggested requirements form part of the Environmental Report and direction to that Report is included within the KK-H3 site requirements.

With the above factors taken into consideration, the Council is of the view that site KK-H3 should be allocated for residential development in LDP2.

#### **KK-H4 – Fardalehill (W)**

##### Site capacity (170)

With regard to representation 170, it should be noted that the capacity for each site presented in Vol 2 of the Proposed Plan is indicative, that is, the developer is not required to build precisely the number of units stated. A range of factors, including layout and development constraints, may result in development of a greater or lesser number of dwellings. However, any proposal would be required to comply with the relevant policies of the LDP. The design and layout of dwellings would be required to comply with LDP policies, in particular PLDP2 policy RES4: Compact Growth, which requires consideration of the character of the existing area in terms of density.

##### Coalescence (170, 244)

In terms of any coalescence between Crosshouse and Kilmarnock as cited by 170 & 244, the following requirement is stipulated in the developer requirements for KK-H4 on p.62 of Vol 2 of P-LDP2. 'The developer of the site (KK-H4) must ensure that no coalescence between Kilmarnock and Crosshouse takes place and in doing so must ensure that the area of land between Irvine Road and Bonnyton Road is preserved as open space within which no built development will occur.' It is therefore not considered necessary or appropriate to reduce the indicative capacity as stated.

##### Pollution and parking issues (218, 228)

218 & 228 consider that noise, light, air pollution, parking issues and/or problems of overlooking of adjacent properties would arise from development of KK-H4. In this regard, it is considered that the design of the development and planning conditions attached to the development of the site could avoid or mitigate such issues arising.

##### Open space (218, 228)

With regard to comments by 218 & 228 that KK-H4 comprises large area of green space, no area of the site in question forms part of the defined area of Safeguarded Open Space in Kilmarnock in the Proposed Plan. Indeed, it was not identified as such in the 2017 LDP. It is noted that a review of the open space of all settlements was carried out internally to inform the PLDP2. LDP policy stipulates that the applicant

would be required to provide a requisite area of publically accessible open space within the development. Indeed, the aforementioned site requirements stipulate that at least 30% of the site as identified should not be developed. So, whilst it is accepted that the proposal will result in the loss of agricultural land, this is considered necessary in East Ayrshire to ensure the MATHLR is achieved through effective site allocation and in the view of the council the open space and green infrastructure requirements for the site will help mitigate this loss of this undeveloped land.

#### Traffic (218, 228, 270)

With regard to the issue of traffic movements as mentioned by 218, 228 & 270, the Council would advise the Reporter that the Ayrshire Roads Alliance has not raised any objections to the proposed allocation of KK-H4. A Transport Appraisal commissioned by the Council to support LDP2 (see CD19) sets out a number of steps to address vehicle movements in Kilmarnock which must be taken in order to allow for development of KK-H4. It is anticipated that developer contributions made by the developer of KK-H4 and other sites in Kilmarnock where applicable would contribute to addressing any constraints and meeting the requirements set out in the Transport Appraisal. Matters that relate to impact on road traffic and pollution associated with the development of KK-H4 would be addressed through the planning application process in consultation with Ayrshire Roads Alliance. Any developer of the site must undertake a Transport Assessment in respect of any detailed development proposals for the site.

#### Delivery of community facilities (218)

With respect to comments by representation 218 that facilities required according to PROP10 would not be delivered until after homes had been completed, it should be noted that the provision of these facilities would be secured through an appropriate planning condition or Section 75 Obligation. Timescales pertaining to delivery of facilities would be a critical part of that agreement, ensuring that the phasing of the development allows for a viable approach to delivery, meeting community and developer requirements.

#### Education and Health services (228, 270)

With respect to comments by 228 & 270, the Council is of the opinion that the development of KK-H4 would not detrimentally affect education and medical facilities. The Council would point out that the Council's Education department had raised no issues in the preparation of the Local Development Plan and, with respect to education and medical facilities, it should be noted that such provision is required according to the provisions of P-LDP2 Policy INF4: Developer Contributions. INF4 will be implemented where a development will place additional demands on infrastructure, services, facilities and amenities that would necessitate new facilities or exacerbate deficiencies in existing provision. Therefore, the Council consider that there would not be any adverse pressures on educational and medical provision within Kilmarnock because of this development. Indeed, the aforementioned PROP10 states that the developer of KK-H4 may be required to provide educational, community and retail facilities within the site.

With the above factors taken into consideration, the Council is of the view that site KK-

H4 should be allocated for residential development in LDP2.

### **KK-H7 – Irvine Road, Kilmarnock**

#### Appropriateness of the allocation (287)

The Council notes that site KK-H7 is adjacent to a metal recycling facility. It is further noted that KK-H7 was allocated for development in the LDP 2017 and that the site has been carried forward into the P-LDP2. Planning permission in principle was first granted in 2013 (11/0762/PPP) and renewed in 2017 (16/0120/PP). An application for a further renewal is currently under consideration (22/0585/PPP). As stated by the respondent, the recycling facility has been established for some time and pre-dates the first local plan designation and the original planning permission in principle consent.

The Council is of the view that the site remains a suitable location for residential development. In terms of the Housing Site Methodology Assessment it scored relatively well in terms of utilising a brownfield site, being close to employment opportunities, having good bus and road links and being located close to other residential developments to the south and Fardalehill to the north.

The potential for noise impact raised by the respondent is fully noted by the Council. However, the Council does not agree that this justifies removing the site from the Plan. Any planning application will be required to demonstrate that any noise impact will not be unacceptable and there are safeguards within the Plan to ensure this is the case. Policy NE1 gives scope for a noise impact assessment to be required at the Development Management stage. Also, as raised by the respondent any development would be required to comply with RES3: Residential Amenity in so far as it would need to be demonstrated that there would be no unacceptable impact arising from the industrial facility on the amenity of future residents.

#### Developer requirements for KK-H7 (287)

In terms of the lack of reference in the developer requirements in volume 2 to any noise mitigation measures, the Council points out that page 4 of Volume 2 makes clear that the list of requirements ‘for each site as depicted is indicative and may not be exhaustive. Applicants are therefore encouraged to consult the Development Management team before any planning application is submitted to discuss their proposals.’

However, if the reporter is minded that it is necessary, the Council would have no objection to an additional requirement being added to the developer requirements of KK-H7 stating:

‘A noise impact assessment will be required to support any application. The applicant will be required to incorporate within their development any required mitigation measures identified through the assessment.’

### **KK-X21- Moorfield Kilmarnock (A)**

260 seeks the allocation of KK-X21 either as a residential opportunity site or as a

miscellaneous opportunity site.

The Council concurs with comments made with regard to the previously developed nature of the site, that no agricultural land would be lost, that the site is not at significant risk of flooding and that the impact of development of the site would be limited in landscape terms, this having been recorded as such in the HSAM. Access arrangements to the site are, as has been stated, preferable and the site already benefits from a direct connection to the road network. With regard to provision of open space and utilities within the site as suggested in the representation, these matters would be addressed as part of the planning application process and it cannot be speculated at this time the precise form that development of the site might take.

In general terms, the site is considered somewhat preferable when compared to others promoted in the immediate area and it performed relatively well against the criteria of the HSAM, particularly in the context of East Ayrshire as a whole. In this regard, the assertion in the representation that the site performs well against the criteria of PAN 2/2010 (CD52) and that dwellings could be delivered within the site has some merit.

However, the site is subject to a number of weaknesses that from a residential perspective would mitigate against its allocation in LDP2. Although road and pedestrian connections are available, the site is isolated from the rest of the settlement of Kilmarnock and its development for residential use would, in the view of the Council, result in the creation of a new small pocket of housing that would not be integrated into the town and would not represent good placemaking. The inclusion of the site would create an incongruous projection of the settlement boundary beyond the A71, which forms a logical endpoint to the southwest area of Kilmarnock. Allocation of the site would necessitate the inclusion of an area of land to the north of KK-X21, the development of which has not been proposed within the representation. It is furthermore considered that the allocation of additional residential capacity in the Kilmarnock & Loudoun Sub Housing Market Area when a surplus above the MATHLR of more than 50% has been provided is neither desirable nor necessary.

With regard to the site's identification in the 2017 LDP as a 'Future Growth Area', it should be noted that whilst the plan preparation process requires cognisance of previous proposals, the exercise must also consider issues and sites afresh and any past proposals must be interpreted in this context. It was considered after assessment during the preparation of the Proposed Plan using the Housing Site Appraisal Methodology (HSAM) and the working Environmental Report that the site was less suitable for residential development than other sites in Kilmarnock.

The location of the site close to Moorfield Park (KK-B5(S)) indicates that it may in future be developed for business and industrial, or non-residential miscellaneous purposes, being an appropriate location separate from existing dwellings at which to encourage such uses. However, at this time and in the context of the identification of a significant area of land at nearby KK-F1(B): Moorfield (W) as a Future Business/Industrial Growth site, the Council is of the view that KK-X21 should not be allocated for residential or miscellaneous development in LDP2, or as a future growth area.

**KK-X23 - Moorfield Kilmarnock (B)**

155 seeks the allocation of KK-X23 either as a residential opportunity site or as a Future Housing Growth site.

Site capacity

With regard to comments made with respect to the indicative residential capacity as defined in the HSAM, the representation considers 600 units to be an appropriate capacity for the site and the figure presented in the HSAM to be greater than could practically be developed. However, whilst flood risk would limit the developable area of the site, evidence from certain sites allocated in the 2017 LDP, including 279H and 356H, suggests that a more reasonable expectation would be to assume complete build out of a site, as each of the aforementioned sites was built out to a significantly higher capacity than was indicated. It is considered that KK-X23 is otherwise not suitable for allocation as a residential opportunity site, irrespective of the indicative capacity of the site.

Status in 2017 LDP

With regard to the site's identification in the 2017 LDP as a 'Future Growth Area' and comments made to the examination of the 2017 LDP, it should be noted that whilst the plan preparation process requires cognisance of previous proposals, the exercise must also consider issues and sites afresh and any past proposals must be interpreted in this context. It was considered after assessment during the preparation of the Proposed Plan using the Housing Site Appraisal Methodology (HSAM) and the working Environmental Report that the site was less suitable for residential development than other sites in Kilmarnock.

Accessibility

It is considered that whilst comments pertaining to the accessibility of the site are correct in practical terms in that the site can be accessed, and that access could be upgraded, that the site nevertheless lies some distance from the nearest secondary school, medical centre or shops. It is therefore likely that inhabitants would be motivated to travel by car for most journeys.

Landscape setting

Whilst the representation concurs with NatureScot comment pertaining to the potential creation of paths and recreation spaces along the River Irvine, they disagree with their conclusion that development at KK-X23 would constitute a significant extension to the town and that it would be challenging to deliver sustainable development. However, the conclusion by NatureScot is to some degree supported by the 2005 Entec study, which defines much of the developable part of the site as an 'Indicative Landscape Area', an area of new or existing landscape/planting to accompany development as buffer zones and or screening. This buffer may have informed the definition by the Council of an indicative capacity of 250 dwellings as mentioned in the 2017 LDP Examination Report.



Agricultural value

It should be noted the site forms part of an area of 3.1 prime quality agricultural land, the quantity of which in East Ayrshire is extremely limited and the development of which is strongly discouraged in P-LDP2. This characteristic, alongside various others, contributed to the site achieving the second lowest score in Kilmarnock and Ward 3 against the criteria of the HSAM.

Position in relation to other sites

The Council maintains its position that large-scale southern expansion at the southern side of the A71, movement under which is only possible at the extreme northwest and southeast corners of the site, would spatially separate any development from the rest of the settlement. Those other sites proposed for allocation to the south of the A71 in P-LDP2 as cited in the representation either have been granted planning consent (KK-H2), or would take place on previously developed land (KK-H9), or have already attracted interest from house builders in their construction through the planning process (KK-H14). Site KK-X23 presents none of these characteristics. Each of the aforementioned sites furthermore is located immediately adjacent to existing residential development; development would therefore constitute a logical extension to the settlement in those areas.

With regard to the P-LDP2 focus of housebuilding in northwest Kilmarnock, the identification of sites in the area stems from an absence of physical barriers like the A71, a general lack of constraints like flood risk or impact on prime quality agricultural land, existing consents and/or the location of sites adjacent to National Cycle Route 73. Sites KK-H1 and KK-H4 were promoted by house builders already active in the area and were therefore considered effective; development of each would logically follow on from ongoing growth in the area.

Potential as a Future Growth Area

Whilst the representation maintains that a large number of completions on existing sites would be necessary before development could take place within Future Housing Growth Areas, it should be noted that is the intended purpose of such sites is to perform such a role. The housing land supply within Kilmarnock, the selection of which is considered appropriate and effective, is more than sufficient to meet the MATHLR. Any further growth would take place only once those allocated sites were completed. With respect to the rationale for the selection of each Future Housing Growth Area, these details are explained in the HSAM.

Effectiveness

Although the representation states that allocation of KK-X23 would attract interest from house builders, no evidence has been provided to suggest that there is any greater developer interest in KK-X23, or likelihood of delivery during the Plan period, than other proposed sites, which themselves form part of the aforementioned generosity. Indeed, the suggestion in the representation that the site might comprise a Future Housing Growth Area indicates some lack of certainty on the part of the site owner over its effectiveness.

With the above factors taken into consideration, the Council is of the view that site KK-X23 should neither be allocated for residential development in LDP2 nor identified in the Plan as a Future Housing Growth Area.

### **KK-A1 – Ayrshire Engineering Park**

#### Co-location (106)

With regard to the recommendations by 106 to add a comment regarding co-locational issues in the developer requirements for the site, at the time of preparing the PLDP2, SEPA had flagged up, as per their representation, 21 sites, which had co-locational issues. The co-locational issues raised in their representation relate to sites which had not been assessed for this at the time of writing and, for this reason, these were not included in the developer requirements as was the case in the sites that had been assessed at MIR stage. Any such co-locational concern will likely be dealt with at the planning application stage. However, in the interest of clarity, the Council has changed the text in the SEA to reflect the recommendation. The mitigation and enhancement measures contained within Environmental Report are required to be met through policy SS2 (vii). This is considered to be sufficient to implement the recommendation, and as such the Council is of the view that no change to the wording of the Plan is required.

#### Coalescence (244, 82, 99)

The Council understands concerns expressed by 244, 82 & 99 that the development of KK-A1 would bring about the coalescence between Crosshouse and Kilmarnock. However, it should be noted that an effort has been made to ensure that a sufficient buffer is provided between KK-A1 and any nearby residential properties. In this regard, the only locations at which the site boundary is conterminous with the Crosshouse settlement boundary are at the Crosshouse Area Centre and University Hospital Crosshouse. The site would not lie close to a play park, school or nursery, the nearest of which is around 80m from the site boundary. With regard to any environmental impacts arising, development within the site would require to accord with P-LDP2 policy, including Policy RES3: Residential Amenity and Policy NE12: Water, air, light and noise pollution.

Nevertheless, the Council would have no objection if the Reporter were agreeable to the inclusion of the wording suggested by 157, and alluded to by 244, in the site requirements for KK-A1 in order to introduce defensible edges, green infrastructure and other improvements, as stated.

#### Rural Protection Area status

Representations 82 states that development should not take place at KK-A1 because the site lies within the Rural Protection Area (RPA), however, it should be noted that the proposed amendment of the Kilmarnock settlement boundary would encompass KK-A1. The site would therefore not fall within the RPA and the provisions of PLDP2 Policy RH1: Housing in the Rural Protection Area would consequently not apply.

Open space (99)

With regard to the statement by 99 that KK-A1 comprises a green space, no area of the site in question forms part of the defined area of Safeguarded Open Space in Kilmarnock in the Proposed Plan. Indeed, it was not identified as such in the 2017 LDP. Nevertheless, LDP policy stipulates that the applicant would, for any business or industrial development over 5ha in area, be required to provide an appropriate area of amenity and recreational space within the site.

Preference for previously developed land (99)

With respect to a preference expressed by 99 that previously developed land elsewhere in Kilmarnock should be developed before site KK-A1, it should be noted that land of this type suitable for business and industrial development is very limited within Kilmarnock and the surrounding area. Whilst the Council agree that it is preferable to direct large scale business and industrial uses to brownfield sites, such sites do not exist at such a scale that would allow for the significant development and investment that will be delivered through the Ayrshire Growth Deal. Indeed, the site selection process for Ayrshire Growth Deal projects was not able to identify adequate brownfield sites. Much of the brownfield land available in the settlement either is not large enough, at risk of flooding or other constraints or is not preferably located in terms of access to the strategic road network. KK-A1 comprises a logical extension from existing business/industrial development in the area and further development would achieve a cluster of similar businesses, interaction between which would be beneficial for the local economy. Given the significant economic benefits presented by the Ayrshire Growth Deal projects, it is considered vital that appropriate sites are safeguarded in the LDP to help drive delivery.

Traffic (99)

With regard to the issue of traffic movements as mentioned by 99, the Council would advise the Reporter that the Ayrshire Roads Alliance has not raised any objections to the proposed allocation of KK-A1. A Transport Appraisal commissioned by the Council to support LDP2 (see CD19) sets out a number of steps to address vehicle movements in Kilmarnock which must be taken in order to allow for development of KK-A1. It is anticipated that developer contributions made by the developer of KK-A1 and other sites in Kilmarnock where applicable would contribute to addressing any constraints. Matters that relate to impact on road traffic and pollution associated with the development of KK-A1 would be addressed through the planning application process in consultation with Ayrshire Roads Alliance. Any developer of the site must undertake a Transport Assessment in respect of any detailed development proposals for the site.

With the above factors taken into consideration, the Council is of the view that site KK-A1 should be allocated in LDP2 as a site to support the delivery of the Ayrshire Growth Deal.

**KK-F1(B) – Moorfield (W)**

Coalescence (244)

With respect to concerns expressed by representation 244 that development of site KK-F1(B) would bring about coalescence between Crosshouse or Kilmaurs, it should be noted that the site is not being invited for development within the LDP2 period and that any mitigation requirements would be identified should it be proposed for allocation in LDP3. The Council is of the view that the site should be identified as a Future Business/Industrial Growth area in LDP2.

**Reporter's conclusions:**

**KK-H3 – Fardalehill (E)**

1. Detailed planning permission has now been granted for housing development on this site, and indeed development was underway at the time of my site inspection. The representations relating to the site all relate to the developer requirements included in volume 2 of the plan, but I consider these requirements to now be unnecessary and superseded by the facts of the permission and the commencement of development. I therefore conclude that the site-specific requirements for this site should be removed from the plan, and make such a recommendation below.

**KK-H4 – Fardalehill (W)**

2. This allocation (which also comprises part of Proposal 10 of the LDP) would represent a major westward expansion of Kilmarnock. The site straddles the ridgeline at Bonnyton Road, occupies 66 hectares of currently agricultural land, and would significantly extend the visual envelope of Kilmarnock, especially as viewed from the north-west.

3. At Issue 17, I found that the council's generous approach to housing land supply was to be supported. This site comprises one major component of delivering on that ambition. It is inevitable that the scale of housing land supply envisaged across the plan area will have some significant landscape effects, impacts on local infrastructure and implications for service provision. Representations pointing to particular potential impacts of this proposal must be considered in this context.

4. Given the scale and ambition of this proposal I would have expected the plan to say more than it does about the place-specific masterplanning principles that will need to be applied to deliver a successful development. I would also have expected clearer evidence to be forthcoming in particular regarding any requirements for additional services to handle the demand arising from this proposal, for instance whether a new primary school will be needed within the site. As things stand, an in-principle decision is now required about a major proposed development whose form and impacts can only be assessed at a very high level.

5. I recognise that the plan contains the necessary general provisions to require the developers of the site to provide the necessary facilities to support the development, and that Policy INF4 requires developers to meet or contribute to the cost of providing any necessary infrastructure, facilities and services. However, it would have been useful for the plan to have said more about what these facilities and services were likely to be for this particular site. This would have assisted both the examination and those commenting on the plan to have a better understanding of the implications of the

development. All that said, I note the developer requirements that have been set out in volume 2 of the plan, and consider, on balance, that I do have enough information before me to make an informed recommendation regarding this proposal.

6. Turning to the particular matters raised in representations, concern has been raised regarding the potential for coalescence between Kilmarnock and Crosshouse. However, I note the explicit developer requirement included in volume 2 of the plan to reserve the area of land between Irvine Road and Bonnyton Road as open space within which no built development is to occur. The effect of this requirement will be to limit new development to land north of the ridgeline that approximately follows the line of Bonnyton Road. Development should not therefore be visible from Irvine Road, or indeed from anywhere in Crosshouse. I conclude that no coalescence will occur, and there is no need to reduce the site capacity to secure this outcome.

7. I have considered whether it is necessary to delete the substantial area of land south of Bonnyton Road from the allocation given that no built development is apparently proposed here. Alternatively this land could potentially be reallocated as open space. Retaining this land within a housing allocation gives a somewhat misleading superficial impression to users of the plan that this area will be developed. However, I have decided, on balance, that there is merit in retaining this area within the allocation to help ensure that the delivery of the open space is properly tied to the housing development.

8. Regarding the desirability of substantial boundary planting, I consider this matter is adequately covered by the developer requirement to provide a strong landscape framework. In terms of loss of open space, the site is currently given over to agriculture, and does not appear to have any special function for recreational access. I have noted above that the plan requires a substantial part of the allocation, comprising all the land between Irvine Road and Bonnyton Road, to be reserved as open space. I assume the intention is for this to be publicly accessible recreational land. Providing this commitment is properly implemented, this should substantially improve open space provision in this part of Kilmarnock.

9. I must give particular weight to the objection to this allocation from NHS Ayrshire and Arran on the basis of a lack of capacity in local GP practices. Firstly I would note that the estimated capacity of site KK-H4 is for 800 houses, and many occupiers may be expected to be already registered with GPs in the council area. The Health Board's estimate of 2,800 new registrations therefore appears wide of the mark.

10. That said, it must be that a development of the scale proposed must increase the local demand for such services to a degree. However, whether demand will increase more widely across Kilmarnock or the council area may depend on the plan's success in halting population decline and stimulating growth. In general, while housing development will influence where people live, it has a less obvious effect on overall population change. Developers may reasonably be held responsible for meeting demands brought about by the development of particular sites, but not for responding to pressures caused by wider population change.

11. Should a local need be demonstrated for the provision of a site for new health facilities to serve the residents of site KK-H4, then I consider this could reasonably be

sought from the developer. I note that the text for proposal PROP4 in the proposed plan states that such community facilities may be required. However, I consider that wider challenges, such as difficulties recruiting to general practices across Ayrshire, are beyond the scope of the planning system. No modification is required.

12. The plan does not specify where, or how, access is to be taken to the site. I assume a likely option would be via the newly-constructed Dalmahoy Drive to the south-east, which in turn accesses the main road network via a roundabout on Irvine Road. These roads are designed and constructed to a high standard and would, I expect, be capable of accommodating traffic from the development. I do not have definitive evidence on this matter, but I take some comfort from the absence of any adverse representation from the Ayrshire Roads Alliance. There is no obvious reason to suppose that emergency vehicle access to University Hospital Crosshouse would be particularly affected by the development.

13. The council points to the transport appraisal of the LDP carried out by Atkins. This document contains a high level appraisal of the cumulative impact of development on the trunk and main road network. It thus provides an indication of the works required at this more strategic scale to mitigate the impact of the sum of the proposed development in the plan. I also note the developer requirements stated in the plan for a transport assessment to be submitted, and for active travel connections and sustainable transport options to be provided. These measures should act to reduce reliance on the private car to a degree. Overall, I am satisfied that, subject to appropriate mitigation, the land is likely to be capable of being accessed without causing unacceptable impacts on the existing road network.

14. I consider that most other matters raised in representations are capable of being fully addressed at the detailed design stage. These matters include mitigating any impacts during construction, requiring necessary infrastructure and facilities to be properly phased with the development, and avoiding any local amenity effects such as overlooking of existing property.

15. In summary, I consider that ideally this major proposal could have been worked up to a greater degree of detail than is presented in the proposed plan. Nevertheless, I consider that potential impacts on landscape, open space, service provision, traffic and other matters are all acceptable for a development of this scale, and subject to the developer requirements set out in the plan. No modification is therefore required.

#### **KK-H7 – Irvine Road, Kilmarnock**

16. This site was apparently previously developed, though it is now a largely naturalised grass field to the north and area of scrub to the south. It relates well to the established urban area, and appears easily accessible from Irvine Road.

17. The site was allocated for residential development in the existing adopted LDP, and has received planning permission in principle for this use in the past (though this may since have lapsed). I am not aware of any significant site specific changes in circumstances since the adoption of the existing plan, or the granting of the earlier consent. It is generally not in the interests of the long term certainty that the planning system seeks to deliver for in-principle decisions regarding sites to be revisited in these



circumstances. For these reasons, I consider that the allocation should be maintained.

18. It is not part of my role to critique the council's housing site assessment methodology (HSAM), or to recommend any changes to that document. I base my conclusions on this site on my own assessment.

19. The owner of the neighbouring business (a metal recycling facility) is concerned about the potential for his activities to disturb future residents and create 'bad neighbour' issues. It is suggested that a requirement for a noise impact assessment should be included among the developer requirements for this site in volume 2 of the plan.

20. It is apparent to me that any new houses within site KK-H7 may be built in close proximity to the established metal recycling business, and that a potential for adverse noise impacts cannot be ruled out. In these circumstances the inclusion of a requirement for a noise impact assessment appears reasonable. I note the council is not averse to making such a change, and I therefore recommend an appropriate modification below.

#### **KK-X21 - Moorfield Kilmarnock (A)**

21. This is a brownfield former abattoir site on the south-western periphery of Kilmarnock, outside the settlement boundary. Extensive natural regeneration has taken place, but large areas of hardstanding, and some intact buildings, remain. The site has strong natural boundaries in the form of the A759, lines of mature trees to the north and south-east, and a minor road to the south and south-west. The site itself is low-lying. For these reasons, I expect development here would have a limited landscape impact. An adjacent roundabout on the A759 would appear to give excellent access to the site. Apart from a small area of reported flood risk, and the possibility of some manageable ground contamination from the previous use, I am not aware of any other physical constraints to the development of the site.

22. The landowner seeks for the site to be identified as a housing allocation, or alternatively as a miscellaneous development opportunity. Above, the council recognises the lack of constraints and notes that the site has some advantages. However it is resistant to residential development, and considers that sufficient business land is currently identified in this general locality.

23. I consider that a residential development here would produce an isolated pocket of houses, located on the opposite side of the A71 dual carriageway from the rest of Kilmarnock. It would not be possible to properly integrate the site into its host community, and I consider housing development here would not be conducive to good placemaking. Furthermore, the site is over 800 metres' walk from Gargieston Primary School, and, I estimate, over 1.6 kilometres' walk from any food shop. As such, I find that housing development would not be in compliance with the concepts of local living and 20-minute neighbourhoods, as promoted in NPF4, because it would not be possible for residents to meet many of their day-to-day needs within a reasonable walking distance.

24. In any event, at Issue 17 I found that the housing land allocation made in the plan

was more than sufficient to meet the minimum all tenure housing land requirement, and that there was no need to allocate additional sites. Within Kilmarnock itself, the plan makes a substantial allocation of land for new housing development. On this basis, there is no requirement to identify additional land, such as site KK-X21, for housing use in this plan.

25. That said, I note the support offered by NPF4 for the reuse of brownfield, vacant and derelict land. As proposed, the plan would not appear to allow for any profitable use of this land. A return to agricultural use is unrealistic, and I have noted above the site's advantages in terms of accessibility and landscape fit. For these reasons, I am sympathetic to the suggestion that the site could be identified on the proposals map as a miscellaneous opportunity. This would allow for it to be remediated for some non-residential use appropriate to this peripheral location, such as business or industry. I therefore recommend this course of action below.

26. I have also considered whether the Kilmarnock settlement boundary should be extended to cover this site. I have concluded that this is undesirable for a number of reasons. Firstly, the A71 dual carriageway represents the obvious defensible boundary to south-west Kilmarnock at this point. Secondly, site KK-X21 is separated from the existing built-up area by a small field which is highly visible from the A71, and which has an attractive rural character that should be preserved. And thirdly I note the existence of other miscellaneous opportunity sites in the rural area outside of any settlement boundary, such as site RU-M1.

### **KK-X23 - Moorfield Kilmarnock (B)**

27. This site comprises an extensive linear area of agricultural land to the south-west of Kilmarnock, and is quite well contained in landscape terms between the A71 and the A759 to the north and the River Irvine to the south. Vehicular access via a large roundabout on the A759 would appear to be excellent.

28. The existing adopted plan indicated this broad area as an appropriate location for future housing growth, without positively allocating any of this land. However, the council has clearly reconsidered its position and now does not propose to offer any support for development in this area. The council is, of course, entitled to change its mind on these matters, but I nevertheless find the fact that growth in this area was previously deemed worthy of support to be material to my assessment.

29. The A71 dual carriageway in this vicinity is raised on a low embankment and has a good amount of structural landscape planting associated with it. It therefore forms a very strong defensible boundary to this part of Kilmarnock. The allocation of site KK-X23 would therefore represent quite a dramatic breaking out of the town's existing landscape envelope in this area, and would introduce urban land uses into an area that currently has an overwhelmingly rural character.

30. Such significant changes may sometimes be justified, and indeed are pursued in the proposed plan at other locations. But to support the development of KK-X23 would represent a major amendment to the wider spatial strategy of the plan. This strategy is clearly to direct most growth to the north-west of Kilmarnock. Elsewhere in this report I have found the allocations in that area to be appropriate. And at Issue 17 I found that

the housing land allocation made in the plan was more than sufficient to meet the minimum all tenure housing land requirement, and that there was no need to allocate additional sites. On this basis I conclude that, whatever the advantages of the land at KK-X23 may be, there is no requirement to allocate it for further housing development at the current time.

31. I have considered whether this land could instead be identified as a future growth area, as it is in the adopted plan. However I note that the site does have some disadvantages lessening its potential for housing development. I have already noted that development here would breach the strong and defensible existing settlement edge in this area. I also note that at least part of the land consists of prime agricultural land. According to Policy 5 of NPF4, development on such land should only be contemplated in certain very restricted circumstances. Parts of the site are also apparently at risk of flooding from the River Irvine, though I accept it may be possible for a viable development to avoid these areas.

32. The site is also distant from existing services and facilities. While Gargieston Primary School may be within walking distance of the eastern part of the site, other facilities such as shops appear to be much more distant. I therefore tend to the view that should any residential development take place here at any point, then the scale of the development would need to be big enough to sustain its own range of facilities and services, potentially including a neighbourhood centre sufficient to allow residents to meet many of their day-to-day needs within the site. Only then could development be said to properly foster living and comply with the concept of the 20-minute neighbourhood as promoted in NPF4.

33. Such a scale of development would be a major strategic decision requiring a level of justification and supporting information that is not before me at this examination. For this reason, and in the light of the potential constraints that I have identified, I therefore conclude that no modification to the plan is required.

#### **KK-A1 – Ayrshire Engineering Park**

34. This site comprises an extensive area of farmland to the west of Kilmarnock, south of University Hospital Crosshouse, and north of the established Moorfield area of business/industrial land. The eastern part of the land is allocated as a business and industry opportunity in the existing adopted LDP. The proposed plan suggests extending this allocation westwards to the edge of Crosshouse. If fully developed, the site would remove the landscape gap between Kilmarnock and Crosshouse and result in the effective coalescence of the two settlements. As a general planning principle, such coalescence between towns and villages is not desirable because it can erode the landscape setting and separate identity of the distinct settlements.

35. However, coalescence is only one factor to be considered in the planning balance, and I accept the possibility of there being other overriding factors that could still justify development here. To this end, I sought the council's views as to what further information existed regarding the need or demand for the additional allocation of business and industrial land of this scale at this location.

36. In response, the council explained its particular reasoning behind seeking to

allocate further land in this area. It points to the Avison Young Business and Industrial Land Review, which concludes that demand for land is higher in Kilmarnock than in other parts of East Ayrshire, and there is a lack of suitable industrial space to support sector demand. The council also states that the adjacent Moorfield site has proved particularly attractive to new business development, and that few remaining plots exist here. Little good quality industrial space is said to be available within East Ayrshire, with few options available to companies looking to move to the area. Allocations in other parts of Kilmarnock are claimed to have suffered from lack of demand or to not offer opportunity for large scale new development or inward investment. The large allocations to the east of the A77 are expected to come forward more slowly as constraints are overcome, whereas site KK-A1 is more immediately available.

37. Site KK-A1 has also been chosen as the preferred site for co-locating the Ayrshire Manufacturing Investment Corridor (AMIC) project and the Ayrshire Engineering Park (both funded by the Ayrshire Growth Deal). These projects are deemed key to helping unlock Ayrshire's development potential.

38. It is claimed that reducing the size of KK-A1 considerably would leave little land available to the private sector to invest or for the public sector to grow the Ayrshire Engineering Park further. However, the council acknowledged the concerns around coalescence, and suggested that the most westerly pocket of the allocation could be removed from the plan without causing difficulties in terms of either the Ayrshire Growth Deal or supply. A map suggesting the potential reduced extent of the allocation was provided.

39. I am broadly satisfied that the council's reply has demonstrated the need for additional employment land allocations in this area. I have considered the suggested amendment to the site boundary, and agree that this represents an improvement in that it allows for the retention of some open land between site KK-A1 and Crosshouse. With the possible addition of structural planting along the western boundary of the site, this should help to maintain some sense of separation between Crosshouse and Kilmarnock. The pulling back of industrial/ business development further to the east should also help allay some of the amenity concerns expressed in representations from the Crosshouse community.

40. I therefore consider that the redrawing of the western boundary of site KK-A1 is worthwhile, and recommend this change below. However, I must acknowledge that, even with this modification, the residual gap between Crosshouse and Kilmarnock will be very narrow.

41. Turning to the other matters raised in representations, access to the site would most likely be taken from Kilmarnock Road to the north of the site, which in turn provides access to the A71 dual carriageway via the B7081. While I do not have definitive evidence on these matters, these roads appear to have been designed and engineered to a high standard capable of handling high traffic loads. I take further comfort from the absence of any adverse representation from the Ayrshire Roads Alliance. The council points to the Atkins Transport Appraisal Report commissioned to support the plan. While this does not report on individual sites, it does set out the strategic mitigations that may be required to support the aspirations of the plan as a whole. Overall I am satisfied that the site is likely to be capable of being accessed

satisfactorily without causing undue traffic problems.

42. While the western part of the site does fall within the rural protection area as defined in the existing adopted plan, there is no barrier to the council reviewing the boundary of this designation and allocating more development through the process of LDP review. Above I have concluded that some allocation of business land in this area is justified.

43. The council has committed to amending the environmental report to accommodate SEPA's comments regarding co-locational issues. Under Policy SS2(vii) of the plan, developers are required to implement the relevant enhancement and mitigation measures contained in the environmental report. On this basis I conclude that no modification is required.

44. I consider that some of the matters referred to in the representation from NatureScot are already captured by the generic policies of the plan, such as the need to embrace active travel infrastructure (Policy T1), incorporate blue and green infrastructure (Policy OS1), deliver positive effects for biodiversity (Policy NE4) and reduce light pollution (Policy NE12). However, given the particular importance of providing a robust landscape framework at this site that provides defensible edges, I agree that this matter should be incorporated among the developer requirements for this site. I note the council is not averse to such a change, and I recommend such a modification below.

#### **KK-F1(B) – Moorfield (W)**

45. This proposed future business growth area is located on open agricultural land between the existing Moorfield industrial/ business area, allocation KK-A1, the A71 dual carriageway, and residential districts of south-east Crosshouse. The only issue before me with respect to this proposal is the danger of coalescence between Kilmarnock and Crosshouse.

46. Many of the same considerations apply as for site KK-A1 above. Development of this land would effectively fill the gap between Kilmarnock and Crosshouse in this area. That said, this area of land is less visible than site KK-A1 from Kilmarnock Road, and is not visible from the A71, which is in cutting at this point. However, given the narrowness of the gap between Crosshouse and the Moorfield industrial estate, there would seem to be less opportunity to pull the allocation away from Crosshouse and still deliver a meaningful developable area.

47. In its response to my further information request, the council argues that matters such as coalescence can be considered further, and any necessary developer requirements applied, in the next or future iterations of the plan. However, I consider that the inclusion of this land as a future growth area in this emerging plan represents a reasonably strong commitment to the in-principle acceptability of development here.

48. I accept the council's point that coalescence is merely one factor that needs to be balanced against other considerations, such as economic development, when devising the spatial strategy of the plan. However, as things stand today, no equivalent case for the need to develop site KK-F1(B) has been made as it has been for site KK-A1. I am

reluctant to concede the loss of this open area of countryside, that plays an important role in separating Crosshouse from Kilmarnock, in the absence of such a case. I therefore conclude that site KK-F1(B) should be removed from the plan.

49. In making this recommendation, I am not intending to indicate that this land may not be required for economic development in the future. I am simply taking the view that the case for this land being required has not yet been fully established. The requirement to utilise this land may be revisited in future reviews of the LDP.

### **Reporter's recommendations:**

I recommend that:

1. The site specific developer requirements for site KK-H3; Fardalehill (E) be deleted from the volume 2 of the plan.

2. The following sentence be added to the developer requirements for site KK-H7: Irvine Road.

‘A noise impact assessment will be required to support any application. The applicant will be required to incorporate within their development any required mitigation measures identified through the assessment.’

3. Site KK-X21 be included in the Rural Area section of volume 2 of the plan, and on the proposals map as a miscellaneous opportunity. In volume 2, the use is to be given as ‘Business/ industrial and potentially other non-residential uses appropriate to this peripheral location’, and the notations ‘SW’ and ‘FL’ are to be given as the developer requirements (general).

4. The area of site KK-A1: Ayrshire Engineering Park be reduced on the Kilmarnock proposals map to the area labelled ‘Alternative extent of KK-A1’ in the map accompanying the council’s response dated 27 July 2023 to further information request 2. Also that the consequential reduction in the stated site area be made at schedule 4 and in volume 2 of the plan.

5. The following sentence be added to the developer requirements for site KK-A1: Ayrshire Engineering Park in volume 2 of the plan.

‘A masterplan must be prepared for the site, setting out a landscape framework that provides defensible edges to the development, including structural planting along the western boundary, and incorporates SuDS features.’

6. Site KK-F1(B) be removed from the plan.



Issue 39	Kilmarnock East	
Development plan reference:	Allocations: RU-A1, RU-B2(O1), RU-B2(O2)	Reporter: Stephen Hall
Body or person(s) submitting a representation raising the issue (including reference number):		
Scottish Wildlife Trust (110) NatureScot (157) Tangent Properties (203) Scottish Government (310)		
Provision of the development plan to which the issue relates:	The inclusion of business & industry sites and Ayrshire Growth Deal sites East of Kilmarnock: RU-A1, RU-B2(O1), RU-B2(O2).	
Planning authority's summary of the representation(s):		
<u>General</u>  <u>203</u> In regard to the Housing Site Appraisal Methodology (HSAM) (CD8). The Stage 2 assessment process could be more robust. In section 4.2, "contribution to spatial strategy" being based upon the current Spatial Strategy, not upon that of LDP2. A more detailed explanation on how sites are meant to contribute to the Spatial Strategy would have been helpful as this is unclear from the HSAM itself. Section 4.3 scores sites on viability and marketing, however, some of the parameters are subjective in nature and favour sites which are already allocated or have consent; it is argued that it would have been fairer to focus on site availability and marketability rather than planning status, as this weighs against proposed new allocations. That none of the scores are weighted is considered a flaw in the methodology, as the scores are dependent of the number of parameters within each topic area instead of relevance; as such, the scores need be treated with a degree of caution.  <u>RU-A1, RU-B2(O1) and RU-B2(O2)</u>  <u>310</u> is of the view that the developer requirements for RU-A1, RU-B2(O1) and RU-B2(O2) do not provide sufficient information on the specific transport requirements to be addressed by the site especially in a cumulative context which have been identified in the transport appraisal relating to Bellfield Interchange.  The Plan should include information regarding which sites are contributing to the funding and delivery of specific infrastructure, in accordance with SPP (CD26) paragraph 275, Circular 3/2012 Planning Obligations and Good Neighbour Agreements paragraph 32, and draft NPF4 policy 10 and the Infrastructure First principle outlined in policy 8 of the latter.		

In addition, in relation to RU-A1, 310 requests clarification regarding whether the TA referred to is a Transport Assessment (detailing site-specific transport requirements at planning application stage) or the Transport Appraisal in support of the LDP.

#### Site RU-A1

203 objects to this land allocation on the grounds of it being solely for employment uses, with apparent little thought given to the links between employment and housing growth in terms of sustainability.

#### Site RU-B2(O1)

203 objects to this land allocation on the grounds of it being solely for employment uses, with apparent little thought given to the links between employment and housing growth in terms of sustainability.

#### Site RU-B2(O2)

110 highlights the proximity of the Riccarton Moss LNCS to site RU-B2(O2) and requests that when dealing with flooding, any potential impacts on the hydrology of the Moss are considered.

157 recommend that the developer requirements include provision of a robust landscape framework that provides an attractive, defensible edge and integrated active travel connections, and that development include multifunctional green and blue infrastructure. Care should be given to light pollution reduction.

203 support the allocation of RU-B2(O2), but not purely for employment uses. An employment-led approach which includes substantial housing is recommended, as it is argued that employment uses alone are not viable and require some sort of cross-subsidy with higher land-value uses or public funding, and that in addition purely employment uses are not a sustainable form of development, contrary to national policy. They note that the HSAM (CD15) assessed a larger site (KK-X31) which scored well in a number of topic areas.

203 argue that the requirement to provide developer contributions towards improvements at Bellfield Interchange would make development of the site for employment uses not viable, as purely employment development is already hardly viable on its own.

203 with regard to the Bellfield Interchange, Kilmarnock Development Options Stage 1 Assessment report (CD91) highlight that paragraph 1.05 states that EAC directed consultants not to include any consideration of housing, which in the view of the respondents compromises the robustness of the report as a key evidence base.

#### **Modifications sought by those submitting representations:**

##### General

203 recommends the Kirklandside/Kaimshill area be included on the list of key areas of

change within 3.2.D of the Spatial Strategy, with the site area covering the study area of the Graham & Sibbald 2020 report (CD91, page 4), together with an additional area to the south corresponding with the boundary of MIR site 35 (CD1, page 145). Accordingly, they recommend that this area of change has a similar approach to that of South Central Kilmarnock. This would include a Proposal site PROP2: Kirklandside and Kaimshill, which, similar to PROP1, would promote a Development Framework for the area, with an employment-led mixed use urban extension and inclusion of improvements at Bellfield Interchange and a new railway station at Hurlford with park & ride. This would also mean a new Spatial Strategy policy SS9: Development at Kirklandside and Kaimshill similar to SS8.

#### RU-A1

310 recommend that the developer requirements be deleted and replaced with text specifically outlining what transport infrastructure, as identified in the LDP transport appraisal (CD19), the developer will be required to contribute towards and/or deliver and when this will require to be in place, in addition to any site-specific transport requirements detailed within a Transport Assessment required to accompany the planning application.

#### RU-A1, RU-B2(O1) and RU-B2(O2)

310 recommend that the developer requirements be deleted and replaced with text specifically outlining what transport infrastructure, as identified in the LDP transport appraisal the developer will be required to contribute towards and/or deliver and when this will require to be in place, in addition to any site-specific transport requirements detailed within a Transport Assessment required to accompany the planning application.

310 seek clarification on whether the developer requirements for site RU-A1 refer to the TA as being a Transport Assessment or the Transport Appraisal in support of the LDP.

#### RU-B2(O2)

110 do not specify any modifications in their representation, but it is understood to recommend the developer requirements be amended to include consideration of potential impacts of any new flood schemes on the Riccarton Moss LNCS.

157 recommend that developer requirements be amended to include “provision of a robust landscape framework that provides an attractive, defensible edge and incorporates SUDS features”, to give consideration to “sustainable transport measures and the provision of attractive and integrated active travel connections”, to “incorporate multifunctional green and blue infrastructure ... that delivers positive effects for biodiversity through enhancement of habitats and natural networks”, and to consider light pollution reduction.

203 request that the allocation be changed to lend support to additional use classes beyond the current classes 4, 5 and 6, to include retail and leisure, food and drink, hotels and sui generis such as pub or car showroom.

310 recommend that the developer requirements be deleted and replaced with text specifically outlining what transport infrastructure, as identified in the LDP transport appraisal, the developer will be required to contribute towards and/or deliver and when this will require to be in place, in addition to any site-specific transport requirements detailed within a Transport Assessment required to accompany the planning application.

**Summary of responses (including reasons) by planning authority:**

General

HSAM (203)

The Housing site appraisal methodology is not in the scope of the examination. However, it is nevertheless noted that the

RU-A1, RU-B2(O1) and RU-B2(O2)

Objection to allocation of RU-A1 and RU-B2(O1) for employment uses only (203)

A detailed response to the scope for allocating additional uses within these employment sites can be found below under “Support additional uses beyond business & industry (203)”. In summary, these three sites have been identified as strategically important for employment use, responding to a specific demand of business and industrial land and to support the Ayrshire Growth Deal. This is supported by the findings of the Review of Business & Industrial Land Supply in East Ayrshire report (CD50), which highlighted well-connected areas near Kilmarnock as the most desirable for this type of development, and recommended protection of allocated employment sites from erosion by non-related development. LDP2 allows a degree of flexibility in the development of retail within employment land when this complements and does not dilute the primary use of the site; this is deemed to be sufficient. Allocation of land for residential or commercial purposes would not be appropriate due to amenity and accessibility issues, and the town centres first principle, respectively. As such, the Council is of the view that RU-A1 and RU-B2(O1) should retain their current allocation unchanged.

Site Specific Developer Requirements and funding and delivery of specific infrastructure (310)

310 is of the view that the developer requirements, as set out in PLDP2 Volume 2, and associated with all three sites do not provide sufficient information, particularly in a cumulative context, on the specific transport requirements needed to be addressed by the site. This level of detail was never intended to be included in the site-specific developer requirements in PLDP2 Volume 2. The wording as contained in the developer requirements for site RU-A1 highlights that transport improvements will be required as detailed in the transport appraisal. It also highlights that signalisation of the Bellfield Interchange will be required to support development of the site and that additional transport requirements are set out in PLDP2 Volume 1 PROP4. The developer requirements for site RU-B2(O2) also make reference to the Transport Appraisal. They state that further development of the site within the medium to longer

term will require that additional mitigation measures as identified in the Transport Appraisal be completed. Proposals for the phasing of mitigation proposals will be explored with Transport Scotland, community groups and other stakeholders during the delivery phase of the Plan. The developer requirements for site RU-B2(O1) does not set out any specific detail concerning developer requirements, however this site lies immediately south of site RU-A1 and any transport improvements as highlighted under site RU-A1 will apply to site RU-B2(O1).

Details regarding funding and delivery of transport infrastructure improvements are included in the developer contributions supplementary guidance.

The Council is of the view that the level of detail set out in the developer requirements for all three sites is sufficient and that further detail is contained in the Transport Appraisal and PROP4 of the Plan, and in draft developer contributions supplementary guidance.

Clarification is sought regarding the reference to ‘Transport Assessment’ within the developer requirements for site RU-A1. The Council can confirm that this should have read ‘Transport Appraisal’. If the Reporter is minded to agree, the Council would suggest removing the word ‘Assessment’ in the third sentence of the developer requirements and suggest the following wording which should clarify the matter:

*“Transport improvements will be required as detailed in the LDP2 Transport Appraisal (TA).”*

#### RU-B2(O2)

##### Consider effect on Riccarton Moss LNCS (110)

Any developer would be required to meet policy NE5 (Protection of Areas of Nature Conservation Interest) which includes a presumption against development having an adverse impact on sites of local importance, including LNCSs, with development only being permitted “where appropriate measures will be put in place to conserve and manage, as far as possible, the site’s biological and geological interest”. Other policies of the Plan would also apply to various aspects of this LNCS, i.e. NE4 (Nature Crisis), NE6 (Vulnerable, Threatened and Protected Species), NE11 (Soils). Furthermore, the Council will prepare non-statutory planning guidance on Local Nature Conservation Sites. Development of flood protection works, major developments, and developments within the fluvial floodplain require SEPA to be consulted, who as the environmental regulator would have a view with regard to any such impacts. For these reasons, the Council is of the view that no amendments are required to be made to the site requirements.

##### Include requirement for landscape framework (157)

Any developer of the site would be required to meet policy NE1 which contains requirements in relation to avoiding and mitigating landscape impacts, policy NE8 which seeks to protect hedgerows, DES1 and T1 which contain provisions relating to active travel and the sustainable travel hierarchy, NE12 which contain provisions relating to light pollution, and OS1 which requires multi-functional green and blue

infrastructure. As such, the Council is of the view that no changes are required to be made the site requirements.

#### Support additional uses beyond business & industry (203)

The sites RU-A1, RU-B2(O1) and RU-B2(O2) constitute a significant new business & industry opportunity and represent a strategically important driver of economic growth, supporting the Ayrshire Growth Deal (as described in LDP2 section 3.3.A) and retaining and attracting businesses particularly in Kilmarnock, to take account of market demand (3.3.B).

The Council commissioned a Review of Business & Industrial Land Supply in East Ayrshire (CD50) as part of the preparation of LDP2. The scope of the brief for any study is not a matter for examination. The study identified a poor supply of modern industrial facilities compared to other similar areas in Scotland resulting in a very low vacancy rate. The study recommended, among other actions, increasing the provision of modern, well connected business and industrial accommodation, and ensure infrastructure is a key consideration. Kilmarnock was highlighted as the focus for large site allocations. In light of these findings, LDP2 allocated the sites RU-A1, RU-B2(O1) and RU-B2(O2) which provide a large amount of constraint-free land, suitable for large footprint industrial development, optimally connected to road and potentially rail infrastructure.

The Business & Industrial Land Supply report identified a potential demand of 1595m<sup>2</sup> from business occupiers and 27981m<sup>2</sup> from industrial occupiers; whilst this will not necessarily result in transactions, it is a good indicator of the demand in East Ayrshire with a preference for Kilmarnock. This suggests that no additional uses should be necessary to guarantee the viability of business and industrial development at this sites; indeed, the study recommends that allocated business and industry sites be protected from “erosion by non-related uses such as residential”.

Allocation of parts of the site for residential purposes would directly reduce the capacity for the strategically important business and industry use intended for the site. More importantly, the likely impacts industrial uses would have on nearby residential amenity by way of visual impacts, noise, heavy plant and goods vehicles traffic, odours, etc. (as set out in policies SS2, RES3 and NE13 of LDP2) would compromise the number, scale and type of business that could successfully establish at the site, rendering the allocation useless.

Nonetheless, the site was considered for residential purposes as part of the HSAM (CD15), where it was concluded that the site would be isolated from the rest of Kilmarnock and Hurlford by the A77 and the Bellfield Interchange, as well as a number of other major roads and a railway line. Distances to services and facilities are lengthy and it is likely that the car would be used for most journeys.

Given the plentiful availability of land for residential use in preferred locations, and the need for adequate business & industry land, it was deemed appropriate to allocate the site for business and industry use, driving economic activity and supporting the Ayrshire Growth Deal.



In terms of commercial uses at the site, policy IND3 of LDP2 supports development of other employment generating uses within business and industrial sites, where they complement and do not dilute the primary business and industrial function of the area and comply with all other policies of the Plan, including the Town Centre policies. This is considered to give enough flexibility to allow for a range of complementary uses, in so far as they do not conflict with the Town Centre First principle outlined in policy TC1 and in national policy.

In general terms, the town centre first principle as defined in SPP (CD26) governs the location of footfall-generating uses, by directing footfall-generating uses to town centres where these exist. Town and neighbourhood centres exist in nearby Kilmarnock and Hurlford, which service the local population, and, as such, the allocation of land for these types of uses at this location is not deemed to accord with national and local planning policy principles.

For all these reasons, the Council does not agree to add any further uses to site RU-B2(O2).

### **Reporter's conclusions:**

#### **General**

1. It is not part of my role to critique the council's housing site assessment methodology, or to recommend any changes to that document. I have based my conclusions on the proposed sites on my own assessment.

#### **RU-A1, RU-B2(O1) and RU-B2(O2)**

##### Transport infrastructure requirements

2. The Infrastructure First section of National Planning Framework 4 (NPF4) expects LDPs to be based on an integrated infrastructure first approach. Plans should:

- be informed by evidence on infrastructure capacity, condition, needs and deliverability within the plan area;
- set out the infrastructure requirements to deliver the spatial strategy, informed by the evidence base, identifying the infrastructure priorities, and where, how, when and by whom they will be delivered; and
- indicate the type, level (or method of calculation) and location of the financial or in-kind contributions, and the types of development from which they will be required.

3. Paragraph 32 of Circular 3/2012: Planning Obligations and Good Neighbour Agreements states that the broad principles of the level of infrastructure provision to be delivered through planning obligations, including the items for which contributions will be sought and the occasions when they will be sought, should be set out in the LDP. However, methods and exact levels of contributions should be included in statutory supplementary guidance.

4. The proposed plan has been informed by a transport appraisal prepared by Atkins on behalf of the council and in consultation with Transport Scotland. This considered

the cumulative impacts of the plan's potential development opportunity sites (along with the effects of legacy sites) on the trunk and primary road network. The modelling identified that the majority of the network was able to accommodate the predicted levels of traffic, but that mitigation works would be required at four locations, including at the Bellfield Interchange. At Bellfield, requirements for signalisation, widening, queue detection and a pedestrian/ cycle overbridge were itemised. Of these items, it is recommended that signalisation should be delivered within three years of the LDP being adopted.

5. The Bellfield Interchange, and the Ayrshire Growth Deal development (which the appraisal appears to have expected to comprise both site RU-A1 and part of site RU-B2(O2)) are given particular attention in the appraisal. Paragraph 7.3 concludes that "signalisation of the Bellfield Interchange and extension of the A77 southbound offslip to a parallel diverge is appropriate to accommodate the traffic growth associated with LDP1, LDP2 and AMIC Phase 1 + 2". At paragraph 7.1.6.3, the appraisal suggests that funding for the proposed signalisation of the Bellfield Interchange and A77 (N) parallel diverge slip road is generated from developer contributions associated with LDP and AMIC Phases 1 and 2 (this equates to site RU-A1 and part of site RU-B2(O2)) on the basis of the trips arriving at the Bellfield Interchange.

6. I assume that the queue detection referred to is an inherent part of any signalisation. As regards the pedestrian/ cycle overbridge, paragraph 7.1.6.2.1 of the appraisal states that it would be preferable to refer to 'a package of active travel measures'.

7. In its representation, the Scottish Government argues that the developer requirements for sites RU-A1, RU-B2(01) and RU-B2(02) should set out in more detail the specific transport requirements to be addressed by the site. The council argues that it is appropriate for the plan to refer to the transport appraisal for the detail of what is to be required.

8. In my view it is reasonably clear that any significant development on any of these three sites is dependent on the signalisation of the Bellfield Interchange, the extension of the A77 southbound offslip and a package of active travel measures. I believe this could be stated more clearly than it currently is in the proposed plan, and I recommend appropriate modifications below.

9. It seems likely that the development of the entirety of site RU-B2(O2) (or more than the 25% of the site assumed in the appraisal) will require further transport improvements. Paragraph 7.2.10 of the appraisal indicates that to support development beyond the first phase of site RU-B2(O) "consideration should be given to the partial dualling of the A71 and A76 on the approach to the Bellfield Interchange" from the site access points. This reference indicates that further work is required before precise requirements for the later phases of this development can confidently be itemised. It seems to me reasonable to explain this openly in the plan, especially given that it must be unlikely that more than 25% of this large site will be developed before the plan is reviewed. I recommend an appropriate modification below.

10. I now turn to how these improvements will be funded, the extent to which the burden should fall upon contributions from the developers of these sites, and what the

plan can reasonably say about these matters at this stage. There are clearly existing issues at the Bellfield Interchange, and it is also not only the developers of these three sites who may potentially benefit from any improvements. In these circumstances, it would not appear reasonable or realistic to expect these developers to bear the full cost alone. The appraisal acknowledges at paragraph 7.1.6.3 that “a significant proportion of traffic at the junction is existing and a proportionate, fair and equitable approach to account for this will also need to be identified to comply with the requirements of Planning Circular 3/2012”.

11. My colleague has already addressed aspects of this matter at Issue 21, where he concluded that the best that was possible at this time is to revise the draft supplementary guidance on developer contributions to take account, as far as is practically possible, of Transport Scotland’s advice. It is, however, clear that, following an unsuccessful recent bid to the Levelling Up Fund, the council’s expectation is that some alternative source of funding may need to be explored, including, potentially, from the council’s capital programme.

12. For these reasons, I do not believe it is possible for the developer requirements for these sites to provide any more detail at the current time as to the funding arrangements for any improvements to Bellfield Interchange. The best that can be done at this stage is to give as much detail as is possible (and proportionate) as to what the required improvements are. This is what I have attempted to achieve in my recommendations.

13. The council has confirmed that the reference to the ‘Transport Assessment’ in the developer requirements for site RU(A1) is an error, and the correct wording should be ‘Transport Appraisal. However, I have removed this reference in my recommendation below.

14. As an aside, I note from the report to the East Ayrshire Council cabinet of 31 May 2023, as supplied to the examination as a factual update by the council, that the preferred location for the Ayrshire Growth Deal – Ayrshire Manufacturing Investment Corridor (AMIC) project has been amended. The preferred location, going forward, will be Moorfield (site KK-A1). This is a change to the Ayrshire Growth Deal programme, insofar as the previous preferred location was site RU-A1. The developer requirements for site RU-A1 clearly state that the site may not be developed for any other purpose than the AMIC project. It therefore appears that there is no longer any prospect of this land being developed.

15. I have considered whether it is necessary for me to recommend the deletion of this site for this reason. However, given that there is no representation seeking for the deletion of this site, I have concluded that this would be beyond the scope of this examination.

#### Scope of proposed uses

16. Tangent Properties seek for the land at RU-B2(O2) to be allocated for a wider range of uses, including potentially, housing, retail, leisure, food and drink, and hotel uses.

17. It is clear to me that the sole driver of this proposed allocation was the delivery of a strategic scale land release for industrial/ business development. Above, the council outlines its rationale for considering a site of this scale was required, and this reasoning is not challenged by the representee. Rather, the argument is that allowing a mix of other uses would assist in releasing value and hence increase the viability of the wider site.

18. The Review of Business and Industrial Land report commissioned by the council from Avison Young reported a potential demand of 1,595 square metres from business occupiers and 27,981 square metres from industrial occupiers, with a preference for sites in Kilmarnock. If this level of demand can be relied upon, this does indicate that there is not necessarily any requirement for a cross-subsidy from other uses to stimulate the development. The potential for unusual costs such as for the improvement of Bellfield Interchange also needs to be considered, but it appears from evidence to this examination that the council is alive to the possible need for public monies to be spent on this scheme.

19. In any event, I have a number of concerns about supporting the introduction of non-employment uses onto this land. As regards housing, at Issue 17 I found that the housing land allocation made in the plan was more than sufficient to meet the minimum all tenure housing land requirement, and that there was no need to allocate additional sites. This site is divorced from any established community or neighbourhood centre and so would not seem to be compliant with the concepts of local living and 20-minute neighbourhoods as promoted by NPF4. Also, as the council points out above, the introduction of residential development could constrain the ability of certain 'bad neighbour' industrial users to locate here. Commercial footfall-generating uses, such as major retail and leisure, are more appropriately directed to town centres and locations that are more accessible by transport modes other than the private car.

20. That said, I would have fewer concerns about the inclusion of modest amounts of non-business uses especially where this might directly support the employment function of the area. Examples might include shops, cafes, nurseries, petrol stations or hotels aimed at the population working on the wider site. Policies in the plan such as TC3 (Small scale retail development in out-of-centre locations) and TOUR2 (Tourism Accommodation) would already appear to allow for such uses once this land is brought within the settlement boundary (which I anticipate will happen in due course if development here is realised). Policy IND3 allows for other employment-generating uses within business and industrial areas where they do not dilute the primary business and industrial function of the area.

#### **Identification as key area of change**

21. The council does not address the suggestion from Tangent Properties that the land at Kirklandside and Kaimshill be identified as a 'key place of change' within section 3.2D of the plan, alongside such other initiatives as the regeneration of South Central Kilmarnock. I have some sympathy that such an approach could have supplied more detail about the council's aspirations for this major release of development land. It would also have responded to the clear focus on place that the Scottish Government's Local Development Planning Guidance ('the LDP Guidance') expects.

22. However, I consider that the introduction of such a major change to the plan at this late stage in the process should only be contemplated where absolutely necessary. Paragraph 259 of the LDP Guidance states that Scottish Ministers do not expect reporters to have to consider making wholesale changes to the plan. While a greater focus on the future of this area may well have been beneficial, I do not consider it essential, and the council's alternative approach of requiring a developer-led masterplan is workable. I am not tasked with making the plan as good as it can be, but only with modifying those parts that are clearly inappropriate or insufficient.

23. Furthermore, in the absence of an available body of text for me to recommend inserting into section 3.2D, it would be challenging for me to devise an appropriate detailed modification. It is not my role to invent a development framework or compose a set of development principles for this site. For these reasons, I decline to recommend any modification. However, I do consider that this is a matter that the council could profitably consider further when they next come to review the LDP.

#### Extension to area of site

24. Tangent Properties suggest extending the boundary of site R2-B2(O2) significantly further to the south. The effect would be to increase the size of this allocation by (I estimate) at least 50%. The council has not responded to this suggestion above, but neither has the representee supplied any detailed rationale for why such an extension is required.

25. I consider that the proposed extension would represent a major change to the plan, but no detailed or persuasive case has been made as to why this change is necessary, and I do not have comprehensive evidence as to what the potential effects would be. For this reason, I have not considered this matter further, and decline to recommend any modification.

#### Rail infrastructure at Hurlford

26. It is also suggested that provision should be made in the plan for a feasibility study to be carried out into a new railway station at Hurlford, and a new proposal included in the plan for an associated park and ride site at this location. The council has not responded to these suggestions.

27. On the face of it, these ideas are interesting. However, I am aware that the reality of delivering new railway stations is lengthy and complex, and I am not willing to recommend the inclusion of a commitment even to a feasibility study in the absence of a great deal more evidence on this matter. No modification is required.

#### Effect on Riccarton Moss

28. The potential for the development of site RU-B2(O2) to have an effect on the nearby Riccarton Moss local nature conservation site is highlighted. There is no suggestion that this constraint is such as to threaten the overall viability of the proposal.

29. While it would have been possible to have included the consideration of this matter among the developer requirements for the site, I am unsure how significant a

matter this is. I am therefore content to rely on LDP Policy NE5: Protection of Areas of Nature Conservation Interest, which contains an appropriate policy framework for the assessment of these matters. No modification is required.

#### Additional developer requirements

30. In the main, I find that the additional developer requirement for site RU-B2(O2) requested by NatureScot are adequately addressed by the generic policies of the plan. Policy T1 requires developers to embrace active travel infrastructure, Policy OS1 requires the incorporation of blue and green infrastructure, and Policy NE12 requires the minimisation of light pollution. However, given the particular importance of providing a robust landscape framework at this site that provides defensible edges, I agree that this matter should be incorporated among the developer requirements for this site. I recommend such a modification below.

#### **Reporter's recommendations:**

I recommend that:

1. The third sentence of the developer requirements for site RU-A1: Ayrshire Manufacturing Investment Corridor be deleted and replaced with the following sentence.

'No development is to be occupied ahead of the signalisation of the Bellfield Interchange, the extension of the A77 southbound offslip and the implementation of a package of active travel measures.'

2. A new fourth sentence be inserted into the developer requirements for site RU-B2(O1): Kirlandside and Kaimshill, as follows.

'No development is to be occupied ahead of the signalisation of the Bellfield Interchange, the extension of the A77 southbound offslip and the implementation of a package of active travel measures. Additional transport requirements ... [continue as in proposed plan]'

3. The developer requirements for site RU-B2(O2) are deleted and replaced with the following wording.

'The council will require the developer to prepare a masterplan for their proposed development site in line with PAN 83. This should include the provision of a robust landscape framework that provides an attractive defensible edge to the development. No development is to be occupied ahead of the signalisation of the Bellfield Interchange, the extension of the A77 southbound offslip and the implementation of a package of active travel measures. No more than 25% of the site may be developed before the completion of further measures to mitigate the impact of development on the Bellfield Interchange, possibly including the partial dualling of the A71 and A76 on the approach to the interchange. Additional transport requirements are set out in Volume 1 PROP4.'



Issue 40	Knockentiber	
Development plan reference:	Residential allocation KT-H1	Reporter: Stephen Hall
Body or person(s) submitting a representation raising the issue (including reference number):		
Mr & Mrs J Mitchell (37) Pauline Roberts (45) Suzanne King (249)		Mark Wilson (254) Colin Gorman (277)
Provision of the development plan to which the issue relates:	The inclusion of an opportunity site in Knockentiber: KT-H1	
Planning authority's summary of the representation(s):		
<p><b>Allocation of site KT-H1 Southhook Road</b></p> <p><u>37</u> expresses concern that Knockentiber has already undergone much expansion with no local service provision. Further expansion would have a detrimental impact on the setting and outlook of the settlement. The provision of a “new defensible edge” is not going to prevent further expansion westward.</p> <p><u>45</u> and <u>277</u> consider that development of KT-H1 will have an adverse impact on properties that back onto the site by blocking sunlight during winter as these windows face west. Concerns of overlooking are raised as the site is higher than that of existing properties.</p> <p><u>45</u> expresses concern regarding the wildlife on the site being affected by the removal of hedgerows, trees and other habitats. <u>249</u> highlights impacts on fauna and landscape.</p> <p><u>45</u>, <u>254</u> and <u>277</u> state that development will cause light, noise and air pollution, both from houses and from increased traffic.</p> <p><u>45</u> and <u>249</u> believe that the proposed addition of 86 dwellings would result in an increase of 50% of the settlement's population. The increased population would put a strain on local facilities already overstretched by recent developments such as Fardalehill: Crosshouse Primary School, Grange Academy, local medical practices, hospital, etc. Besides, an increased number of children will also put a strain on the school bus service.</p> <p><u>45</u> and <u>254</u> state that the only shops, school, doctors surgery or dentist available are in Crosshouse and therefore many residents walk there frequently; the proposed development would result in an increase of vehicles, which would be unsafe.</p> <p><u>254</u> believes that the roads and footpaths cannot deal with the increase, where these</p>		

are already unfit due to commuters trying to access the A77.

254 believes that increased traffic will also affect the main junction into Crosshouse, which is already problematic.

249 states that the road through Crosshouse is already heavily impacted due to the hospital, and that this is not considered in the allocation.

45 and 254 state that development would have a negative impact on drainage and flooding, as the site slopes down towards Southhook Road which often floods during heavy rain; runoff would be worsened by increasing impermeable surfaces.

254 considers that the development would cause issues with water supply, as the small development currently underway already caused them in the last two years.

### **Issues Raised in Relation to Non-Planning Related Matters**

45 and 277 consider that development will have an adverse impact on existing properties which back onto the site by blocking their view of the countryside.

45 considers development would decrease property values in the area.

45 considers that an increase in population will cause antisocial behaviour.

### **Modifications sought by those submitting representations:**

37, 45, 249, 254 and 277 object to the allocation of site KT-H1 and request its removal from the Plan.

### **Summary of responses (including reasons) by planning authority:**

#### **Site KT-H1 Southhook Road**

##### Negative environmental impacts (37, 45, 249, 254 and 277)

The extents of KT-H1 can be viewed in Map 'Issue 40 – Southhook Road, Knockentiber – KT-H1'. With respect to the concerns raised in relation to negative impacts on wildlife, light, noise and air pollution, it is recognised that any new site is likely to have some negative environmental impacts associated with its development. Because of this, the Strategic Environmental Assessment (SEA) was carried out and the outcome of this used in conjunction with the Housing Site Appraisal Methodology (HSAM) (CD11), to come to a decision on which sites were suitable for development. The findings of the SEA for KT-H1 and associated mitigation measures are included within the Environmental Report (ER) (appendix 11.19) (CD47e), which was published alongside the Proposed Local Development Plan. The SEA on its own does not tell us whether a site is suitable for development or not. However, the assessments can help to highlight possible mitigation measures, which could be carried out on particular sites in order to make what might otherwise be considered unsuitable development acceptable. Where negative impacts are identified, the Environmental Report highlights

mitigation to reduce those impacts. This mitigation must, upon approval of a planning application be undertaken by any party that wishes to develop the site.

#### Negative impacts on landscape and setting (37, 249)

The SEA states the following: “The site is relatively small scale, however, when considered against the scale of Knockentiber, its development would constitute a moderate extension to the settlement, having a detrimental impact on the character of the small settlement”, in line with concerns expressed by NatureScot. Nevertheless, a landscape impact study commissioned by the Council in 2005 (CD53a) identified the site as a location most suitable for development and no change has taken place in the area in question that would alter this assessment; moreover, the site is subject to a number of strengths when compared to other sites in the settlement, in terms of accessibility, proximity to green space, and less risk of mining activity. In order to mitigate any unavoidable impacts on landscape, the site requirements prescribe structural planting at the western boundary to create a new defensible edge to the settlement, in line with NatureScot recommendation to create a “robust and defensible settlement boundary”. As such, it is considered that the allocation of this site is appropriate in terms of landscape.

#### Negative impacts on wildlife (45, 249)

The SEA states that “there are likely to be negative impacts on biodiversity, however, these are likely to be minor and not significant”, especially as there are no designated or safeguarded sites nor designated habitat networks within or in close proximity of the allocated site. Furthermore, the Environmental Report prescribes “appropriate mitigation (e.g. retention of trees, scrubs and hedgerows)”. As such, it is not considered that the allocation of this site would result in any unacceptable impacts on wildlife or habitats.

#### Overshadowing (45, 277)

Regarding the reduction in afternoon sunlight in the winter months, these detailed matters would be dealt with at planning application stage. In this regard, it is considered that the design of the development can avoid or mitigate such issues.

#### Light, noise and air pollution (45, 254, 277)

It is acknowledged that negative impacts are likely as a result of any development, irrespective of location. It is considered that the design of the development and planning conditions attached to the development of the site could avoid or mitigate such issues arising. Any development would be required to meet with policy NE12 Water, air, light and noise pollution

#### Overstretching of facilities (45, 249)

It should be noted that the number of units included in the site descriptions are indicative, this is an estimate of how many are likely to fit on the site given the constraints and requirements, but it does not mean that a developer would be required to build that many. Nonetheless, with respect to 45 and 249’s comments regarding

overstretching of facilities, the Council is of the opinion that the development of KT-H1 would not detrimentally affect education and medical facilities. The Council would point out that the Council's Education department had raised no issues in the preparation of LDP2 and, with respect to education and medical facilities, it should be noted that such provision is required according to the provisions of LDP2 policy INF4: Developer Contributions. INF4 would be implemented where a development would place additional demands on infrastructure, services, facilities and amenities that would necessitate new facilities or exacerbate deficiencies in existing provision. There is therefore a mechanism within the Plan for seeking funding to address deficiencies, when and where they arise. The Council considers that there would not be any adverse pressures on educational and medical provision within the settlement because of this development.

#### Pedestrian safety and road capacity (45, 249, 254)

The Council would advise the Reporter that the Ayrshire Roads Alliance has not raised any objections to the proposed allocation. Regarding the suitability for pedestrians of the B751 that connects Knockentiber with Crosshouse, it is limited to 30mph, has a continuous footway and benefits from street lighting; therefore, whilst not an ideal pedestrian connection, it is considered adequate to allow sufficient access to services in Crosshouse. Any developer of the site must undertake a Transport Assessment in respect of any detailed development proposals for the site. Matters that relate to impact on road traffic and pollution associated with the development of KT-H1 would be addresses through the planning application process in consultation with the Ayrshire Roads Alliance.

#### Flooding and drainage (45, 254)

The site is not subject to flood risk, however, it is noted that it borders an area of low to high surface water flood risk to the southeast and southwest. Any development will have to enact mitigation measures, such as design, layout, and SUDS, so that no negative impacts arise on surface water flood risk elsewhere. The site requirements include contact with SEPA and the Ayrshire Roads Alliance Flooding Officer at an early stage.

#### Water supply (254)

Scottish Water were consulted as part of the site appraisal process; it is considered that there was sufficient capacity in the current system to accommodate this development. Nonetheless, the site requirements provide that developers are encouraged to engage with Scottish Water at the earliest opportunity to discuss the needs of their development.

In light of the above considerations, the Council is of the view that site KT-H1 should be allocated for residential development in LDP2.

### **Reporter's conclusions:**

KT-H1: Southook Road

1. This site comprises an agricultural field on the western edge of Knockentiber. Development would represent a modest extension of the village into open countryside, but would not, I consider, be markedly more impactful on the wider landscape than the existing rather stark urban edge. In fact, development would provide an opportunity to provide structural planting on its western boundary that could provide a new and much improved defensible edge to the village. This measure would also help allay concerns expressed in representations that this development could lead to further western expansion. I note a requirement for such planting is included in volume 2 of the plan.
2. Direct access into the site from Southook Road appears unproblematic. I note the concerns expressed about additional traffic generation, but it does not seem to be that the impact of this modest development would be likely to be significant across the wider local road network. In reaching this conclusion I draw some comfort from the absence of any adverse representation from the Ayrshire Roads Alliance.
3. My main concern in relation to this proposal is whether Knockentiber is an appropriate location to which to direct new development at all. The village is largely bereft of facilities and services beyond a playing field, and while there is a bus service, I understand this operates relatively infrequently. I therefore need to address whether development here could be said to foster local living and the concept of 20-minute neighbourhoods as promoted in National Planning Framework 4.
4. Knockentiber is located relatively close to the larger village of Crosshouse, where a wider range of facilities including shops and a primary school may be found. It is mentioned in representations that Knockentiber residents walk along the B751 to access these services in Crosshouse, and I note that this road is equipped with a continuous pavement and street lighting, and traffic is limited to 30 miles per hour. It does not therefore appear to be a difficult or hazardous walk, at least for a fit and able person.
5. I estimate that site KT-H1 is around a one kilometre walk from the centre of Crosshouse. This seems to me to be slightly beyond the limit of what I consider to be compatible with a 20-minute neighbourhood (if this is to be interpreted as a 20 minute return journey on foot). However, it is less than the 1,600 metre maximum threshold for walking mentioned in Planning Advice Note 75: Planning for Transport. On balance, I consider that this site's accessibility to services and facilities is mediocre at best, but not so poor as to require the site's deletion from the plan.
6. Turning to other matters raised in representations, I accept that the site may be of some value to local wildlife. However, it is not covered by any biodiversity designation, and, as a field in active agricultural use, I do not anticipate that it is of any special importance in this regard.
7. The site slopes gently down from south to north, and I doubt that it can be subject to significant flood risk. Nevertheless, I note that volume 2 of the plan recommends early contact with SEPA and the Ayrshire Roads Alliance flooding officer. In terms of additional run-off increasing flood risk elsewhere, this matter can be addressed at the detailed design stage, but I would expect any development to be equipped with a modern sustainable drainage system sufficient to mitigate any such danger.

8. It would be unusual for the availability of utilities such as water to represent a significant constraint, and I expect this matter can be fully addressed at the detailed planning stage. Volume 2 of the plan encourages any developer to engage with Scottish Water.

9. I accept that Knockentiber has already expanded in recent years, but it does not seem to me that the development of site KT-H1 would, in itself, make any significant change to the character of the village or change it into a different sort of place. I have no indication, such as a representation from the education authority, that existing services would be unable to cope with this development, and given the modest scale of the site this would seem unlikely. In any event, Policy INF4 of the plan allows the council to seek developer contributions towards the provision or improvement of any infrastructure, facilities or services required in order to make the development acceptable in planning terms.

10. Any direct effects on the amenity of neighbouring property, such as overlooking or loss of sunlight, can similarly be addressed at the detailed design stage through measures such as setting the new houses back from existing property.

11. For the above reasons, I conclude that site KT-H1 represents an appropriate housing allocation in the plan and that no modification is required.

**Reporter's recommendations:**

No modifications.



Issue 41	Mauchline	
Development plan reference:	Residential allocations: MA-H1, MA-H2, MA-H3, MA-F1, and non-inclusion of Land at Bogwood Farm, Ayr Road (MA-X5) and Land southwest of Kilmarnock Road (MA-X8)	Reporter: Andrew Fleming
Body or person(s) submitting a representation raising the issue (including reference number):		
Frances McLeish (22) Ross Allison (25) Elizabeth Parker (46) William Russell (74) Malcolm MacKellar (79) SEPA (106) William Ramsay (123) Elaine Dyce (137)		Stewart Milne Homes Ltd (144) Asim Mahmood (179) Alistair Mair (209) Kevin McEwan (239) Peter Queen (281) Hugh and Margaret Kerr (289) Hargreaves Land Limited (290) Joyce Duncan (298)
Provision of the development plan to which the issue relates:	Volume 2 (Pages 77-79): Various housing development opportunity sites as contained in PLDP2 and excluded from PLDP2	
Planning authority's summary of the representation(s):		
<b>All Mauchline and surrounding area housing development sites</b>		
<u>Infrastructure capacity (22, 25, 46, 123, 281)</u>		
<p>The infrastructure cannot cope with more housing in and around the Mauchline area e.g. schools, including early years (22, 25, 46, 123, 137, 239, 281), dentists (22), chemists (22), doctors (22, 25, 46, 123, 239, 281), roads (25, 123), water (25, 137), drainage and sewerage (25, 123, 137), public services generally (closure of games hall and community centre) (25, 239) and public transport (25).</p> <p>There has been little investment in transport infrastructure (239).</p> <p>The area desperately needs more medical facilities to cover the existing population.</p> <p>There are major issues with flooding (25), contamination of watercourses (25), traffic (25, 123, 137, 239), parking (123) and the capacity of / access arrangements for emergency services (25, 123).</p> <p>Infrastructure issues should have been / should be considered before allocating sites (25, 239). As should safety and wellbeing (25, 289).</p> <p>New housing will exacerbate these issues (46, 123, 239).</p>		

Upgrades will be required to infrastructure (123).

The village no longer has any local indoor sports facilities, with the sports pitches at Beechgrove Road massively underutilised, resulting in a failing in the provision of affordable and accessible health, wellbeing and mental health services (281).

Amenity (123, 137, 289)

(123) Mauchline is a desirable place to live, however the whole nature of the village is in danger of being negatively altered if this and other proposed developments are given the go ahead.

(137) There will be adverse noise impacts.

(289) development will impact upon the appearance of the village.

Amendment of settlement boundary (209)

It is noted that the proposed settlement boundary to the West of the village has been amended to remove the piece of open land, which was formerly within the 2010 plan (housing allocation 039H). This site was formerly part of Netherplace Mansion House a landmark within the local area until its demise and subsequent demolition laterally replaced with housing. The site has recently been included within the Mauchline placemaking survey and is noted as being an area, which would benefit development to increase usage for leisure and health activities, and green transport links through the village. It was historically planned as open space for Nether Walk although was never adopted. The site has recently been subject to planning applications of which one is currently still under review. To remove this land from the settlement boundary risks the land being reverted to agricultural land which would be a significant loss to the village.

**Site MA-H1: Sorn Road (25, 46, 79, 123, 137, 281, 298)**

*General*

25, 46, 79, 123, 137, 281, 298 object to the designation of the site.

(25), (46) and (281) object for general infrastructure capacity reasons in Mauchline (25) states that site MA-H1 is unsuitable for development due to the lack of research undertaken in relation to key issues affecting the land, Mauchline, the residents and local wildlife and that there are more suitable sites to develop, most notably to the western side of the A76. More investment should be placed on repairing, modernising and future-proofing the village for current residents. All the issues highlighted, such as water and infrastructure were deemed as acceptable. Contrary to this, there are major issues as set out in infrastructure capacity section above. (281) states that the recent closure of local public services and the pressures currently experienced by those remaining mean that the development of site MA-H1 would represent grounds for the failure of critical life services in Mauchline. (25) states that the proposed site sits on the boundary of the Mauchline Conservation Area, therefore further investigations should be undertaken in relation to the historical and archaeological significance of the land.

Property values (123)

Property values will be adversely affected.

Views (123)

Views will be adversely impacted.

Traffic / Roads

(25) Traffic at Mauchline Cross is already intolerable with traffic congestion from all types of vehicles including heavy goods vehicles. Sequencing at the traffic lights is not commensurate with the traffic volumes, especially from Sorn Road down to the High Street. Development at site MA-H1 would further increase the problems at the Cross and on Sorn Road.

(79, 123) There are currently significant issues with traffic congestion, particularly at peak times along the A76 and at school start/finish times. In addition, there are difficulties with parking close to the GP surgery and school as well as congestion due to parking along Sorn Road. New development and a further rise in the local population will worsen the situation, generate more cars and emissions and add to the climate emergency.

(25, 281) The development of site MA-H1 is not possible due to limitations of existing roads infrastructure. These limitations cause substantial traffic issues which are particularly evident during heavier periods of traffic flow associated with the school, local bus/coach company and emergency vehicles accessing the medical practice. The local fire service has difficulty in navigating this section of road when vehicles are parked or when the route is fully obstructed. Traffic regularly backs up onto the A76 presenting a real danger to drivers, pedestrians and residents. There is no solution to these issues give the existence of private properties on Sorn Road and Hillhead Road being a single-track road. It would therefore be irresponsible to develop this land for residential use in the knowledge that by doing so the issues currently being experienced will be significantly exacerbated.

(298) queries whether access will be along Mains Farm Road.

Loss of privacy, security, light and overshadowing (25)

Due to the location of the respondent's property, the development of site MA-H1 would result in the property being overlooked on all four sides, including the outdoor space. (25) provides further detail concerning loss of privacy and security in their representation. (25) also has concerns relating to loss of light and overshadowing as a result of the development of site MA-H1 and due to the location of the respondent's property.

*Water*

(137) Drainage from the site is currently routed to the bottom of the respondent's private garden. The drainage passes underground through a previously piped section

between Greenhead and Burngrange Lane properties. The area around this piping is prone to significant flooding which has extended along the route of a stream down through the village, before continuing to pass under Kilmarnock road and to the rear of the church hall and Mauchline castle. If this development goes ahead this could alter the already delicate balance of this water course and lead to extensive flooding of the properties around Greenhead and Burnside and further impact properties further downstream.

(25) Due to the gradient of the site and the location of the respondent's property, there is a high probability that any surface water-flooding coming from land/roads/gardens/construction etc. will find its way onto the respondent's property. There are current issues relating to surface water run off during heavy periods of rain as a result of other development, which affects the respondent's property at least once a year. (25) has concerns over what impact new development on the site will have on a culvert which runs through it and the impact on the respondent's property and neighbouring properties.

(281) The development of site MA-H1 represents a significant and unacceptable increase to the flooding currently experienced by the respondent's property and access road. The recent development of Mauchline Primary School has resulted in flooding and flood damage to the respondent's access road, contaminated the local burn, blocked the sluice, and potentially been the root cause behind the current sinking of the manhole on Burngrange Lane. During periods of sustained rain, the water runs off the school playground, through the field and out the respondent's property. Due to the topography of the land, any development at site MA-H1 without significant new drainage infrastructure would be severely detrimental to the respondent's property and access.

(25, 281) Site MA-H1 sits above the natural red sandstone aquifer that supplies the artesian spring on the respondent's property. This spring was historically used as the principal water source for the village of Mauchline for over a decade prior to the introduction of mains water to the area. Extensive work has been undertaken to protect and maintain this historically significant feature of Mauchline and efforts to commercialise the water to the betterment of the local economy are ongoing. Development of this site would result in contamination of the spring and increase the likelihood of the water table. In addition, the installation of new infrastructure this would be of a permanent nature as the geology and topography of the site would need to be altered. It would be an act of negligence to allow development of this land that could compromise the spring in any way – whether temporarily or permanently.

(298) raises concerns regarding potential damage to existing field drainage, which could affect the surface and ground and potential flooding to the area where the respondent's property is.

#### Noise/dust/light pollution

(25) raises concerns relating to noise and light pollution during construction and post construction. (137) objects to noise impacts as a result of construction. (298) queries what impacts there will be, in terms of noise and dust.

### Natural environment

(25), (137) and (281) have concerns regarding the natural environment. The area between Burngrange and the Mauchline primary has been a wild field for many years and is a natural conservation area (137). As demonstrated by the recent investment in the Hilltop walk path, the environment that surrounds site MA-H1 is rich with wildlife, regularly enjoyed by residents and visitors and agricultural land, which is in use. Rare birds nest in the hedgerows surrounding the site and other wildlife such as, bats, owls and insects are active across the proposed site (25). Restrictions on the maintenance of hedgerows, grassland, and the surrounding trees have been enforced in recent years with a view to protecting this environment. The eradication of land, which is home to such rich and varied wildlife would seem to be in direct contradiction to the Scottish Government policies and guidelines following COP26. Under these conditions, it is inconceivable that the environmental and ecological importance placed on this land could be overlooked to accommodate a residential development (281).

(25) raises concerns over the impact development would have on the natural beauty of the area, its agricultural land and the green belt.

(46) Environmental impacts these new dwellings will have on wildlife and green space are of concern.

See also comments from respondent (79) under heading below (*Sites MA-H1 (Sorn Road) and MA-F1 (Sorn Road, North)*) re wildlife.

### Detail

(137) There are no detailed plans and once initial application was approved this area could be used for a densely packed housing area out with the surrounding developments.

### 25 Sorn Road

(298) The property at 25 Sorn Road has an old foundation with brick built walls. It is therefore requested that a topographical survey is undertaken on this property prior to any construction commencing on site and after to determine if any underlying issues have arisen as a result. It is suggested that an air pollution monitoring survey be undertaken before and throughout construction, such as an ENVEA study.

A healthy beech hedge surrounds the property at 25 Sorn Road. The respondent sets out a number of questions relating to distance of new housing to the hedge, its maintenance and potential open space provision factored around the respondent's private garden space.

### **Sites MA-H1 (Sorn Road) and MA-F1 (Sorn Road, North)**

#### (79)

A mature hedge growth and green belt on Kilmarnock Road, Mauchline has been destroyed and areas where wildlife thrived have now been developed for housing. This

has subsequently resulted in the loss of wildlife and natural vegetation. The impact on the natural environment, existing green infrastructure, which is limited and future prospects of wildlife, in particular red listed birds in Ayrshire and Scotland wide needs to be considered by the Council.

The proposed sites will have a detrimental impact on wildlife including insects, rodents and birds. The wealth of wildlife in the area and the benefits that brings to the natural environment does not appear to have been taken into account. The proposed site has an abundance of wildlife located on or at its boundaries and is much more than just agricultural land. It is the site of a natural wildlife corridor, wild meadow plants and provides natural drainage.

The respondent has set out in his representation a list of wildlife species that have been sighted on sites MA-HA and MA-F1 and refers to some that are rare or in decline and some that, according to the RSPB are endangered and/or protected species. Consideration should be given to an expert study prior to any change to land designation. It is noted that a new boundary would be established to the north of the development, however most of the bird life habitats are to the south of the proposed area which do not take into account the established hedge growth and wild plants which support all local wildlife.

#### **Site MA-H2 (Station Road, North)**

(46, 179, 290)

A social housing development was recently completed next to site MA-H2. During the completion of these works there was some dumping of waste along the back of the Beechgrove Road houses and side of the respondent's dwelling next to an unnamed burn. Following the complaint from local residents, EAC investigated and found that there was no planning in place to dump the illegal waste. A retrospective planning application was then submitted pending an outcome. The retrospective planning application is therefore located within site MA-H2. How does the allocation of site MA-H2 tie with this pending application and bund? The respondent refers to the general untidiness of sections of site MA-H2 and seeks for development to occur to assist with this issue. (179) would appreciate clarity on what happens short term and long term with site MA-H2 as work has already started in this area with the bund and what the proposal is along the Barskimming Road end.

(46) objects due to infrastructure capacity issues in Mauchline, which would be exacerbated by this site.

(290) objects to the housing allocation MA-H2 as shown on the Proposed Mauchline Settlement Map and within Schedule 3 of Volume 1 of the Proposed LDP2. The respondent has submitted supporting information associated with their representation. The respondent recently received confirmation that former interest and developer involvement has been withdrawn due to the lack of Scottish Water infrastructure capacity into the site at Station Road. With such significant capacity constraints, the site is considered ineffective for housing development.

Despite the historic and proposed allocation at the site, no development has come



forward, nor is it now considered effective due to realised significant infrastructure constraints. Further investigation is required in relation to the existing infrastructure capacity before allocating this site for residential development. Further, the developer requirements, as set out in PLDP2 Volume 2 for MA-H2, state that the developer will be required to consider the capability of existing water and waste water infrastructure in Mauchline to accommodate new development and where necessary mitigate any additional impact. It also recommends that early discussions take place with Scottish Water and highlights that a new Scottish Water Growth Project will be required in Mauchline which should address existing issues as well as enable the development of allocated sites.

### **Site MA-H3**

(46, 74, 106, 239, 289)

(46) objects due to infrastructure capacity issues in Mauchline.

(106) provides co-location comments concerning site MA-H3 that should be included in the developer site requirements in Volume 2 of the Plan.

(74) The respondent's business, which is a dog and cat boarding and grooming business and provides a specific cat/dog service to the west of Scotland is located adjacent to site MA-H3 (east of site). Given the proximity and nature of the respondent's business, in terms of the services it provides, the development of site MA-H3 would have significant residential amenity impacts. What measures will the council take to make buyers aware of the presence of the kennels and the associated noise before they purchase? This business has been in its location for its entire existence and there is a high likelihood that the noise of the animals will impact upon residents as a result of the development of the site.

(74) The land proposed has been in constant agricultural use for over 30 years. (74) questions the commitment to preserve prime agricultural land.

(74) raises concerns and questions relating to compensation for potential impacts on their business as a result of development on the site. Concerns and questions are also raised in relation to land ownership/developer details and potential loss of employment.

(239) Road access to this site will be an issue as the Cumnock Road is incredibly busy already. Adding traffic onto the road and cars merging onto the busy road will create further traffic problems within the village.

(289) Station Road and Haugh Road is on the perimeter of the village and used greatly by residents for walking and exercise. The increased volume of works traffic etc. would impact on the safety and wellbeing of local residents. It is difficult exiting from Station Road due to the heavy volume of traffic through the village and this would only get worse.

### **Non-inclusion of site MA-X5 – Land at Bogwood Farm, Ayr Road Mauchline**

(290)

(290) The respondent objects to the non-inclusion of land at Bogwood Farm, Ayr Road, Mauchline in the PLDP2. The respondent objects to the proposed Rural Area Map contained within the Proposed LDP2, which identifies land at Bogwood Farm, Ayr Road as being within the Rural Diversification Area (RDA). The Mauchline settlement boundary should be expanded to include the land in question. The respondent suggests this site is better than MA-H2.

The site at Bogwood Farm establishes an appropriate and defensible boundary to the settlement and thus, should not be included within the RDA. The site is suitable for a sustainable residential development comprising up to 150 homes. (290) sets out why the site is suitable for development e.g. sustainability of location, access and planning history in their original representation and supporting information (RD118-126). It has been proven to be effective and deliverable, as per the requirements of PAN 2/2010, with the respondent committed to the delivery of this effective housing site which in turn will contribute to the housing land requirement and investment within East Ayrshire. The site does not have any absolute constraints and any future development of the site would establish a natural boundary to the Mauchline settlement.

The associated planning consents and historic allocation demonstrate that the principle of residential development was once considered acceptable at the promotion site.

The PLDP2 proposes three additional sites for housing development in Mauchline. There is demand for homes in the town and allocating this site can contribute towards housing delivery in an area of high demand and with benefits to Mauchline Town Centre.

#### **Non-inclusion of site MA-X8 – Land southwest of Kilmarnock Road, Mauchline**

(144)

(144) states that the council's decision to allocate additional land for housing beyond the figures arising from the calculation of the Housing Land Requirement is welcomed. However, it is noticeable that the Cumnock Sub-housing market Area (sub-HMA) has been allocated the lowest proportion of new units. There is no obvious reason for this and the respondent objects to this imbalance. While the Ayrshire Growth Deal within East Ayrshire is focussed on Kilmarnock, Cumnock is also identified for major funding. New housing development makes a significant contribution towards local economic activity and is essential in order to support the Growth Deal investment. For this reason, a greater proportion of the proposed new housing should be allocated to sites within the Cumnock sub-HMA.

The Mauchline Settlement Map in Volume 2 fails to allocate Site MA-X8 (land southwest of Kilmarnock Road, Mauchline) for housing despite the fact that the site achieved a higher score in the Council's own site appraisal exercise than allocated Site MA-H3 (Station Road South). No detailed justification has been provided for this decision. Therefore, the respondent objects to policy RES1 and the Mauchline Settlement map regarding the non-inclusion of site MA-X8.

(144) has submitted supporting documents (RD29, RD41, RD42, RD43 and RD44).

**Modifications sought by those submitting representations:**

**All Mauchline and surrounding area housing development sites**

(22)

Although no modifications are explicitly suggested, it is assumed that all allocated development opportunity housing sites in Mauchline should be removed from the Proposed Plan and existing infrastructure and service issues addressed.

(209)

Although no modifications are explicitly suggested, it is assumed that the respondent requests that the area of land to the west of Netherplace Quadrant be located within the Mauchline settlement boundary for leisure and health activities, and green transport links through Mauchline.

**Site MA-H1: Sorn Road**

(25), (46), (123), (137), (281)

Although no modifications are explicitly suggested, it is assumed that site MA-H1 should be removed from the Proposed Plan and existing infrastructure and service issues addressed.

(298)

Although no modifications are explicitly suggested, it is assumed that the respondent requests that drainage and landscape/screening issues are addressed prior to any development taking place.

**Site MA-H1 (Sorn Road) and MA-F1 (Sorn Road, North)**

(79)

Although no modifications are explicitly suggested, it is assumed that sites MA-H1 and MA-F1 should be removed from the Proposed Plan and not identified as development opportunity sites until an expert study is undertaken to investigate the presence of wildlife on the land.

**Site MA-H2 (Station Road, North)**

(179) does not seek any modifications to site MA-H2, however does request clarification on the bund related to the recent development undertaken at a site at Barskimming Road, Mauchline and how this impacts upon the development of site MA-H2.

(46) Although no modifications are explicitly suggested, it is assumed that site MA-H2 should be removed from the Proposed Plan and existing infrastructure and service issues addressed.

**Site MA-H3 (Station Road, South)**

(46) Although no modifications are explicitly suggested, it is assumed that site MA-H3 should be removed from the Proposed Plan and existing infrastructure and service issues addressed.

(74) Although no modifications are explicitly suggested, it is assumed that site MA-H3 should be removed from the Proposed Plan

(106) The following comment should be added to the site developer requirements for site MA-H3 in Volume 2 of the PLDP2:

“A closed former landfill site is located at (Haugh Farm, Mauchline, NS 4969 2528) No history of issues but former landfills have potential to cause nuisance through odour and leachate beyond the site boundary.”

(174)

Although no modifications are explicitly suggested, it is assumed that the respondent is looking for the Council to confirm how potential homeowners of future housing on site MA-H3 will be made aware of the existence of their business, in terms of business type and location.

(239)

Although no modifications are explicitly suggested, it is assumed that the respondent seeks the removal of site MA-H3 from LDP2

(289)

Although no modifications are explicitly suggested, it is assumed that the respondents seek the removal of site MA-H3 from LDP2.

**Non-inclusion of site MA-X5 – Land at Bogwood Farm, Ayr Road Mauchline**

(290)

Allocate the site at Bogwood Farm, Ayr Road for housing within the emerging East Ayrshire Local Development Plan and remove site MA-H2.

**Non-inclusion of site MA-X8 – Land southwest of Kilmarnock Road, Mauchline**

(144)

Allocate the land southwest of Kilmarnock Road for housing within the emerging East Ayrshire Local Development Plan and remove site MA-H3.

**Summary of responses (including reasons) by planning authority:**

**All Mauchline and surrounding area housing development sites**

Infrastructure capacity (22, 25, 46, 123, 281)

There is a requirement for local development plans (LDP) to address housing need and demand in a Local Authority area through a housing land requirement and the allocation of effective and deliverable development opportunity sites for housing during the Plan period and beyond. There is a need and demand for new housing in Mauchline, which is part of the Cumnock sub-housing market area, and this has been demonstrated through the Minimum All-Tenure Housing Land Requirement (MATHLR) as set out in the PLDP2 and recent development activity, which has seen development take place on the majority of allocated LDP1 development opportunity sites. However, a balanced policy view is required in determining a housing supply target and providing a supply of land for all housing.

Wider economic, environmental, social factors as well as issues regarding capacity, resource, deliverability etc. are all important factors that are required to be taken into consideration when allocating sites for development. Land identified as development opportunity sites for housing in the PLDP2 was informed by extensive impact assessment work including a strategic environmental assessment (CD47) and a housing site assessment (CD15). The outcomes of this assessment work have been taken into consideration when determining which sites were to be allocated in the PLDP2. Where mitigation measures have been identified through the assessment work undertaken, site requirements have been set out in Volume 2 of the PLDP2.

As part of the LDP2 preparation process, extensive engagement has taken place from an early stage (pre-main issues report stage) with all Key Agencies, including Scottish Water and NHS Ayrshire and Arran and East Ayrshire Council Services, such as housing and education. In addition, a Member and Officer Working Group (MOWG) was established in 2019 to help drive forward the production of the East Ayrshire LDP2. At each MOWG meeting, officers preparing the Plan reported on key findings and work undertaken throughout the LDP2 process with a view to obtaining feedback and input from Elected Members and Officers sitting on the group. All sites proposed for inclusion in the PLDP2 along with supporting evidence were considered and agreed by the MOWG and then further scrutinised and agreed by East Ayrshire's Council Committee. These forms of engagement extended to include the allocation of sites throughout East Ayrshire.

The PLDP2 contains a policy on developer contributions (INF4), which sets out a new approach to collecting and calculating financial contributions from developers on a proportionate basis. This new approach will assist in addressing any capacity issues associated with new development.

The promotion of the delivery of a road bypass and train station is historical and formed as part of Local Plans prior to the 2017 East Ayrshire Local Development Plan. They do not form as part of Transport Scotland's draft Strategic Transport Projects Review 2 (CD38a and b), however the Council will continue to engage with Transport Scotland on this matter.

The Council is of the opinion that through extensive engagement, impact assessment work and a robust policy framework, it has identified an appropriate number of sites for future development for housing in Mauchline. Mitigation measures will be required, in

terms of certain infrastructure and services; however, these will be addressed through the development management process.

The Council has not received objections to the Proposed Plan in respect of Mauchline from the NHS, HSCP, the local dental practices, ARA, education or Scottish Water. SEPA have submitted minor comments which do not object to development specifically or generally.

#### Amenity (123, 137, 289)

The impact on amenity can be considered as part of the planning application process. There are a number of policies in the Proposed Plan which protect amenity (e.g. Policy RES3: Residential Amenity) and allow consideration of the impact of proposals upon amenity.

The Council is required through the LDP to make sufficient land available to meet housing needs and demand in the area for the next 10 years. The sites in Mauchline are therefore identified as part of a wider range of sites across the local authority area to meet those needs. A range of sites are proposed across sub-housing market areas. NPF4 states the location of where new homes are allocated should be consistent with local living including, where relevant, 20-minute neighbourhoods and an infrastructure first approach. It is considered that the level of proposed housing in Mauchline is modest and will not result in adverse impacts on its character.

#### Amendment of settlement boundary (209)

The respondent refers to site 039H of the 2010 Plan (CD57). This site was removed as an identified development opportunity site for housing in the East Ayrshire Local Development Plan 2017 due to the land being developed for housing and was retained within the Mauchline settlement boundary. The land in question (immediately north of Netherplace Quadrant, Mauchline) was assessed as part of the preparation of the PLDP2 (site MA-X5) as a potential development opportunity site for housing. The assessment of the site found that the refusal of permission for the development of homes on site (planning application reference: 20/0417/PP) as a consequence of a range of natural constraints indicated that allocation as a residential site in LDP2 would not be appropriate. The site has, therefore consequently been removed from the Mauchline settlement boundary in the PLDP2. Since the publication of the PLDP2, a further planning application for a much smaller housing development was submitted to the Council and approved with conditions in August 2022 (planning application reference: 22/0081/PP) (CD58). Given that planning permission has since been approved with conditions for the development of seven houses and that planning permission for development can indeed lapse after 3 years, it would now be prudent to include this land within the Mauchline settlement boundary. If the Reporter is minded to agree, the Council would suggest that for clarity, the settlement boundary of Mauchline should be amended to include the red line site boundary associated with the approved planning application (CD58).

#### **Site MA-H1: Sorn Road (25, 46, 79, 123, 137, 281, 298)**

The Council is of the opinion that sufficient evidence has been gathered and



assessment work undertaken in relation to key issues affecting the land identified as site MA-H1. Land identified as development opportunity sites for housing in the PLDP2 were informed by extensive impact assessment work including a strategic environmental assessment (CD47) and a housing site assessment (CD15). The outcomes of this assessment work have been taken into consideration when determining what sites were to be allocated in the PLDP2. Where mitigation measures have been identified through the assessment work undertaken, site requirements have been set out in Volume 2 of the PLDP2.

#### Infrastructure (25, 46, 281)

As part of the LDP2 preparation process, extensive engagement has taken place from an early stage (pre-main issues report stage) with all Key Agencies, including Scottish Water, Transport Scotland, NHS Ayrshire and Arran, SEPA and East Ayrshire Council Services, such as housing and education and public sector partnerships, such as the Ayrshire Roads Alliance (transport and flooding). In addition, a Member and Officer Working Group (MOWG) was established in 2019 to help drive forward the production of the East Ayrshire LDP2. As part of this engagement, issues regarding infrastructure and services capacity were taken into consideration and informed what sites were included in the PLDP2 and where necessary, the mitigation measures that would be required to address certain issues. Site requirements associated with each site allocated in the PLDP2 are set out in Volume 2 of the Plan. These requirements highlight that the site might be subject to flooding and early engagement will be required with SEPA and the Ayrshire Roads Alliance flooding officer. The developer will, when developing their proposals be required to consider the capability of existing water and wastewater infrastructure in Mauchline to accommodate new development and where necessary mitigate any additional impact. It is also recognised in the Plan that a new Scottish Water Growth Project will be required in Mauchline, which should address existing issues as well as enable the development of allocated sites.

#### Property values and views (123)

(123) highlights that the development of site MA-H1 would have a severe detrimental effect on the value of properties, which border the site and spoil resident's views. It should be noted that these are both non-material planning considerations.

#### Traffic/Roads (25, 123, 281, 298)

The site assessment work associated with the site (CD15 and CD47) and as part of the LDP2 Transport Appraisal (CD19) highlighted that whilst it was considered that development might have some impact on road capacity at Mauchline Cross, such an impact may be mitigated through appropriate intervention. Developer contributions are likely to be collected as per the requirements of policy INF4 and associated supplementary guidance to provide funding, on a proportionate basis towards these mitigation measures. Site MA-H1 is a sustainable location for the development of housing, meets the 20-minute neighbourhood concept and, in terms of active travel, Volume 2 of the Plan requires the developer to create a network of paths within the site to provide access to Mauchline Primary School. For these reasons relating to transport, it was considered appropriate to allocate the site in LDP2. In terms of existing congestion on Sorn Road, High Street and Hillhead Road this should be a

matter to be addressed by planning in consultation with the Ayrshire Roads Alliance at the detailed planning application stage.

Loss of privacy, security, light and overshadowing (25)

Any subsequent development proposal will need to accord with relevant PLDP2 policies, including DES1. Any issues relating to privacy, overlooking, loss of light and overshadowing should be a matter to be addressed at the detailed planning application stage.

Water (25, 137, 281, 298)

The PLDP2 addresses the existing capacity of the water and wastewater infrastructure in Mauchline and requires developers to consider the capability of existing water and wastewater infrastructure in Mauchline to accommodate new development and where necessary mitigate any additional impact. It is also recognised in the Plan that a new Scottish Water Growth Project will be required in Mauchline, which should address existing issues as well as enable the development of allocated sites. In addition, the Plan highlights that the site might be subject to flooding and early engagement will be required with SEPA and the Ayrshire Roads Alliance flooding officer. Any subsequent development proposal will need to accord with relevant PLDP2 policies, including DES1, OS1, NE12, NE13 and CR1.

Any potential impacts on the historic water source will be determined at the detailed planning application stage. Any subsequent development proposal will need to accord with relevant PLDP2 policies, including DES1, OS1, NE12, NE13 and CR1. PLDP2 Volume 2 sets out site requirements specific to site MA-H1, which requires developers to consider the capability of existing water and waste water infrastructure in Mauchline to accommodate new development and where necessary mitigate any additional impact.

Noise/dust/light pollution (25, 137, 298)

These issues can be considered at application stage.

*Natural environment*

The PLDP2 has been subject to strategic environmental assessment, which assesses the PLDP2 for any significant environmental impacts on environmental factors, such as biodiversity, flora and fauna, water and landscape. The Environmental Report (CD47) sets out the assessment outcomes for all allocated sites, including MA-H1 and appropriate mitigation measures, which developers, through PLDP2 Volume 2 site requirements are required to implement. In addition, the Ballochmyle housing site assessment background paper (CD15) states that NatureScot has recommended a masterplan approach to developing the site to ensure that development would be cohesive with existing and proposed development. There are opportunities to deliver blue and green infrastructure onsite, for example in the pocket to the west of the primary school to provide multiple benefits for the community, which will also benefit wildlife. On that basis it was considered appropriate to allocate the site in LDP2. Further, PLDP2 contains a robust policy framework to address climate change and

protect and enhance the natural environment. Further information might be required at the detailed planning application stage concerning environmental impacts, however this should be determined through the development management process.

#### Detail (137)

Detailed plans are not required for the site at this stage.

#### 25 Sorn Road (298)

In terms of concerns regarding the hedge, which surrounds the respondent's property, the PLDP2 Volume 2 sets out site requirements specific to site MA-H1. The developer will be required to enhance the existing landscape framework and introduce structural planting at the north-eastern boundary of the site to provide a new defensible edge to the settlement which will address the respondent's concerns. The respondent highlights concerns regarding topography, air, noise and dust that should be addressed at the detailed planning application stage.

#### **Site MA-H1 (Sorn Road) and MA-F1 (Sorn Road, North)**

##### Impact on the natural environment (79)

Respondent (79) raises concerns about the impact that the subsequent development of the site will have on important wildlife, the natural environment and green infrastructure. As part of the Plan preparation process, a Strategic Environmental Assessment was undertaken to identify any likely significant environmental impacts, which included impacts on biodiversity, flora and fauna. MA-H1 and MA-F1(H) were found to have likely neutral impacts on biodiversity as they are not subject to any biodiversity related constraints, although the Council note the comments relating to the presence of wildlife made by the respondent. Naturescot provided comments on the site's proposed inclusion in the Plan and recommended a number of mitigation measures, which have been set out in Volume 2 of the Plan. Through the application of policy SS2, these mitigation measures will need to be implemented by the prospective developer of the site and addressed within the planning application. In addition, policies, such as OS1 would be required to be met.

The respondent (79) provides detail in relation to specific species found on site. Policy NE6: Vulnerable, Threatened and Protected Species (pages-81-82) criterion (i) states that *the Council will not support development which would have an unacceptable adverse impact on protected species*, including ***“European Protected Species (See Schedules 2 & 4 of the Habitats Regulations 1994 (As Amended) for definition).”*** This would be applicable to any subsequent application if there is believed to be a presence of bats on site. NE6 requires the applicants *to take steps to establish their presence*. The Council consider that the concerns raised by the respondent are addressed within the current content of the PLDP2.

It is the view of the Council that for the reasons set out above, no changes are required and sites MAH1 and MA-F1 should remain as development opportunity sites for housing in the Plan.

**Site MA-H2 (Station Road, North) (46, 179, 290)**

Application 21/0869/PP was submitted under Section 42 to remove Condition No.9 (Importation of materials other than topsoil) from Planning Consent No. 20/0172/PP (Residential Development). The application was approved with conditions in May 2022 (CD94). Site MA-H2 does not impinge upon the application red line site boundary. The Council is of the view that no changes are required to the boundary of site MA-H2.

Respondent (46) raises concerns around capacity issues for services (including medical and education). This is addressed earlier in the Schedule 4.

In response to (290), the PLDP2 strategic environmental assessment (CD47) found that given the location of site MA-H2, there would be no significant impacts on landscape and biodiversity. The LDP2 site assessment highlighted that the site was a sustainable location for development would contribute positively to the LDP2 spatial strategy. There has been recent interest in the development of site MA-H2 (planning application reference 21/0010/PREAPP), which was expressed through the pre-application advice process and prior to the start of the PLDP2 site assessment process and pre MIR at the call for priorities, issues and proposals consultation stage. Given the location of site MA-H2 as well as long-term interest in its development, it was considered appropriate to allocate it in LDP2.

**MA-H3 (Station Road, South) (46, 74, 106, 239, 289)**

Respondent (46) raises concerns around capacity issues for services (including medical and education). This is addressed earlier in the Schedule 4.

At the time of preparing the Proposed LDP2, SEPA (106) had flagged up, as per their representation, 21 sites, which had co-locational issues. The co-locational issues raised in their representation relate to sites which had not been assessed for this at the time of writing and, for this reason, these were not included in the developer requirements as was the case in the sites that had been assessed at MIR stage. Any such co-locational concern will likely be dealt with at the planning application stage. However, in the interest of clarity, the Council will amend the text in the SEA to reflect the recommendation. The mitigation and enhancement measures contained within Environmental Report (CD47) are required to be met through policy SS2 (vii). This is considered sufficient to implement the recommendation, and as such, the Council is of the view that no change to the wording of the Plan is required.

In respect to the comments from (74), as per the requirements for site MA-H3 set out in Volume 2 of the PLDP2 (page 78), the site benefits from an existing landscape framework along the eastern boundary of the site, which could be extended and enhanced. This existing framework should be integrated into a green network across the site, linking into the wider network. Any extension or enhancement would provide sufficient buffering between the site and the existing development. In addition, the developer of site MA-H3 will be required to ensure that their proposal accords with all relevant LDP policies. (74) raises concerns in relation to the land being prime agricultural land and the potential loss of this land. The Council can confirm that the land is not prime quality agricultural land and has been subject to a robust site assessment process to identify any potential significant impacts. This assessment

work has informed the inclusion of the site as a development opportunity site in PLDP2. (74) makes enquiries relating to compensation, however this is not a planning matter. It is the view of the Council, that no changes are required and that mitigation measures to address amenity concerns can be appropriately dealt with at the detailed design and planning stage.

In terms of transport and access comments made by (239) and (289), extensive impact assessment work was undertaken as part of the preparation of PLDP2, engagement with Transport Scotland and the Ayrshire Roads Alliance was undertaken through a Transport Appraisal (CD19), and no significant issues were raised.

With regard to the comment made by (289) concerning the use of the land for leisure and recreational purposes, any new housing development proposals on site MA-H3 will be required to meet all relevant LDP2 policies. These will be in relation to design, access, enhancement of habitats and nature networks, creation of a multi-functional green network, green and blue infrastructure provision and creation of active travel connections. These include policies SS2, DES1, NE4, OS1, T1 and T3.

It is the view of the Council, no changes are required in relation to site MA-H3.

#### **Non-inclusion of site MA-X5 – Land at Bogwood Farm, Ayr Road Mauchline (290)**

Respondent (290) requests that land at Bogwood Farm, Ayr Road (Mauchline) to be included within the Plan as a development opportunity site. Interest in the allocation of the site was expressed through the priorities, issues and proposals consultation process, which was held prior to the Main Issues Report (MIR) preparation and consultation stages. The site was assessed as part of the interim strategic environmental assessment (IER) for the MIR in 2019/2020. The outcomes of that assessment were set out in the interim environmental report (CD56) and site information set out in Chapter 10 of the MIR (CD1). The IER found that development of this prominent site would constitute a significant extension to the settlement of Mauchline. It would have a detrimental impact on the landscape character of the settlement as well as resulting in the loss of locally important good quality agricultural land (classification 3(2)) and have a significant negative impact on biodiversity as it would result in the loss of greenfield habitat.

These assessment outcomes as well as the use of the site selection methodology (CD15), which was used to assess the site, in terms of, for example it's sustainable location, contribution to the LDP2 spatial strategy and site viability and marketability, informed what sites were identified as development opportunity sites for housing in the PLDP2.

The site assessment outcomes for the land at Bogwood Farm acknowledged that whilst a landscape study indicates that the area in question constitutes an area of medium to low landscape sensitivity to development (CD53a-c), the site is considered to have more of a landscape impact. Further, the site is considered to have an impact on traffic movements within the settlement relative to other sites being promoted in and around Mauchline. In a consultation response (CD55) Transport Scotland advised that the development of the site would represent a significant scale of development for the local area and potentially impact on the operation of the trunk road network at the A76



(T)/Ayr Road traffic signalised junction and at the A76(T)/site access junction.

Other sites are included in PLDP2 as a result of the assessment work referred to above. The respondent objects to the allocation of such a site, being PLDP2 site reference MA-H2.

As a result of the above assessment outcomes and concerns raised by Transport Scotland, it was not considered appropriate to allocate land at Bogwood Farm in LDP2. However, as a result of the assessment outcomes it was deemed appropriate to allocate LDP2 site MA-H2 as a development opportunity site for housing. It is therefore the view of the Council that land at Bogwood Farm, Ayr Road, Mauchline should not be included in LDP2 as a development opportunity site for housing and that site MA-H2 should remain.

#### **Non-inclusion of site MA-X8 – Land southwest of Kilmarnock Road, Mauchline (144)**

Respondent (144) requests that land at southwest of Kilmarnock Road (Mauchline) be included within the Plan as a development opportunity site. Interest in the allocation of the site was expressed through the priorities, issues and proposals consultation process, which was held prior to the Main Issues Report (MIR) preparation and consultation stages. The site was assessed as part of the interim strategic environmental assessment (IER) for the MIR in 2019/2020. The outcomes of that assessment were set out in the IER (CD56) and site information set out in Chapter 10 of the MIR (CD1). The IER found that development on this site would result in loss of open green space, locally important good quality agricultural land and would result in the removal of greenfield habitat. Further, the IER highlighted the site's large size in comparison to the size of Mauchline itself, which would result in a severe impact on the landscape character of the settlement. Overall, development of the site would have a significant negative impact.

These assessment outcomes as well as the use of the site selection methodology (CD15), which was used to assess the site, in terms of, for example it's sustainable location, contribution to the LDP2 spatial strategy and site viability and marketability, informed what sites were identified as development opportunity sites for housing in the PLDP2.

The site assessment outcomes for the land southwest of Kilmarnock Road found that development of the land would have a significant landscape impact. The area to the west of Mauchline is of particularly high scenic value and it was therefore considered that development in the area would significantly adversely affect such a setting. NatureScot stated that development on site would constitute a significant extension to the urban setting of Mauchline. On that basis it was not considered appropriate to allocate the site in LDP2.

Other sites are included in PLDP2 as a result of the assessment work referred to above. The respondent refers to the allocation of such a site, being PLDP2 site reference MA-H3. The PLDP2 strategic environmental assessment (CD47a-e) found that development on site MA-H3 would have a significant adverse impact on the landscape and could result in the loss of habitats. The LDP2 site assessment



highlighted that whilst a landscape study (CD53a-c) stated that the site fell within an area of what it proposed could constitute new or existing landscape/planting to accompany development as buffer zones and or screening, the site was considered to have less of a landscape impact than other nearby promoted sites. Further, whilst it was considered that development may have some impact on road capacity at Mauchline, it was deemed that such an impact could be mitigated through appropriate intervention. NatureScot stated that there is an opportunity for the site to create a new and distinctive settlement edge/gateway to Mauchline from the southeast, with a masterplan-based approach. On that basis it was considered appropriate to allocate the site in LDP2, subject to discussion on the part of any applicant with Transport Scotland.

As a result of the above assessment outcomes, it was not considered appropriate to allocate land southwest of Kilmarnock Road, Mauchline in LDP2. However, as a result of the assessment outcomes it was deemed appropriate to allocate LDP2 site MA-H3 as a development opportunity site for housing. It is therefore the view of the Council that land southwest of Kilmarnock Road, Mauchline should not be included in LDP2 as a development opportunity site for housing and that site MA-H3 should remain.

**The Council is of the view that no changes to the Local Development Plan are required with regard to this issue.**

#### **Reporter's conclusions:**

##### Housing Sites – General

1. The need for additional housing land is addressed through Issue 17 of this examination report. This sets the strategic context for the housing land allocations and also explains the context established through National Planning Framework 4 (NPF4). My assessment of sites below reflects the conclusion as extracted from Issue 17; that there is sufficient land identified to meet the Council's Minimum All-Tenure Housing Land Requirement during the Plan period and that it is not necessary to allocate any additional land for residential development.

##### **All Mauchline and surrounding area housing development sites**

##### Infrastructure capacity

2. Representations are critical of the council for allocating sites for development when infrastructure is considered not available or able to cope with further growth of the settlement. The council has advised that infrastructure capacity is an issue that has been taken into account, amongst other issues, in identifying land allocations. I am conscious that the Strategic Environmental Assessment (CD47) and work undertaken as part of the Housing Site Assessment (HSAM) (CD15) have informed decision making on the sites to include in the proposed plan. The assessment work has highlighted mitigation measures that would be necessary in order to address issues such as infrastructure capacity and these such measures have fed through into the developer requirements for the various sites that are identified in Volume 2 (settlement maps) of the proposed plan.

3. I am reassured by this process given that these measures would need to be addressed during the development management process and this would include dialogue with Scottish Water, SEPA and the Ayrshire Roads Alliance Flooding Officer. Whilst a road bypass and train station are not part of Transport Scotland's draft Strategic Transport Projects Review 2 (CD38 a and b), I understand that the council continue to engage with Transport Scotland on this matter.

4. The council has demonstrated that there has been engagement with key agencies including Scottish Water and NHS Ayrshire and Arran and with internal departments including housing and education as part of the plan preparation process. Importantly, the council has confirmed that there have been no objections to the proposed allocations for Mauchline from the NHS, local dental practices, the Ayrshire Roads Alliance, the council education department or from Scottish Water. In light of the above, I am satisfied that the council has taken proper cognisance of infrastructure capacity and requirements in identifying site allocations in the proposed plan.

#### Amenity

5. Concerns have been expressed about the impact that the proposed housing allocations might have on the amenity of existing residential areas. Any development close to existing residential areas results in change and it is inevitable that there would be some impacts on the existing environment as a result. That said, the proposed Policy RES3: 'Residential areas' seeks to protect the character and amenity of existing areas and this is largely to be achieved during the development management process when proposals are considered for their potential impact on neighbouring properties and mitigation measures identified as appropriate.

6. I am also mindful that the sites identified have been selected by the council to accord with the concepts of local living and 20 minute neighbourhoods. As discussed above, infrastructure provision is taken into account by the council in identifying allocations and their potential scale. I note that the three proposed housing allocations identify allocations totalling 292 units. I consider the allocations to be proportionate to the size of the settlement, and not so large as to detrimentally affect the character of Mauchline in any significant way. Importantly, the housing capacities for these sites are indicative. Proposals, subject of planning applications, for each of the allocation sites must be accompanied by design statements which are intended to ensure that development proposals take proper cognisance of their surroundings and integrate with the established settlement.

#### Amendment of settlement boundary

7. Following the publication of the proposed plan, a planning application for housing (7 units) was approved by the council in August 2022 (ref:22/0081/PP) (CD58) on land north of Netherplace Quadrant, Mauchline. In light of this, I consider that it is logical to include this land within the Mauchline settlement boundary. I address this matter as part of my recommendations below.

#### **Site MA-H1: Sorn Road (25, 46, 79, 123, 137, 281, 298)**

8. As referred to above, extensive impact assessment work including a SEA and

housing site assessment have been carried out and the assessment findings have assisted the council in identifying this site as a housing allocation. I observed during my site inspection that the site is particularly close to a range of services and facilities in the settlement centre including the local primary school, health centre, shops and library and that despite being a greenfield site, it would adhere to the concept of local living and 20 minute neighbourhoods.

9. I noted that the land undulates gently down towards the settlement edge from the north/ northwest and that the site avoids the higher ground which provides the landscape setting to the settlement to the north. I therefore consider the site to be part of an area of lower landscape sensitivity. This, combined with the site's proximity to the local primary school and other key community facilities/ services, leads me to concur with the council that it is an appropriate allocation for new housing.

#### Infrastructure

10. With regards to concerns about infrastructure for this site, I refer to paragraphs 2 - 4 above and advise that on that basis, I am satisfied that issues regarding infrastructure and services capacity have been taken into account in the identification of this site as a housing allocation, noting the developer requirements identified in Volume 2 of the proposed plan. This includes that any prospective developer of the site would be required to consider the capability of existing water and waste water infrastructure in the settlement in order to accommodate development of the site. Volume 2 of the proposed plan is clear that where it is considered necessary, the developer of this site would be required to mitigate any additional impacts likely as a result of the development. Importantly, the proposed plan acknowledges that a new Scottish Water Growth Project will be required for the settlement and that this should address existing issues as well as enable the development of site allocations.

#### Property values and views

11. This is a proposed allocation and there is no detail before me regarding the potential impact of development on adjacent properties. Irrespective of this, I cannot concern myself with property values and residents' private views as these are not material planning considerations.

#### Traffic / Roads

12. I noted during my site inspection that roads at Mauchline Cross are busy, although at the time of my site inspection there were road works which would have exacerbated traffic queueing in this part of the settlement. The council acknowledges that the proposed allocation might have some impact on road capacity at Mauchline Cross when the site is built-out. That said, the council considers that such impacts could be mitigated.

13. The development requirements in the proposed plan (Volume 2) include for a network of paths within the site to the primary school which is to the south of the site. Given this and my observations above regarding the proximity of the site to various community facilities and services, I consider that the site meets the 20-minute neighbourhood concept, promoted in NPF4. Therefore, despite capacity issues on local

roads, given the site's location close to the centre of the settlement and its associated facilities, I consider that it is appropriate to allocate this site. I am mindful in making this finding that consultation would be required with the Ayrshire Roads Alliance as part of any detailed planning application and that any proposals would be required to be fully supported by a transport assessment which would be required to address impacts on local transport infrastructure and to identify appropriate mitigation before development could commence.

#### Loss of privacy, security, light and overshadowing

14. Concerns have been expressed by respondees who live immediately next to the site regarding the impact of development on their privacy, the potential for overlooking, the loss of light and the potential for overshadowing. There is no detailed application before me and therefore I am unable to comment on such matters. In any event, such matters are appropriately addressed at the detailed planning application stage.

#### Water

15. The proposed plan acknowledges capacity issues regarding water and wastewater infrastructure in the settlement, currently. Developers of the site would be required to ensure that there is capacity to accommodate the new development or if not, that mitigation is available to tackle the additional impacts placed on the infrastructure by the additional growth. As referred to above, a new Scottish Water Growth Project specific to Mauchline is required in order to address existing issues as well as to enable the development of the site allocations including site MA-H1. As the site may be subject to flooding, dialogue with SEPA and the Ayrshire Roads Alliance flooding officer would be required in order to progress proposals for the site. Whilst I acknowledge that there are likely to be flood and drainage issues to be addressed, I am satisfied, particularly given that SEPA do not object to the allocation, that these are capable of resolution at the Development Management stage.

16. There are concerns about the impact of development on the historic water source close to the site. However, I am confident that this matter can be resolved satisfactorily at the Development Management stage and that it doesn't call into question the viability of the allocation. I am mindful that there are several policies in the proposed plan which would provide protection against proposals which may result in harm to such an historic water source, including proposed Policies DES1, OS1, NE12, NE13 and CR1 which deal with development design, green and blue infrastructure, water, air, light and noise pollution, contaminated land and flood risk management, respectively.

#### Noise / dust / light pollution

17. Concerns have been expressed about the impact of development both during construction and once completed resulting in noise, dust and light pollution. These issues are most appropriately addressed at the planning application stage.

#### Natural environment

18. The site is predominantly given over to pastoral cover with hedgerows and trees largely present along its boundaries. The site is not contained within any Central

Scotland Green Network (CSGN) and the SEA assessment of the site considered that development of it would likely not result in the loss and/ or fragmentation of these habitats. The site is also not in close proximity to important biodiversity related designations. Any greenfield development will have some impact on local wildlife but I am satisfied, for the above reasons, that the site is not of such value as to rule out its suitability for development.

19. Opportunities have been identified to deliver blue and green infrastructure onsite which I consider would be of benefit to wildlife. Given the above, I consider that it would be at the planning application stage that the environmental impacts would be most suitable addressed including, through consultation with the relevant agencies, the need for any ecological assessments and any identified mitigation measures.

#### Detail

20. Concerns are raised about the lack of detailed plans for proposed development of the site. The proposed plan is concerned with identifying site allocations and is not concerned with detailed site layouts/ proposals. Detailed plans are appropriate at the planning application stage and are not required for the site at this stage.

#### 25 Sorn Road

21. The developer of this site would be required to enhance the existing landscape framework and introduce structural planting at the northeastern boundary of the site, next to the property at 25 Sorn Road. This would introduce a new defensible edge to the settlement and would address the respondent's concerns about hedge boundaries for maintenance purposes. Given the proximity of the site to the respondent's property, there are concerns about a range of environmental matters, particularly during any construction period, including impacts on air quality, noise and vibration and dust. These are all matters that would be addressed at the detailed application stage.

22. No change is recommended to the proposed plan in respect of this site.

#### **Site MA-H1 (Sorn Road) and MA-F1 (Sorn Road, North)**

#### Impact on the natural environment

23. Both the MA-H1 housing allocation site and MA-F1 future housing allocation site are predominantly given over to pastoral cover with hedgerows and trees largely present along their boundaries. The two sites are not contained within any CSGN network and the SEA assessments of the sites considered that their development would likely not result in the loss and/ or fragmentation of these habitats. The sites are also not in close proximity to important biodiversity related designations. The SEA (CD47) concluded in respect of both sites that development on them would have 'neutral' impacts on biodiversity, flora and fauna. Naturescot was consulted on the two sites and has not objected to their inclusion in the plan. Naturescot did however provide comments recommending a number of mitigation measures and I note that these measures have accordingly been incorporated within the proposed plan (Volume 2) (in relation to MA-H1 only) which potentially would be of benefit to local wildlife.

24. Representations advise that various species are found on and around the sites. I do not doubt that the sites will have some value for wildlife (in common with most greenfield sites). However, it does not appear to me that they are of such value as to rule out their potential for development. In light of this and given the fact that there is a proposed policy (NE6) which seeks to protect vulnerable, threatened and protected species from developments which would have an unacceptable adverse impact on protected species leads me to find that neither of these sites should be removed from the plan.

25. Accordingly, no changes are recommended to the proposed plan in respect of either of these sites.

**Site MA-H2 (Station Road, North) (46, 179, 290)**

26. An application (section 42) was submitted to East Ayrshire Council seeking to remove Condition 9 (importation of materials other than topsoil) from Planning Consent 20/0172/PP for residential development at Station Road. The council has confirmed that this application was approved in May 2022. The MA-H2 site does not encroach upon the site boundary associated with planning consent (ref: 20/0172/ PP). In light of the above, I have no further comments to make on the matter.

27. A respondent has objected to the site due to wider infrastructure capacity issues in the settlement. I have addressed the issue of infrastructure capacity relative to Mauchline and site allocations under paragraphs 2 - 4 above.

28. Site MA-H2 is relatively flat and predominantly given over to pastoral cover. The site is centrally located within the settlement. There is housing to the south, west and east and a well maintained recreation ground to the north beyond which there is further residential development and the settlement centre and its associated services and facilities. Given the site's location, its topography and its surrounding residential context, I do not consider that its development would result in significant landscape impacts on the surrounding area.

29. The site is accessible off Station Road and Barskimming Road and it is close to a public transport route. There are footpaths along these roads which provide pedestrian access to the settlement centre and its associated services and facilities. There are opportunities for the enhancement and extension of the existing core path and right of way network which would contribute to active travel.

30. Respondees have called into question the effectiveness of the site with water infrastructure capacity highlighted as a constraint. As referred to above, water and wastewater infrastructure are issues that affect the entire settlement. The proposed plan acknowledges capacity issues regarding water and wastewater infrastructure in the settlement, currently. Developers of the site, as for the other sites, would be required to ensure that there is capacity to accommodate the new development or if not, that mitigation is available to tackle the additional impacts placed on the infrastructure by the additional growth. As referred to above, a new Scottish Water Growth Project specific to Mauchline is required in order to address existing issues as well as to enable the development of the site allocations including site MA-H2.



31. I understand that interest in developing the site has been expressed through the council's pre-application advice process and prior to the start of the site assessment process. The site was promoted as part of the call for sites process. I observed during my site inspection that recent residential development has taken place in proximity to the site which suggests to me that there is interest in developing in this area of the settlement.

32. Given the expressed interest in developing the site, given its location relative to the settlement centre, its accessibility by road and footpath, the surrounding residential context and its relatively flat nature, I consider that it is a logical site to retain in the plan.

33. No change is recommended to the proposed plan in respect of this site.

**MA-H3 (Station Road, South) (46, 74, 106, 239, 289)**

34. This relatively flat site, primarily given over to pastoral cover, is located in the southern part of the settlement. There is housing to the north, east and west of the site boundary with agricultural fields forming the boundary to the south, southwest. There is a boarding kennel immediately to the southeast of the site.

35. The council acknowledges that the proposed allocation might have some impact on road capacity at Mauchline Cross, when the site is built-out. That said, the council considers that such impacts could be mitigated. I am also conscious that the impact assessment work for this and other sites including the Transport Appraisal (CD19) raised no significant issues about it in terms of transport/ access. I observed the road infrastructure surrounding the site during my site inspection. I am satisfied that access to the site would be achievable via the A76, immediately to the east and via Station Road, immediately to the north/ northwest. I also observed that the site is adjacent to an existing bus network and associated bus stops are within proximity to the site. The site is also within walking distance of basic amenities and services. In light of the above, I consider that the site is sustainably located.

36. The site benefits from an established landscape framework primarily along its eastern boundary and northwest boundary with a tree belt located to its southwest boundary. This landscape framework could be extended and enhanced and the existing framework integrated into a green network across the site, linking with the wider network. The site is predominantly pastoral land and is not identified as prime agricultural land.

37. SEPA has identified a closed former landfill site in proximity to the site although there is no recorded history of issues with this. Any such concerns would be dealt with at the planning application stage. I note that the council intend to amend the SEA to reflect the co-location comments by SEPA (CD106). Importantly, the mitigation and enhancement measures contained within the Environment Report (SEA) (CD47) are required, by proposed Policy SS2: 'Overarching policy' to be met by developers of sites. The SEA is not part of the development plan but I am satisfied that any subsequent amendment to the SEA, in terms of mitigation measures, would in turn be required to be implemented through Policy SS2. In light of this, I do not consider it necessary to amend the wording of the proposed plan in respect of this particular

matter.

38. The matter of compensation has been raised by a respondent in relation to the potential impact of the development of this site on their own business which is located to the south of the site boundary. Compensation is not a planning matter and any mitigation measures to address amenity issues can be appropriately addressed at the detailed design and planning application stage.

39. Given the site's location relative to the settlement centre and adjacent housing, its existing landscape framework, its accessibility by road and footpath and proximity to public transport services, I consider that it is a logical site to retain in the plan.

40. No change is recommended to the proposed plan in respect of this site.

**Non-inclusion of site MA-X5 – Land at Bogwood Farm, Ayr Road Mauchline (290)**

41. The respondent seeks the allocation of the site for housing (150 units) and the removal of site MA-H2 (95 units) from the plan.

42. The site is located on slightly elevated pastoral land. The main settlement is to the east, the railway line forms its western boundary and the Ayr Road forms its southern boundary. Whilst the council commissioned landscape study indicates that the area covering the site is of medium to low landscape sensitivity to development, the site is considered to have more of a landscape impact than other areas of the settlement where allocation sites have been identified. This is confirmed in the landscape study, specifically in relation to sites MA-H1 and MA-F1 (future housing) to the northeast side of the settlement and to site MA-H2 to the south. Whilst I observed that there is hedgerow planting along the site's southern boundary which provides a degree of screening, the site is located on rising land and the site enjoys an open aspect with wide views out to the countryside to the west. Views are therefore afforded of the site from the west looking back towards the settlement. Based on my observations during my site inspection of this site and the proposed allocation sites, I concur with the council on the site's landscape impact compared with that of the other sites.

43. The suggested site capacity is bigger than that of any of the allocated sites in the proposed plan and is 55 units greater than that proposed on site MA-H2. Transport Scotland has advised that the development of the site would represent a significant scale of development for the local area and that development would have the potential to impact on the operation of the trunk road network at the A76(T)/ Ayr Road traffic signalised junction and at the A76(T)/ site access junction. I consider that the larger suggested allocation would have a relatively greater impact on the road network than site MA-H2. This notwithstanding that the transport feasibility study submitted in support of the site's allocation acknowledges that a detailed junction analysis would be required in order to assess the formal impact of development on the road network. Such an exercise would no doubt identify mitigation measures to address adverse impacts. I accept that the site is within walking distance of shops and amenities. However, unlike site MA-H2, it has no footway along its development frontage. A new footway would be required to be provided on Ayr Road in order to connect with the local footway network and also with bus stop provision in the area. In this regard the site is less well integrated than site MA-H2 currently which does not require to

implement infrastructure off site.

44. As I have referred to in paragraph 1 above, there is sufficient land identified in the proposed plan to meet the Council's Minimum All-Tenure Housing Land Requirement during the Plan period. It is not therefore necessary to allocate any additional land for residential development including within Mauchline. If I were to recommend including this site within the plan, the implication would be that one or more of the proposed housing allocations at Mauchline would require to be removed.

45. I refer to my findings above regarding the proposed housing allocation sites and specifically site MA-H2. Whilst I have no doubt that the MA-X5 site could be developed for housing and that this could be done in a similar timeframe to that for the other developments, there is nothing before me which would persuade me to recommend removal of site MA-H2 (or indeed any of the other site allocations) from the proposed plan and for its replacement by allocating site MA-X5. Similarly, there is no merit in allocating, additional, sizeable housing sites, such as this site given the content of paragraph 1.

46. No change is recommended to the proposed plan in respect of this site.

**Non-inclusion of site MA-X8 – Land southwest of Kilmarnock Road, Mauchline (144)**

47. Whilst the respondent acknowledges the council's decision to allocate additional land for housing beyond the figures arising from the calculation of the Housing Land Requirement, they seek a greater proportion of the proposed new housing to the Cumnock sub-HMA. This matter is discussed at Issue 17, where it is concluded that the proposed distribution of the housing requirement between the various housing sub-HMAs is appropriate.

48. The respondent seeks the allocation of the site for housing (210 units) and the removal of site MA-H3 (105 units) from the plan. The respondent is concerned that despite site MA-X8 having a higher score than site MA-H3 in the council's HSAM housing site assessment (albeit by one point), site MA-H3 has been included in the proposed plan as an allocation whereas site MA-X8 has not. I have some sympathy with the respondent in this regard. However, I am not tasked with undertaking a detailed appraisal of the council's background scoring system. Rather, I am making my own independent assessment of the matters in hand.

49. The site comprises pastoral land located on the northwest side of the settlement which slopes away to the southwest. I observed this area from long distance views to the west/ southwest. Whilst I accept that the southern half of the site is less visible and less intrusive in such views, the northern half of the site is more prominent and development here would affect the setting of the settlement. I contrast this with site MA-H3 which, due to its relatively flat nature, has less bearing on the setting of the settlement. I note that site MA-H3 scored better than site MA-X8 in terms of landscape as part of the council's own HSAM housing site assessment.

50. I refer to my findings above regarding the three proposed housing allocations at Mauchline. I have found that each of these are appropriate for allocation and there is

nothing before me that would lead me to recommend their removal from the plan. As referred to in paragraph 1 above, there is no justification for more housing allocations to those already identified in the plan. In any event, this site does not offer a clear advantage over the allocated sites, to warrant a change to the plan in respect of housing sites in Mauchline.

51. No change is recommended to the proposed plan in respect of this site.

**Reporter's recommendations:**

I recommend that the plan be modified as follows:

Amend the settlement boundary of Mauchline (Volume 2, page 79), to the north of Netherplace Quadrant, to include the site boundary associated with the approved planning application (ref:22/0081/PP) (CD58).

<b>Issue 42</b>	<b>Stewarton</b>	
<b>Development plan reference:</b>	Paragraph 63-66 of Volume 1, Volume 2 site allocations ST-B1(O): Magbiehill, ST-B2(S) Bridgend, ST-M1: Bridgend, ST-M2: Kilwinning Road, ST-H1: Draffen East, ST-H2: Kilwinning Road, PROP11: Kilwinning Road, ST-F1(H) Kilwinning Road (W) and the non-allocation of additional sites for housing	<b>Reporter:</b> Stephen Hall
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
<div> <div> K Richardson (11) L Moore (12) H Stuart (13) J MacBrayne (15) M Graham (17) A Wright (20) A(l) Sampson (23) A(n) Sampson (24) R Mitchell (30) G Wright (32) V Skelton (34) R Wood (38) M Nazarava (39) L Hamilton (41) W Gillies (42) J Gillon (48) D Gillon (49) A Mitchell (50) G Blackwood (53) R Mitchell (54) R Mitchell (57) E Mitchell (58) J Hamilton (60) L N Campbell (67) A Brannan (68) M Close (78) T Blackwood (80) – supports (ST-B1 (O)) F McNulty (83) E Cook (84) D Hamilton (85) </div> <div> L Hamilton (95) Stewarton Initiatives (129) S Williamson (140) Gladman Developments (146) Hargreaves Land (150) G Jenkins (161) Stewarton Town Planning Action (163) E Cook (167) Bell Group Ltd (174) S Sherry (191) (petition) C Laurie (193) Barratt Homes (195) M Sanders (201) C Borland (207) A Bayne (208) Stewarton and District Historical Society (221) Y Sponza (242) R Macdonald (244) L Brown (250) C Barrett and C Mortimer (256) D McCalliog (255) SportsScotland (258) M McGleish (259) R Miller (267) J Wilson (280) F McMillan (304) L Noons (305) G O'Malley (308) A Gray (311) </div> </div>		
<b>Provision of the development plan to which the issue relates:</b>	The principle of the new development in Stewarton, with specific reference to sites ST-B1(O & (S)), ST-M1, ST-M2, ST-H1, ST-H2, ST-F1(H) and the non-inclusion of additional sites	

**Planning authority's summary of the representation(s):**

**Stewarton-wide matters**

Stewarton Settlement

(13, 17, 20, 23, 24, 30, 34, 42, 48, 49, 50, 53, 57, 58, 60, 67, 68, 78, 83, 84, 85, 95, 140, 161, 193, 207, 267, 304, 311) object to any further development in Stewarton.

(11, 12, 15, 39, 41, 201, 208, 242, 244, 250, 256) object to ST-H2/ PROP11 for reasons associated with its impact upon the settlement generally as outlined below.

(32, 38) object to both ST-H2/PROP 11 and ST-F1(H) for reasons associated with their impact upon the settlement generally as outlined below.

(305) objects to sites ST-H2 and ST-M2 for reasons associated with its impact upon the settlement generally as outlined below.

(146) objects to the lack of sites allocated for housing and states that Stewarton is recognised as a sustainable location for housing growth and therefore should receive further housing allocations to ensure a more proportionate and deliverable supply of housing land to make certain the council's housing land requirement can be met.

National planning policy

The proposals in Stewarton fail to provide options or alternatives and wilfully ignore government policy. SPP is clear that growth should be sustainable and includes various principles to avoid over-development and to protect the amenity of new and existing developments. NPF4 is also of relevance. (201)

Overdevelopment

Based on data and trends set out in the objections, Stewarton is bearing the brunt of the amount of housing development required for the entire local authority area. This level of development is not required in Stewarton (13, 17, 23, 24, 30, 42, 48, 49, 50, 53, 57, 58, 60, 67, 68, 83, 84, 85, 129, 193, 280). Population predictions for Stewarton, which the plan is premised upon are incorrect (25)

The population in Stewarton is increasing at a rate faster than that of Kilmarnock (304).

You should not need to drive to access facilities (304).

Loss of amenity

Overdevelopment will damage the amenity of Stewarton and turn it into a dormitory suburb (13, 17, 23, 24, 30, 48, 49, 50, 53, 57, 58, 60, 67, 68, 83, 84, 85, 193, 280).

The town is losing its characteristics (13, 17, 23, 24, 30, 48, 49, 50, 53, 57, 58, 60, 67, 68, 83, 84, 85, 193, 280) community spirit (15), and identity (208, 242).



The town is losing its countryside feel affecting morale and health and wellbeing (250).  
Quality of life is deteriorating (207).

There is little consideration afforded to existing residents impacted by development (20).

Existing construction causes disturbance resulting in a deterioration of quality of life for existing residents (78, 305).

#### Infrastructure (General)

(11, 12, 20, 32, 38, 39, 41, 42, 78, 84, 95, 140, 193, 201, 207, 208, 242, 250, 267, 304, 311) object generally to a lack of infrastructure.

The infrastructure to support growth has not been developed in conjunction with growth (20).

The town cannot cope with the requirements of more housing (13, 17, 23, 24, 30, 48, 49, 50, 53, 57, 58, 60, 67, 68, 32, 39, 41, 78, 83, 84, 85, 95, 140, 267, 305, 311).

An infrastructure first approach should be taken (11, 20, 78, 95, 267, 304).

Timescales of provision of new infrastructure need to be defined (250).

The town does not have the infrastructure to meet the needs of the current population (13, 17, 23, 24, 30, 34, 48, 49, 50, 53, 57, 58, 60, 67, 68, 83, 84, 85, 129, 140, 207, 280, 305).

Funds / solutions should be found to address current infrastructure needs before looking to new development (201, 250, 267, 280).

New housing is not the solution to fix existing problems (201).

New housing should include supported housing and assisted living accommodation (280).

Existing development does not appear to have raised funds that have been spent on infrastructure needs (304).

Consolidation is appropriate not continual acceptance of pressure from commercial builders for significantly more houses without addressing medical services, education (34).

New housing should include supported housing and assisted living accommodation (242). Affordable housing is required (207).

Development proposed will exacerbate existing infrastructure issues (150).

## Road infrastructure

Aspirations relative to the reduction in car journeys as set out in the Transport Assessment should not be taken into account in developing proposals for growth (13, 17, 23, 24, 30, 48, 49, 50, 53, 54, 57, 58, 60, 67, 68, 83, 84, 85, 308).

The existing road network is not fit for purpose (capacity, dangerous, condition, flow, queues, congestion, traffic management, visibility, manoeuvrability, pinch points, safety features, width, construction traffic, suitability for HGVs, number of HGVs) (11, 13, 17, 15, 20, 23, 24, 30, 41, 42, 48, 49, 50, 53, 54, 57, 58, 60, 67, 68, 78, 83, 84, 85, 95, 129, 140, 193, 207, 208, 242, 250, 280, 304, 305, 308) and has resulted in injury and death (20). Speed limits are not observed (20). **Air quality is a concern (207).**

There are constantly roadworks (78,140).

Development in Stewarton will increase car ownership with a consequent adverse impact on road congestion and pedestrian (including children walking to school) and vehicular safety (13, 17, 15, 23, 24, 30, 32, 48, 49, 50, 53, 54, 57, 58, 60, 67, 68, 83, 84, 85, 193, 280) and air pollution (193, 208, 242).

The road infrastructure cannot be improved to accommodate the increase (280, 15). Stewarton has a finite capacity for housing due to its historic road structure (208, 242).

Stewarton Cross - The area around the town centre including the High Street and Stewarton Cross is particularly congested (15, 20, 95, 129, 244) and dangerous (95, 304). The majority of Stewarton traffic needs to pass through the Cross (15, 244). There are no solutions to issues at Stewarton Cross (244).

B778 - The B778 is hazardous (15, 95), and there are often tailbacks on it (129 304). Construction traffic for new developments would use the B778, which is not suitable for HGVs (15, 95). The B778 needs upgraded and an alternative route is required (308).

There is a lack of signage (84).

The active travel network is not good enough (129, 193, 250, 267, 304) and routes to the school would be too long and unsafe (42).

The train (13, 17, 23, 24, 30, 34, 48, 49, 50, 53, 54, 57, 58, 60, 67, 68, 83, 84, 85, 140, 193, 208, 242, 250, 267, 304) and bus (13, 17, 23, 24, 30, 34, 48, 49, 50, 53, 54, 57, 58, 60, 67, 68, 83, 84, 85, 140, 193, 250, 267) services are not good enough.

There is an obvious need for electrification on the Glasgow to Kilmarnock route, current plans extend to Barrhead why not to Kilmarnock, the doubling of the track should happen from Stewarton to Kilmarnock all making for a more reliable service. There are no plans to have a Stewarton - Glasgow direct bus service (34, 193).

There is only one petrol station (208, 242).

There are not enough parking spaces (13, 17, 15, 23, 24, 30, 48, 49, 50, 53, 54, 57, 58, 60, 67, 68, 83, 84, 85, 280, 304, 305) including at the train station (267, 308) and on

the main street (304) and at healthcare facilities (304). Free parking is required (308).

Cars are being damaged (305).

The EV infrastructure is not good enough (267).

No jobs in town which would result in commuting (208, 242).

The old viaduct under David Dale Avenue will collapse (305).

### Education

The schools require investment to support more development and there are not enough spaces within the schools or sufficient staff (11, 15, 20, 32, 39, 42, 78, 95, 129, 140, 193, 207, 208, 242, 250, 304 305). More houses will mean children from Dunlop cannot get into the schools (207).

Schools should have capacities planned in conjunction with growth rather than extended to cope with growth (20).

Early years provision is at capacity (39, 41, 208, 242).

Development will lead to overcrowding injurious to education of young people and place too great a burden on schools (13 17 23, 24, 30, 48, 49, 50, 53, 54, 57, 58, 60, 67, 68, 83, 84, 85, 193, 280).

Development of housing sites should be contingent on the construction of a new primary school having been completed first (13, 17, 23, 24, 30, 48, 49, 50, 53, 54, 57, 58, 60, 67, 68, 83, 84, 280).

### Healthcare

Healthcare is at capacity and the medical practice is refusing patients from the wider catchment and appointments are difficult to secure (13, 17, 15, 20, 23, 24, 30, 38, 39, 41, 48, 49 50, 53, 54, 57, 58, 60, 67, 68, 78, 83, 84, 85, 129, 140, 193, 207, 208, 242, 250, 267, 280, 304, 305). The medical practice cannot cope with the current population and cannot expand on site (15, 95). Even if a new site was found, staffing it would be problematic (15). This would result in a reduced and unsafe service (250) The increase in housing in Stewarton would adversely affect services at Crosshouse Hospital. (13, 17, 23, 24, 30, 48, 49, 50, 53, 54, 57, 58, 60, 67, 68, 83, 84, 85, 280). The increase in population would place an additional burden on health care services (23, 24, 30, 48, 49 50 53, 54, 57, 58, 60, 67, 68, 83, 84, 85, 280). A minor injuries clinic is required (304).

People in Stewarton are unable to register with dentists (38, 78, 208, 242) and those who are registered can't get appointments and new development will exacerbate this (250).

### Water and Wastewater

The sewage system cannot cope with new houses (15, 140, 305).  
Water and sewerage are at capacity (13, 17, 15, 20, 23, 24, 30, 48, 49, 50, 53, 54, 57, 58, 60, 67, 68, 83, 84, 85, 129, 193, 208, 242, 304, 305, 311).

There is no mention of what is going to be done to resolve the capacity issues (129).

Flooding / drainage issues need to be resolved (140, 193, 305).

### Power

Gas and electricity infrastructure cannot cope with new houses (304).

### Utilities – general

There is no guarantee these will be in place prior to development (129).

### Broadband

Requires improvement (42)

### Play and recreation

There is a lack of green infrastructure (13, 17, 15, 23, 24, 30, 48, 49, 50, 53, 54, 57, 58, 60, 67, 68, 83, 84, 85, 193, 250), play infrastructure (13, 17, 15, 20, 30, 48, 49, 50, 53, 54, 57, 58, 60, 67, 68, 83, 84, 85, 193, 280), public space infrastructure (84) and leisure opportunities (13, 17, 23, 24, 30, 48, 49, 50, 53, 54, 57, 58, 60, 67, 83, 84, 85, 129, 304). The lack of facilities, specifically those for sport or for vulnerable and disabled people is highlighted and it is stated that the population should have more facilities (280).

Development takes away green space (193, 250, 304) and access to countryside. Green space and access for walkers / cyclists should be incorporated and protected (267).

Development will result in a reduction in walking and cycling opportunities and no improvements are proposed (13, 17, 23, 24, 30, 48, 49, 50, 53, 54, 57, 58, 60, 67, 68, 83, 84, 85).

Waiting lists for children's clubs are commonplace (20).

The plan as proposed suggests a further unwelcome and unnecessary reduction in walking opportunities for residents in and around Stewarton and Dunlop. It fails to identify the existing rights of way as well as other existing paths and proposes no improvements. Further development is a threat to the maintained woodland walks (13, 17, 23, 24, 67, 68, 83, 84, 85, 308).

There is concern that inadequate notice has been given to the community at large to make representations, as the neighbour notification procedure does not encompass the

community at large in respect of issues such as diminution of, or restrictions in the use of the footpath/right of way network. (13, 17, 23, 24, 67, 68, 83, 84, 85, 308)

### Retail

As the High Street becomes more difficult to access due to congestion and difficulty parking, businesses will not survive (15). There is no evidence that people who move into new development in Stewarton spend in Stewarton (20, 67). Shops cannot cope with growth (32) and there is insufficient stock on shelves (208, 242).

### Police

At capacity (20)  
No presence (140, 304).

### Maintenance / nuisance

Litter (84), weeds (84, 167), a lack of maintenance (84, 167 304) and dog fouling (304) are issues. The town is overrun with pets (140). There is ongoing anti-social behaviour by youths (20, 140). An increase in population could lead to more youth anti-social behaviour (15). Constant building is disruptive (305).

### Agricultural land / Greenfield / Brownfield

Agricultural land should not be used for development (67, 140, 161). Greenfield should not be used (304). Developments on brownfield land should be prioritised (13, 17, 23, 24, 30, 48, 49, 50, 53, 54, 57, 58, 60, 67, 68, 83, 84, 85, 129, 280).

### Impact on flora and fauna

Development endangers flora and fauna (13, 17, 23, 24, 30, 48, 49, 50, 53, 54, 57, 58, 60, 67, 68, 83, 84, 85, 129, 193, 280).

### Damaging to Wildlife

Noise, light , construction, habitat loss (208, 242, 304)

### Main Issues Report

A number of representations relate to sites not allocated in the plan but which were shown in the Main Issues Report as those sites submitted to the Planning Authority for consideration. In respect of these, it is stated there is concern that the reporter could uphold an objection by a site owner / agent that they should include such sites (129).

### Institute Hall

Issues relating to parking and developer contributions should be overcome in order to allow the sympathetic restoration and development of the building (221). The Council should do everything within its powers to see this building put in good order (308).

**Site ST-H2/ PROP11**

(244) states that the site is illogical and does not fit with the settlement. Its allocation will deteriorate residents' quality of life.

(259) objects to the capacity of the site being strictly defined. (12) objects to the size of the development given previous developments in Stewarton.

(201) states that the proposal is contrary to climate change objectives and asks whether the construction will be net zero. They also state the housing is not required now commuter patterns have changed as a result of Covid.

(250, 267) state that the site is contrary to 20-minute neighbourhood objectives. Similarly, 193 queries having a school on the outskirts of town and how accessible this makes it for walking, If future development ensues then the school will end up in the middle of a housing estate (193).

(12, 15, 129) state that there is no guarantee in relation to a new primary school on the site and (12, 13, 17, 23, 24, 30, 41, 42, 48, 49, 50, 53, 54, 57, 58, 60, 67, 68, 83, 84, 85, 129, 193, 280, 311) that there is a lack of finance to deliver it. (129) queries whether the Council have applied for funding.

(244, 250, 267) state that the roads to the north and south of the site (Dalry Road and Kilwinning Road) do not have the capacity to support the site, being narrow and single lane in parts. These roads are unsafe and congested and the proposals will increase safety concerns and congestion (250).

(41, 250) refer to the site previously having been mined and have safety concerns including over gases as a result.

(13, 17, 23, 24, 30, 48, 49, 50, 53, 54, 57, 58, 60, 67, 68, 83, 84, 85, 129) state that development of the school and other community facilities should be completed prior to new housing being developed on site.

**Site ST- M2**

Lainshaw Primary should be repurposed on site (193, 250, 267)

Healthcare - Finance is not in place to provide new facilities (42, 193, 267, 311). There no evidence that NHS Ayrshire and Arran (NHSAA) is in a position to fund the construction and fitting out of a new health centre (58). Development should be contingent on completion first of any new health centre (13, 17, 23, 24, 30, 48, 49, 50, 53, 54, 57, 60, 67, 68, 83, 84, 85, 129, 267). There is no reassurance that this will be the case (129).

(305) has concerns over traffic accumulating from this site and where any junction will be sited, particularly if it will feed into the roundabout at David Dale Avenue / Lainshaw Street / B769.

The setting of 7 David Dale Avenue (listed property) and views from it will be



compromised (305).

It is not clear what outdoor sports facilities are currently at the school. If there are, then these should be noted within the site allocation and should be adequately replaced/compensated elsewhere for (258).

### **Site ST-B1(O)**

191 objects to the designation of the site as it will adversely impact upon existing residents in terms of views, property values, privacy and overlooking and will cause light and noise pollution. It is claimed increased flooding and run off will ensue and there is a risk of water contamination. There is some confusion over the designated uses of the site. Finally, the site will result in overdevelopment as it results in the loss of open space.

### **Non inclusion of site Land to the South of Old Glasgow Road (ST-X12) / A new policy directing new housing development in Stewarton**

195 argues that Stewarton can be split into 2 20 minute neighbourhoods and that the neighbourhood which accommodates Nether Robertland primary school is decreasing in terms of school roll and the number of families and has the capacity for and therefore needs to accommodate growth. As such, they propose a site for 200 homes. It is argued that the delivery of this site will deliver the Vision and meet the Aims of the PLDP, specifically Aims 1-6. They state that the primary school will be able to accommodate the number of pupils, which would be produced by 430 homes. In respect of the HSAM, it is 195's view that insufficient weight has been given to the inclusion of the site within the NRPS 20-minute neighbourhood and the ability of the site to take advantage of existing education infrastructure with spare capacity. Nature Scot did not object to the allocation of the site. They state that their own landscapes visual assessment has positive conclusions. Barratt Homes are committed to delivering this site in the plan period and in master planning it would take on board the comments raised by Nature Scotland to ensure any new development was set within an agreeable landscape framework. Without the allocation of site ST-X12 there will be no housing development in this area of the town after mid-2023 and this will inevitably have an impact on the roll of Nether Robertland Primary School and on the social dynamic of the place that will continue to see its population age.

195 argues for a new policy allocating and directing new housing development in Stewarton which would support ST-X12, ST-H2 and ST-F1(H). Based on their argument that there is capacity in Nether Robertland Primary school they seek that capacity at Lainshaw is examined and any subsequent extension / new provision required addressed via allocated sites and windfall sites in the catchment of that school. They seek development of 550 houses in the Nether Robertland catchment specifically on ST-X12 as well as other locations.

### **Non-inclusion of Land to the East of Dunlop Road (ST-X10)**

Land to the east of Dunlop Road would make an excellent site for Stewarton Academy, a local park and doctors surgery (244).

**Non-inclusion of land at Peacockbank Farm (ST-X8/X14)**

Allocation of land at Peacockbank Farm would help meet housing needs, provide open space in south Stewarton and create a new link road which would address one of the key infrastructure capacity challenges which currently faces Stewarton. The site is sustainably located providing direct road access to Kilmarnock and the M77 without exacerbating the road congestion around Stewarton Cross, whilst providing walking/cycling links into the town centre and wider Core Path / Active Travel networks. A new road link between the C117 and A735 would be integral to development of the site. This would serve to reduce transport pressures on the centre of Stewarton, and Stewarton Cross, one of the key infrastructure challenges facing the town as highlighted within the LDP2 consultation. This link road could also potentially re-align part of the B778, further reducing traffic congesting in and around the town. The site is effective as assessed against PAN 2/2010.

Given the site's location immediately adjacent to the settlement boundary, with established housing directly to the north and east, an appropriately scaled and sensitive residential development would be in keeping with Stewarton's existing urban form, settlement pattern and identity. Key issues are landscape impact, the potential size of the development, and infrastructure capacity issues. By promoting the larger, wider site for residential development, a more comprehensive design solution could be progressed which would mitigate landscape impact. The submitted Indicative Development Framework demonstrates that approximately 50% of the site would comprise of public open space and landscaping. The topography of the site presents an opportunity to safeguard Cairnduff Hill as an area of open space which will enhance the character of the wider site. The remainder of the site would be used for residential development, and would be capable of accommodating c. 300 residential units. The quantity of development proposed is therefore more in line with other proposed allocations and Future Growth Areas for Stewarton identified within the Proposed LDP2, by providing a new public park based around Cairnduff Hill, as well as a new link road, the proposed development will contribute positively to identified infrastructure issues within Stewarton (150).

This site would be ideally located to improve the quality of the town. It could provide a link road between two main roads in the town allowing much of the traffic from either side of the town to bypass the Stewarton Cross. This site is a logical solution to the traffic capacity issues in the town. It is also centrally located with the ability to link into the existing green and blue networks in the town (244).

**Non-inclusion of land at Lainshaw Estate, Stewarton (ST-X6)**

The site should be included and can deliver a wide range of market and affordable homes to meet the general and specialist housing needs of the council. The site would assist in delivery of the spatial strategy. (146) disagree with the assessment of the site as set out in the Housing Methodology Paper (supporting document) in respect of contribution to the spatial strategy, site viability and marketability, non-absolute constraints (biodiversity, heritage, landscape character and townscape, capability for agriculture and coal mining risk assessments, visual amenity, landscape study) (146).

**Non-inclusion of site at Highcross Farm (New site: ST-X16)**

The principle of residential development has been established through planning application 07/0127/FL. No consultees objected to the site at that time. Given the brownfield nature of the site it is submitted that the requested zoning of the site as a Housing Development Opportunity Site will allow for the redevelopment of and active beneficial re-use of the site. Development of the site will not result in the loss of an area safeguarded for open space, green infrastructure or prime agricultural land. In addition residential development of the site will not have any detrimental impacts on landscape character and will also lead to an increase in amenity as residential development of the site will clear up a site in a derelict and run down state. It is considered that in the future the High Cross Farm site will be physically attached to the settlement boundary of Stewarton by zoning of the two adjacent sites. It will help deliver an adequate supply of housing land in the right place and create a quality sustainable planned and integrated residential environment. The site is therefore effective in terms of the criteria of PAN 2/2010 (174).

**ST-F1(H) - Kilwinning Road (W)**

(256) Object to the inclusion of the site citing a number of reasons for this. They raise matters related to detailed design being out of keeping, concerns over the size and density of development and concerns relating to privacy and overlooking. The loss of open space and the consequent impact on the character of Kilwinning Road which people use to access Lainshaw Woods is of concern. The lack of detail contained in the Plan in respect of the site is pointed out.

Concerns are also raised in respect of disruption from the build out of the site including in terms of noise and dust and consequential impacts on health, the environment and amenity. Safety during build out is also mentioned in terms of pedestrian and road safety due to construction traffic. The state of the roads at present is also claimed to be unlikely to withstand the volume of construction traffic.

In terms of local amenities the density of the project is claimed to outweigh the capacity of the amenities the Plan aims to support.

Finally, (256) state that their land is included in the site but they have received no notification about the land being included nor detailed plans.

**Site ST-H1**

(244 & 195) state that this site should not be included as it will be complete by the time the LDP is adopted.

**Modifications sought by those submitting representations:**

(13, 17, 20, 23, 24, 30, 34, 48, 49, 50, 53, 57, 58, 60, 67, 68, 78, 83, 84, 85, 140, 161, 207, 267, 304, 311) wish for no site in Stewarton to be allocated in LDP2.

(11, 12, 15, 39, 41, 201, 208, 242, 244, 250, 256) wish for ST-H2 and PROP11 not to be allocated in LDP2.

(32, 38) wish for ST-H2 and PROP 11 and ST-F1(H) not to be allocated in LDP2.

(305) wishes for sites ST-H2 and ST-M2 not to be allocated in LDP2.

(244) objects to the inclusion of site ST-H1 in the Plan as it will be fully built out.

(208, 242) wish to see the housing allocated for Stewarton to be allocated to Kilmarnock instead.

(34) seeks a 10 year moratorium on development in Stewarton.

(208, 242) seek affordable housing investment in Kilmarnock instead.

(78) add schools, GPs, widen roads before allowing new housing.

(146) Stewarton is recognised as a sustainable location for housing growth and therefore should receive further housing allocations to ensure a more proportionate and deliverable supply of housing land to make certain the council's housing land requirement can be met.

### **All housing sites**

(13, 17, 23, 24, 30, 48, 49, 50, 53, 54, 57, 58, 60, 67, 68, 83, 84, 85, 129) policy must be amended so the identification of any site for housing should be conditional on EAC first completing construction of a new school.

(13, 17, 23, 24, 30, 48, 49, 50, 53, 54, 57, 58, 60, 67, 68, 83, 84, 85, 129) policy must be amended so the identification of any site for housing should be wholly conditional on NHSAA first completing construction of a new health centre.

(250) the finance / capital that would be required and timescales for provision require to be set out for new schools and health facilities.

### **ST-F1(H) - Kilwinning Road (W)**

(256) seeks a modification of the site to define a significant boundary between the proposed development and existing properties.

ST-H2 - 255 - 350 units (plus or minus, dependent on detailed design).

ST-M2 – sports facilities as existing should be noted in the site allocation and must be compensated for elsewhere (258).

### **Non-inclusion of sites**

Non-inclusion of land to the east of Dunlop Road ST-X10 – include the site (244).

Non-inclusion of land at Lainshaw Estate, Stewarton (146) - Include the site in the Plan.

Non inclusion of site Land to the South of Old Glasgow Road (ST-X12) (195) – include the site in the plan for 200 units.

### **Non-inclusion of land at Peacockbank Farm**

Inclusion of site (244)

That the settlement map for Stewarton is amended to include the site within the settlement envelope. That the site should be allocated for residential development, or as a Future Housing Growth site, within the settlement map. It should support the allocation of circa 22.85 hectares of Land at Peacockbank Farm for the development of up to c.300 new homes, a new public park, and a link road (150).

### **Non-inclusion of site at Highcross Farm**

That the site is zoned as a housing opportunity site or future housing growth area (174).

A new policy allocating and directing new housing development in Stewarton (195).

Creation of a new policy with the following wording:

“New housing development will be supported in west Stewarton on allocated site ST-H2 during the plan period and at ST-F1(H) once development of site ST-H2 has been completed. Capacity at Lainshaw Primary School will be examined and any extensions / new provision to address agreed shortfalls will be the subject of developer contributions from allocated housing development sites and windfall sites within the catchment area of the school. Development of up to 550 new homes will also be supported in Stewarton within the catchment area of Nether Robertland Primary School specifically on allocated site ST-X12 but also in other locations that can demonstrate that they comply with the policies of the LDP. The Council and the NHS Trust will collaborate to ensure the development of a new Health centre in Stewarton. The Council will develop active travel routes throughout Stewarton to ensure that the facilities and services of the town are accessible by sustainable means. New development will provide active travel facilities within their boundaries and provide connections to routes beyond. New development will include new green infrastructure where feasible and as appropriate connect to existing green infrastructure to extend the network in the town.”

## **Summary of responses (including reasons) by planning authority:**

### **Residential development in Stewarton**

In respect of the objections to the principle of new residential allocations in Stewarton generally and in particular to site ST-H2 (Kilwinning Road) the Council would respond as follows:

### **National planning policy (201)**

The Proposed Plan is not required to provide options or alternatives; this is the role of

the Main Issues Report. NPF4 was in draft format at the point of writing the Plan and therefore did not form Government Policy, however, the NPF4 has now been laid before Parliament, as of 8 November 2022. In terms of 20-minute neighbourhoods, NPF4 states that the policy intent is 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, preferably by walking, wheeling or cycling or using sustainable transport options. The Place Principle seeks a more joined-up, collaborative, and participative approach to services, land and buildings, across all sectors within a place, enables better outcomes for everyone and increased opportunities for people and communities to shape their own lives. This is the process which has been undertaken in order to produce the development framework, and which underpins the land allocations in the Plan. NPF4 seeks the following policy outcomes:

- Places are planned to improve local living in a way that reflects local circumstances.
- A network of high-quality, accessible, mixed-use neighbourhoods which support health and wellbeing, reduce inequalities and are resilient to the effects of climate change.
- New and existing communities are planned together with homes and the key local infrastructure including schools, community centres, local shops, greenspaces, health and social care, digital and sustainable transport links.

It is considered that the range of allocations and proposed uses as set out in the Proposed Plan for Stewarton, which address local infrastructure, aligns with these outcomes. Stewarton has infrastructure issues to which solutions are not simple, partly due to the complexities of land ownership, public funding and the strategic plans of different public organisations. As such, the Plan proposes that development in the town will be undertaken according to an interlinked series of steps underpinned by a legal agreement that will address the various issues faced. It is proposed to permit the release of a limited amount of greenfield land in order that education provision can be built (as soon as funding can be confirmed) as part of a larger phased, residential site. This will in turn release the site of the existing Lainshaw Primary School for medical or affordable housing / assisted living and public open space infrastructure. This approach is considered to constitute a sustainable and infrastructure-first approach to development, in line with the expectations of local people as consulted and the policies of National Planning Framework 4 (NPF4).

In terms of Scottish Planning Policy (SPP), Paragraph 40 requires spatial strategies within development plans to promote a sustainable pattern of development appropriate to the area. The Plan is considered to align with SPP as it coordinates delivery of housing and business with infrastructure requirements and uses land within and adjacent to the settlement for a mix of uses.

Overdevelopment (13, 17, 23, 24, 25 30, 42, 48, 49 50, 53, 57, 58, 60, 67, 68, 83, 84, 85, 129, 193, 280, 304).

The Council is required through the LDP to make sufficient land available to meet housing needs and demand in the area for the next 10 years. The sites in Stewarton are therefore identified as part of a wider range of sites across the local authority area to meet those needs. A range of sites are proposed across sub-housing market areas.



There is a level of misunderstanding in a number of the representations in respect of a number of sites, which have not been included in the Proposed Plan but were available for comment as part of the MIR stage (CD1). These sites are not within the remit of this examination.

The requirement for housing and the numbers associated with this are set out in Issue 17. The evidence upon which this is based is assessed in the Housing Methodology Background Paper and associated Appendices (CD8 and CD9 (relates to Stewarton)). Population is only one factor in determining the need for new housing sites; need and demand are also relevant. SPP (CD26) states (para 122): Local development plans should allocate appropriate sites to support the creation of sustainable mixed communities and successful places and help to ensure the continued delivery of new housing. NPF4 (CD4) states the location of where new homes are allocated should be consistent with local living including, where relevant, 20-minute neighbourhoods and an infrastructure first approach. It is considered that the level of proposed housing in Stewarton is modest and will not result in overdevelopment.

Loss of amenity (13, 15, 17, 20, 23, 24, 30, 48, 49, 50, 53, 57, 58, 60, 67, 68, 78, 83, 84, 85, 193, 208, 242, 250, 280, 305).

The impact on amenity can be considered as part of the planning application process. There are a number of policies in the Proposed Plan which protect amenity (e.g. Policy RES3: Residential Amenity) and allow consideration of the impact of proposals upon amenity. It is not considered that additional wording is required for Stewarton.

The impacts of construction itself are not material planning considerations.

Infrastructure (General) (11, 13, 12, 17, 20, 23, 24, 30, 32, 34, 38, 39, 41, 42, 48, 49, 50, 53, 57, 58, 60, 67, 68, 78, 83, 84, 85, 95, 129, 140, 150, 193, 201, 207, 208, 242, 250, 267, 280, 304, 305, 311)

The Council works closely with key agencies, the development industry and infrastructure providers to ensure that developments included in the Proposed Plan have sufficient levels of infrastructure and services or any deficits can be addressed by the development.

In preparing the Proposed Plan considerable detailed research and analysis was undertaken to inform long term planning of infrastructure and understanding of requirements in Stewarton and this is reflected in the Stewarton Development Framework (CD59).

The Development plan is a corporate document for the planning authority and its Community Planning Partners. The plan applies the land use elements of the Community Plan and other Council and Government strategies into an overall spatial plan for the local area providing a means to join up messages about place and delivery. The plan specifically states that the approach to be taken in Stewarton is infrastructure first. It is clear that in the past there have been infrastructure needs, which have not kept pace with development, however, the Proposed Plan can only deal with the present and future situation and seeks to address deficiencies and not exacerbate them by providing solutions.

In terms of housing, there is significant ambition through national policy and strategy to provide more homes including affordable homes, and to provide choice, including in terms of location. There is significant demand in Stewarton, which needs to be catered to. Through the affordable housing policy and the allocation of site ST-M2 for uses including affordable/assisted living housing, the Plan addresses these needs.

In respect of timescales, The Vision sets out what East Ayrshire will look like in 20 years' time if the policies and proposals of the Plan, as well as the Community Plan and other Council strategies, are carried through successfully.

Specific infrastructure concerns are considered in detail below.

Through the requirements of proposed local development plan policies and proposals, it will be ensured that the efficient use of existing infrastructure and provision of required infrastructure where justified, including schools, healthcare and community facilities, will be delivered. Consequently, the Council considers that there is no known barrier to the delivery of allocated housing sites in relation to infrastructure provision.

Travel infrastructure (11, 13, 15, 17, 20, 23, 24, 30, 32, 34, 41, 42, 48, 49, 50, 53, 54, 57, 58, 60, 67, 68, 78, 83, 84, 85, 95, 129, 140, 193, 207, 208, 242, 244, 250, 267, 280, 304, 305, 308)

Comments are made in respect of the LDP2 Transport Appraisal (TA). As the remit of the examination is solely to examine the proposed plan itself, changes cannot be made to this document by the Reporter.

The Proposed Plan has been subject to a Transport Appraisal, and Planning have worked closely with Ayrshire Roads Alliance. There are no concerns around road congestion and pedestrian and vehicular safety. Some improvements will be made to Stewarton Cross as a result of the Transport Appraisal. Further, the Proposed Plan seeks a Transport Assessment to be carried out for sites ST-H1, ST-H2 and ST-B1(O) as part of any development proposal. Assessment of the TAs would enable the imposition of any required mitigation measures, or limit the number of units to ensure that the local road capacity is not exceeded or road safety compromised. The Ayrshire Roads Alliance did not raise any objection to the allocation of sites in Stewarton. As such, it is considered that in terms of transport and the potential impact on the local road network these are matters that could be addressed at planning application stage. Such matters are not barriers to allocating sites for residential development in the Plan. The Council therefore considers that there is no impediment to the sites being developed in this regard subject to the Transport Assessment and access arrangements being acceptable to the Ayrshire Roads Alliance.

The frequency of roadworks, provision of petrol stations, signage is not relevant to the development planning process.

The Proposed Plan contains a number of policies relating to active travel, which will, as implemented, improve the network. However, the Active Travel Strategy, rather than the Local Development Plan, is the appropriate place for details of active travel proposals to be set out and is outwith the scope of this examination. The topography of Stewarton makes active travel difficult in some parts (e.g. to Stewarton Academy),

however the Ayrshire Roads Alliance (ARA) is working to create a longer active travel corridor in and around Stewarton. Consultants SWECO have been working on an Active Travel Strategy for East Ayrshire, which will set out an action plan for future measures to help enable more journeys to be made by active modes of travel such as walking, wheeling or cycling.

Network Rail has provided performance data to the Council to show that delays and cancellations are not an issue on this line for Network Rail. Indeed, it is consistently meeting or out-performing ScotRail's overall performance targets. Network Rail's long term plans are considering wider measures across the network which will further improve performance at Stewarton. A number of bus services connect to Glasgow from Stewarton via Kilmarnock.

As in many village centres, there is pressure on parking provision, but increase in such pressure must be weighed against the benefits of the potential for additional custom to support local shops and services. In terms of the railway station, Network Rail do not share concerns over parking arrangements. Many railway station car parks are currently much quieter than they previously were as a result of Covid and new models of hybrid working.

To realise ambitions to have all new vehicles on East Ayrshire roads emission free by 2030, it is vital that vehicles can be recharged quickly, easily and conveniently. To meet this challenge, ARA is preparing an Electric Vehicle Infrastructure Strategy and action plan. This Strategy will be the appropriate place for details of how the Council will deliver the continued roll out of electric vehicle infrastructure to be set out and is outwith the scope of this examination.

Whilst it is important to protect against unsustainable growth in car based commuting, Stewarton is a settlement with a range of employment opportunities and public transport links.

Education (11, 13, 15, 17, 20, 23, 24, 30, 32, 39, 41, 42, 48, 49, 50, 53, 54, 57, 58, 60, 67, 68, 78, 83, 84, 85, 95, 129, 140, 193, 207, 208, 242, 250, 280, 304, 305)

In preparing the Proposed Plan considerable detailed research and analysis was undertaken to inform long term planning of educational infrastructure and identify educational needs of current and future residents.

A number of the Council's schools have high occupancy levels. Local authorities, as the education authority, have a duty to provide adequate and efficient school education and early year's provision in their area.

The Education Service continually monitors and reviews demand and availability to plan for sufficient pupil places for its population and the education dept has been closely involved in the preparation of the Plan,

Capacity at Nether Robertland Primary School to the east of the town centre is currently at approximately 79%. £1.85m has been allocated with the Council's Capital Programme to upgrade the school, addressing major component renewal.

Designs for an extension of Stewarton Academy are at RIBA Stage 3 (Spatial Coordination) with a planning application due to be submitted in the near future. It is anticipated works could commence on site Autumn 2023 with completion Autumn 2024. Proposals seek to increase the number of classrooms by approximately 20%, increase space for dining and include a multi-purpose space for larger gatherings.

Lainshaw Primary School, located to the west of the town and adjacent to Stewarton Academy, has seen an increase in the number of students as a result of its location near to the largest recent housing development in the town. As a former junior secondary school, there are a lot of areas unsuitable for learning and teaching. Part of the building was also incorporated into a new early learning (nursery) extension in 2017. Taking account of the number of suitable classroom spaces against the increasing school roll has meant reporting capacity at over 100% since 2018. In order to cope with pupil numbers, a supplementary area (library) has been converted into a classroom and in 2021, 2 new modular classrooms were completed taking capacity to around 91%.

It is therefore the case that there is currently capacity within the school estate. However, forecasts indicate that there will remain capacity pressures at Lainshaw Primary. The Council has worked up options for a new extension constructed at the site of the existing Lainshaw Primary School. This new extension would provide additional primary and early years accommodation to meet further short term demands.

The Council is committed to fully addressing the requirement for further residential development whilst fully addressing future educational needs for residents in a coordinated, phased and planned way through LDPs and in doing so seek the best value preferred option for residents. The Council is acutely aware of the lack of Council owned land and that many existing schools have already been or will shortly be remodelled and extended to maximise available places. The Proposed Plan is clear that investment and funding, in addition to development contributions, will be actively sought to support the delivery of any new and additional capacity.

The establishment of a new school is expensive and efficient and effective management of the public educational estate prudently needs to consider long term growth. The Council must now plan to substantially extend its school estate to cope with any further additional new residential development that may emerge through this and future LDPs. Accordingly, the Council has allocated site ST-H2 for a new primary school and is working with the Key Agencies Group and Scottish Futures Trust to consider the wider education estate in Stewarton. In order to ensure capacity in schools, the site requires a masterplanned approach and it is expected that the masterplan will detail how the residential portion of the site will be developed in phases and how they will be related to the development of the required infrastructure including capacity within schools. This can be controlled through the development management processes and associated legal agreements.

Healthcare (13, 15, 17, 20, 23, 24, 30, 38, 39, 41, 48, 49, 50, 53, 54, 57, 58, 60, 67, 68, 78, 83, 84, 85, 95, 129, 140, 193, 207, 208, 242, 250, 267, 280, 304, 305)

At the present time, the GP surgery is experiencing capacity problems relative to the current existing population. The building has been reconfigured several times.

The Practice is currently using additional space within the sports centre for referrals for exercise related matters.

The Proposed Plan seeks to provide new health facilities to meet future needs and ensure new facilities are integrated and accessible to local communities through site allocation ST-M2. Complexities in terms of planning for healthcare result from delays in the progress of the Caring for Ayrshire programme.

Based on the information received, there is a dental practice in Stewarton currently accepting NHS patients and therefore the ability to be registered with a local practice is available to the residents of Stewarton. Covid recovery is causing an issue for those seeking to access dental care however this is not a situation unique to Stewarton.

The Council has not received objections to the Proposed Plan in respect of Stewarton from the NHS, HSCP or the local dental practices.

Water and Wastewater (13, 15, 17, 20, 23, 24, 30, 48, 49, 50, 53, 54, 57, 58, 60, 67, 68, 83, 84, 85, 129, 140, 193, 208, 242, 304, 305, 311).

In 2016, development proposals triggered a Scottish Water Growth Project for Stewarton Waste Water Treatment Works (WWTW), which has provided additional capacity as well as addressing some performance issues. This project has been designed to accommodate all sites identified in the LDP 2017 for the catchment, as well as some additional smaller windfall sites that have progressed through planning. However, the level of growth experienced in Stewarton has led to a situation whereby majority of sites included in Scottish Water's Growth Project came forward before the project was delivered. In order to accommodate development meantime, Scottish Water worked with developers to find temporary solutions to enable development to proceed, e.g. Persimmon Homes at Dunlop Road where temporary tanking was provided. The current acceptance (completion) date for the Growth Project is the end of May 2022. Although the Growth Project has been designed to accommodate the capacity required as per the above, until the project is complete, all connections added and tested, the exact capacity cannot be confirmed. A desktop review of the capacity by Scottish Water considers that following the Growth Project there may potentially be scope for a further 80 units within the sewer system. LDP2 will trigger a further growth project and Scottish Water have been closely involved with the Council during the preparation of LDP2. Scottish water have not objected to sites in Stewarton.

Power / Utilities – general / Broadband (42, 129, 304)

There are no known constraints affecting other power or utilities nor have any relevant concerns been raised by statutory undertakers. However, these comments are noted and any potential issues regarding utilities will be dealt with through the planning application process.

Play and recreation (13, 15, 17, 20, 23, 24, 30, 48, 49, 50, 53, 54, 57, 58, 60, 67, 68, 83, 84, 85, 129, 193, 250, 267, 280, 304, 308).

The Proposed Plan recognises that community, leisure and sports facilities are an important element in creating sustainable healthy communities. Across the Council

area there are a range of facilities, sports grounds and clubs which provide leisure and recreational opportunities. The East Ayrshire Leisure Trust Facility Strategy is being prepared by the East Ayrshire Leisure Trust, and they are also undertaking a review of the Green Infrastructure Strategy, and the Core Path Plan. The council with Play Scotland is working on a play Sufficiency Assessment that will interlink with our Play Strategy and Improvement Programme. An Active Travel Strategy is being finalised by colleagues in Ayrshire Roads Alliance.

These strategies are the appropriate place for consideration of some matters raised in the representations, have their own status in legislation, and associated public consultation opportunities. It is not the purpose of the LDP to replicate or alter the Core Path Plan, which has its own role and process.

The aspirations of these wider strategies are aligned to the Proposed Plan as is evidenced through various policies in Proposed LDP2. Through these policies existing provision is protected and where possible enhanced. Both site ST-M2 and ST-H2 make provision for community facilities.

Whilst it is acknowledged that, the need to meet the housing land requirement necessitates the loss of some undeveloped land for housing, in a settlement which, offers very little brownfield opportunity this is considered to be necessary. Notwithstanding, new sites will have green infrastructure and connectivity requirements through other policies in the plan, such as those mentioned above.

As previously intimated there is some misunderstanding over site allocations within representations which is evident in comments around the path network. There are no proposals which seek to alter rights of way or core paths through the plan and connectivity through any sites which are developed can be secured through the development management process.

#### Retail (15, 20, 32, 67, 208, 242)

No substantive technical evidence has been submitted in support of these claims about businesses being able to survive or there being insufficient stock.

#### Police (20, 140, 304)

No concerns have been raised by the Police over their capacity within the area.

#### Maintenance / nuisance (15, 20, 84, 140, 167, 304, 305)

These are not matters material to the development plan.

#### Agricultural land / Greenfield / Brownfield (13, 17, 23, 24, 30, 48, 49, 50, 53, 54, 57, 58, 60, 67, 68, 83, 84, 85, 129, 140, 161, 280, 304).

The need to meet the housing land requirement necessitates the loss of some greenspace for housing. Whilst the overall approach has been to prioritise brownfield, in line with sustainability principles, in order to provide a range of sites and meet the MATHLR, some greenfield sites require to be allocated. It is considered, that the loss



of greenspace to accommodate the housing land requirement is appropriate. Furthermore, new developments are required (through the provisions of the development plan) to accord with placemaking principles, ensure sufficient infrastructure provision and protect, integrate and enhance greenspace and green/blue networks. These provisions should be sufficient to provide thriving, attractive sustainable communities as envisaged in the proposed plan.

Impact on flora and fauna / wildlife (13, 17, 23, 24, 30, 48, 49, 50, 53, 54, 57, 58, 60, 67, 68, 83, 84, 85, 129, 193, 208, 242, 280, 304).

Matters including the impact of the development of the site on fauna, flora and wildlife would require to be considered against the relevant policies of the proposed plan at the planning application stage.

#### Main Issues Report (129)

The support for non-allocation of sites is noted but is not within the remit of the examination.

#### Institute Hall (221, 308)

This building is in private ownership and is not allocated within the Proposed Plan. Should proposals come forwards for the building in the lifetime of the Plan these can be considered on their own merits.

#### **Site Specific comments**

**ST-H2/ PROP11 (12, 13, 15, 17, 23, 24, 30, 41, 42, 48, 49, 50, 53, 54, 57, 58, 60, 67, 68, 83, 84, 85, 129, 193, 201, 244, 250, 259, 267, 280, 311)**

As described above, Stewarton is subject to substantial pressure on local education and medical facilities and also experiences constraints with regard to vehicle movements to, from and within the settlement. To address this, the Council undertook a local consultation and has published a development framework for the town to guide development during the LDP2 period. Within this context it was necessary to ensure that the sites selected for residential allocation as part of LDP2 would be limited in number and to confirm that those sites that were selected would impact the aforementioned constraints to the smallest degree possible. The site in question is considered suitable for allocation in LDP2 for several reasons. It performed well against the criteria of the site assessment framework, ranking fourth in Stewarton behind sites that were already allocated in LDP1 and performing well when compared to other sites in Annick and East Ayrshire as a whole.

The site was identified as a Future Growth Area in LDP1, an indication that it had been considered suitable during the preparation of that Plan; a similar conclusion has been reached during the preparation of LDP2. The site lies within an area that a landscape study commissioned by the Council identified as an area most suitable for development as the study states that the area is low lying and contains established shelterbelt woodland. Primarily as a consequence of the reduced landscape impact of the site, its performance against the indicators of the site assessment framework and its previous

identification as a Future Growth Area in LDP1, it was considered appropriate to allocate the site in LDP2. The site would comprise the sole residential allocation in Stewarton other than the Draffen East site (ST-H1) and the only new allocation. When combined with ST-H1, allocated sites would total approximately 420 units during the Plan period. This limited allocation is considered appropriate given the constraints to which Stewarton is subject.

It is considered that the site aligns with the outcomes of local living and 20-minute neighbourhoods as it will make land available within the site to accommodate a new primary school and relevant infrastructure and community facilities whilst allowing development of the proposed housing development in a phased way. Homes will therefore be planned together with key infrastructure. The phasing of these homes will be controlled by a Section 75 agreement, which will enable the Council to control any capacity issues related to education provision.

The capacity of the site is indicative as is set out in Schedule 3 of Volume 1 of the Proposed Plan and not strictly defined. Any planning application would consider the appropriateness of unit numbers through consideration of detailed plans. Capacity will be affected by the size and type of any unit on site.

The climate change emergency is a key matter for planning however, housing need requires to be addressed and has been clearly established in the Plan and through NPF4. Matters related to the construction of the site and energy efficiency measures can be considered at planning application stage.

The Council have not yet applied for funding for a new school on the site due to the complexities of the current phase of LEIP funding and have prioritised schools elsewhere in the current round of LEIP funding on the basis of eligibility criteria (CD61). Whilst any development comes with a degree of uncertainty, the allocation allows the site to be considered in the context of ensuring education provision. Given the existing and likely future demands within Stewarton, and the site interdependencies, site ST-H2 as identified in the Proposed Plan will continue to be investigated for medium-long term public services whilst options for short-medium term interventions are explored on the current school site. Options appraisals for the education estate in Stewarton will take cognisance of the Council's Strategic Plan, capital planning and revenue budgets, funding opportunities, and the suitability and sustainability of existing schools.

The Ayrshire Roads Alliance has not raised concerns in respect of the allocation of the site, however, a Transport Assessment is a site requirement as set out in LDP2 and detailed matters can be addressed at application stage.

A large northern portion of the site is contained within the Coal Authority's Low Development Risk Area. The Low Risk Area is where past coal mining activity has taken place at sufficient depth that it is likely to pose a low risk to new development. Due to the depth of the workings ground investigations are unlikely to be necessary due to former mining activity having taken place in those areas, as legacy features will be at sufficient depth. However, this can be considered further at application stage.

**ST- M2 (13, 17, 23, 24, 30, 42, 48, 49, 50, 53, 54, 57, 58 60, 67, 68, 83, 84, 85, 129, 193, 250, 258, 267, 305, 311).**

Whilst retrofit of schools is a preferred option for many reasons, the Lainshaw Primary building has a number of constraints, which make any retrofit a less satisfactory option. The building was built as a secondary school originally and therefore was not built with primary education in mind. Lots of areas are unsuitable for learning and teaching. Various extensions and reconfigurations have taken place to try and address capacity, but will be exhausted once the school is further extended for short term need and are unlikely to be able to accommodate enhanced early years provision. As the catchment population grows, a longer term solution is needed and hence the allocation of ST-H2 and PROP11. The Council is exploring the needs of public services within Stewarton with the Key Agencies Group and Scottish Futures Trust as a pilot Council through the Green Recovery Offer. Retrofit of the school for other purposes including healthcare may be one option that emerges.

Healthcare matters are being determined through the Caring for Ayrshire programme, which has been substantially delayed and has made planning through LDP2 more complex. At present, the financial position of NHSAA relative to new accommodation in Stewarton is not known, but is complicated by the private / public arrangements that GPs often work within in terms of ownership of premises. It is clear through discussion with NHSAA that they are aware of capacity constraints in the area, and are working on arrangements to the existing premises to address short – medium term need and are exploring the possibilities of ST-M2 to address changing and future demands as a result of changes to the way healthcare is delivered nationally. Joint working will continue with NHSAA and the Key Agencies to ensure demand can be met as a result of new development.

Specifics on where road junctions are located would be addressed through the development management process, and ARA would be involved in assessing the suitability of any new access, if a new access is required.

It is not clear without further detail whether a proposal would have any impact upon the setting of 7 David Dale Avenue, but this can be mitigated through the design process if necessary. Given the site already has a substantial premises on it, the principle of a land use on this site is established and development of the type proposed is unlikely to have significantly different impacts on the building. Views from the property are not a material planning consideration.

The school does not have outdoor sports facilities on site, and uses those at the Sports Centre across the road. However, it is anticipated that a new school would have facilities associated with it.

### **ST-B1(O) (191)**

Matters raised in respect to loss of a view and property values are not material. Matters related to overlooking, privacy, pollution, flooding and run off can be considered at planning application stage. The site does not erode safeguarded open space but does cover greenfield land. However, the requirement for development does sometimes necessitate the use of greenfield land.

**Non inclusion of site - Land to the South of Old Glasgow Road (ST-X12) / A new policy allocating and directing new housing development in Stewarton (195)**

The objector has artificially created 2 20-minute neighbourhoods in Stewarton based loosely around primary schools and bases their argument on this. The reality is that Stewarton is one settlement and infrastructure issues are not split into two different areas. Whilst it is acknowledged that school capacity is not so pressing at Nether Robertland Primary, in the context of Stewarton as a whole, there are infrastructure issues which the plan seeks to address. This site would have an impact on other infrastructure without helping to provide solutions. Until other infrastructure constraints have been tackled through the proposed development framework and LDP2 it is not considered appropriate to add an additional 200 units to the housing quota for Stewarton.

Similarly, in terms of a new policy for 550 houses in the Nether Robertland catchment, this combined with the other allocations would add 900 units to Stewarton over the Plan period. This number is nearly a quarter of East Ayrshire's total requirement and entirely disproportionate to the size of the settlement and the proposal ignores the cumulative impact of this level of housing on infrastructure and amenities. In respect of the other content of the new policy suggested, there is already an allocation - ST-M2 - which would allow for a healthcare facility should the Caring for Ayrshire programme progress. Active travel and green infrastructure issues are addressed elsewhere in the Plan, and in other plans as described in the relevant sub sections of this Schedule 4, and there is no requirement to also set out further details in respect of these matters in a policy exclusive to Stewarton.

Whilst the party that submitted the site provided a substantial amount of supporting evidence (RD74), the site in question performs relatively poorly with regard to impact on landscape and walking distance from the railway station and town centre. Indeed, a landscape study commissioned by the Council (CD53a-c) indicated that the site was an area with limited potential for residential development, the north-easternmost part of the site lying within an area described as an area not suitable for development that may be required to preserve the setting of settlements and prevent coalescence. In a consultation response, NatureScot stated that the greenfield site defines the southern edge of the settlement from the north-east along the B769, that it contributes to the rural setting of the surrounding area and that development would set a precedent for further expansion of the settlement to the north-east/north of the B769. They recommended that careful consideration would be required using a masterplan approach to ensure cohesion with existing and proposed development as well as the character and setting of the area and that a suitable landscape framework should also be provided. Given these constraints, the existence of preferable sites in Stewarton and the potential that the site could accommodate several hundred homes, it is not considered appropriate to allocate the site in LDP2

#### **Non-inclusion of Land to the East of Dunlop Road (244)**

Whilst the land scored well in terms of the HSAM, the site is subject to a significant constraint due to the presence of the remains of the Category B listed Corsehill Castle within the site. In a response to consultation for LDP2, Historic Environment Scotland stated that although the site has listed buildings within its boundary, they were content with the principle of development on the basis that the listed building would be retained and that development would respect the setting of the building. Nevertheless, in responses to the Main Issues Report consultation it was implied that local opinion

would largely be against development of the site on the basis of the presence of the historic feature; the Stewarton Historic Society registered an objection at that time. Given these constraints, and the existence of preferable sites in Stewarton, and given the limited capacity for housing at this time, it was not considered appropriate to allocate the site in LDP2.

#### **Non-inclusion of land at Peacockbank Farm (150, 244)**

For new sites an exercise was carried out which allowed development proposals and 'bid sites' to be assessed in order to identify the most suitable areas for development. A range of criteria were used to assess sites, including environmental issues such as habitats, protected species, nature conservation and landscape features.

In terms of landscape features, although the land at Peacockbank Farm has been identified within the Entec Landscape Study (2005) (CD53a-c) as having limited potential for development, the Council is of the view that the land does not integrate well with the town as it is separated by the river and its associated banking and green space. Furthermore, vehicular access to this area of land would be required at a location to the south which is remote from the town itself. It is not considered that a link road is necessary and no evidence has been submitted to support assertions that allocation of the site would relieve congestion.

The merits of the have been considered and rejected at the last two Local Development Plan Examinations, most recently as part of Issue 150: Non-inclusion of land at Peacockbank Farm, Stewarton for residential purposes (CD62).

Given the constraints, and the existence of preferable sites in Stewarton, it is not considered appropriate to allocate the site in LDP2.

The Council is of the view that sufficient land for housing has already been identified to accommodate growth over the Local Development Plan period in the plan in Stewarton. The addition of a further site is not considered necessary within the town at this time. Similarly, the Council has set out one proposed future growth area. The Proposed future growth area ST-F1(H) would comprise of a limited expansion from site ST-H2 and would lie within an area that was, according to a landscape study (CD53a-c), commissioned by the Council generally considered to be less sensitive to development. Given the infrastructure constraints at this time it is not considered suitable, nor is it necessary, to provide any further indications of growth.

In conclusion, the Council does not consider it necessary to make changes to the Local Development Plan in response to this representation.

#### **Non-inclusion of land at Lainshaw Estate, Stewarton (ST-X6) (146)**

This examination is concerned with unresolved issues to the proposed plan. The site evaluation and strategic environmental assessment scoring of sites are separate but informative to plan preparation. Consequently, revision of scoring is not within the remit of this examination. The council would note, however, that whilst the Housing Site Assessment Methodology proved a valuable tool to objectively assess and compare sites, it was not the sole determinant of allocated sites. Internal and external

consultation alongside professional judgement and local considerations were all taken account of.

The site was considered at the examination of both the 2010 and 2017 Plans and rejected.

The Council is of the view that the proposed site is not required as an addition or replacement for sites currently allocated in the Local Development Plan as the Council is firmly of the view that the allocated sites are effective and can be delivered within the period of the Local Development Plan. Sufficient land for housing has already been identified to accommodate growth over the Local Development Plan period in the plan in Stewarton. The addition of a further site is not considered necessary within the town at this time. Similarly, the Council has set out one proposed future growth area. The Proposed future growth area ST-F1(H) would comprise of a limited expansion from site ST-H2 (which will contain community facilities) and would lie within an area that was, according to a landscape study, commissioned by the council generally considered to be less sensitive to development. Given the infrastructure constraints at this time it is not considered suitable, nor is it necessary, to provide any further indications of growth.

#### **Non-inclusion of site at Highcross Farm (ST-X16) (174)**

It is not considered that the site is appropriate to add as a housing opportunity site to Stewarton. It is disconnected from the settlement boundary as existing and as proposed and in the rural area. Whilst the site (ST-X16, see Map 'Issue 42 – Site at Highcross Farm, Stewarton – ST-X16' ' may have previous consent, such a matter would be reconsidered in terms of rural housing policy, rather than through an allocation and amendment of the settlement boundary.

#### **ST-F1(H) - Kilwinning Road (W) (256)**

ST-F1(H) is not a site allocated for development in this plan, it is an indication of the council's preferred direction for expansion in future plans. Scottish Planning Policy (SPP) requires only an indication of the scale and location of such future growth areas. FGAs indicate the preferred direction of future growth, not precise sites. Matters related to existing residential amenity can be considered further should the site be allocated in LDP3. Construction impacts are not material to the inclusion of the site as a future growth area in the Plan.

#### **ST-H1 (244, 195)**

Development of the site was underway at the time of the site assessment process and is expected to complete after the adoption of the Plan. It is therefore considered appropriate to allocate the site in LDP2. Subject to its completion, the site will be deallocated ahead of the adoption of LDP3.

#### **Overall lack of residential allocation in Stewarton (146)**

As discussed, infrastructure in Stewarton is constrained. Whilst the Council is comfortable with the level of allocation and infrastructure LDP2 will facilitate, it is not considered appropriate at this time to allocate further housing opportunities within



Stewarton.

## Reporter's conclusions:

### General Matters

1. Before considering the matters raised in comments on the individual proposals in the plan, a number of issues of more general applicability to Stewarton have been mentioned and require addressing.

#### Infrastructure/ Level of growth

2. National Planning Framework 4 ('NPF4') expects LDPs to promote an ambitious and plan-led approach to the delivery of housing land. At Issue 17 I considered this matter on an area-wide basis and concluded on balance that the council's generous approach to housing land supply is to be supported.

3. NPF4 also calls for LDPs to support local living, including 20 minute neighbourhoods within settlements, through their spatial strategies. As a compact town with an identified town centre, shopping, health and education facilities, employment opportunities and a railway station, I consider that Stewarton matches the concept of local living and 20-minute neighbourhoods quite well. Most of the town is within an 800 metre walk of the town centre, and all of the town (including the proposed development sites) is within the 1,600 metre maximum walking threshold for accessibility to local facilities mentioned in Planning Advice Note 75: Planning for Transport ('PAN 75').

4. Within an area-wide context of seeking to identify additional land for housing development, Stewarton would therefore appear to be an appropriate location towards which to direct some growth. I am also conscious that Stewarton remains a popular place to live with a strong housing market and strong demand from the housebuilding industry. It is appropriate for the plan to respond to such market signals, while balancing these with other considerations such as environmental and infrastructure capacity.

5. Site ST-H2 is the new housing allocation proposed for the town in the plan, and has an estimated indicative capacity of 350 homes. This represents around 6% of the total area-wide allocated capacity of the proposed LDP. Given Stewarton's status as one of the larger towns in the plan area outside of Kilmarnock, this level of development does not, on the face of it, appear excessive. I do however accept that it would represent a significant addition to the town, especially when considered in the context of the volume of development that has already taken place on other sites in recent years.

6. NPF4 also promotes an infrastructure first approach which puts infrastructure considerations at the heart of placemaking. LDPs are expected to be informed by evidence on infrastructure capacity, condition, needs and deliverability; to set out the infrastructure requirements to deliver the spatial strategy; and to indicate what infrastructure contributions will be sought from which developers.

7. The council's acceptance that Stewarton is experiencing capacity issues within local health, social care and education services, as well as pressure on roads, digital,

sewerage, water and other infrastructure is acknowledged at paragraph 63 of the plan. Stewarton is picked out the spatial strategy of the plan as a key place of change where the headline aim is to sustainably manage growth. The strategy is said to be to ensure that deficiencies in service facilities such as schools and health care are addressed first and that any future growth will take place in a sustainable and coordinated manner.

8. A development framework has been prepared for the town that the council has adopted as supplementary guidance. This document goes into a great deal of depth about the infrastructure issues facing the town and the key moves required to address these. These include relocating Lainshaw Primary School to site ST-H2 alongside community parkland/ sports fields to meet future education, community and open space demands. It is proposed that this would then allow the existing Lainshaw Primary School site to be repurposed as a new and extended primary health and social care facility. Town centre sites currently occupied by the health centre could then provide a brownfield site for town centre living/ workspace.

9. In this context it appears that the ST-H2/ PROP11 proposal at Kilwinning Road has the potential to both increase pressures on infrastructure and service while also providing a key means of resolving some of those pressures. The developer requirements for the site indicate how the developer will be required to build out the residential portion of the site in phases related to the development of the required infrastructure and facilities. These arrangements are to be secured through a requirement for a masterplan and the entering into of a section 75 planning obligation.

10. Overall, I am impressed by the level of attention that the council has paid to these matters. The proposals and mechanisms set out in the supplementary guidance and the proposed plan go a good way towards meeting the infrastructure first principles promoted in NPF4. Detailed evidence regarding infrastructure capacity and needs has been prepared, and some key infrastructure requirements and developer contributions are included in the plan (most notably land for a new school). There does remain some lack of precision about exactly what other infrastructure improvements developers will be expected to contribute towards. But overall I am satisfied that the plan, together with the associated development framework supplementary guidance, presents a reasonably comprehensive package of measures that both addresses the acknowledged infrastructure issues and makes provision for a level of new development.

#### Transport and traffic

11. It is clear from the volume of comments on this topic, that there is great concern locally about levels of traffic and congestion in the town, especially at Stewarton Cross.

12. The development framework acknowledges that there is no obvious road engineering solution to increase traffic through the town without detriment to the quality of place and its built heritage (though I note below the mitigation that is proposed by the transport appraisal). It is instead suggested that pressure on town centre traffic should be alleviated by encouraging local trips within Stewarton to be on foot or bike where practical by creating safer, continuous and convenient routes promoting active travel as a sustainable alternative mode.

13. The council has commissioned a transport appraisal from the Atkins consultancy (in consultation with Transport Scotland) to inform the preparation of the plan. I note that the A735/ B778/ B769 crossroads (Stewarton Cross) junction was one of the modelled junctions in this exercise, and is discussed in some depth at sections 4.12 and 6.8 of the appraisal. The appraisal concludes that there is little impact in terms on journey times across all scenarios. However, proposed mitigation in the form of an upgrade to the Stewarton traffic signals is identified, which it is suggested could be funded by developer contributions from the ST-H2 development.

14. I understand that some representees are sceptical about the outcome of this modelling exercise, including regarding assumptions of a 20% reduction in car use over time. However, I note that this is a national commitment, and I have to regard the transport appraisal as the most authoritative evidence before me on this matter. I also draw some comfort from the absence of any adverse representation from the Ayrshire Roads Alliance.

15. Regarding aspirations to cut down on car use overall, I note from the transport appraisal of the plan that the council is working with key agencies, including Transport Scotland, on an active travel and mode choices pilot in Stewarton. The development framework includes as a key move the enhancement, extension and integration of 'green/ blue Infrastructure, core paths and active travel networks across the town ... to improve access to principal destinations (town centre, schools, healthcare, train station) and reduce traffic in central Stewarton'. The council also points to the action plan that will be included in its separate forthcoming Active Travel Strategy that should enable more journeys to be made on foot or by cycling or wheeling. I conclude that it does seem that the council is making serious efforts to encourage a modal shift away from the private car in Stewarton.

16. The transport appraisal also acknowledges a safety issue where Loudon Street meets Holm Street, and points to a B778 route improvement study that is being prepared. It is suggested that developers could contribute to the required improvements, but I am unclear how closely this issue is tied to any impact of the ST-H2 proposal.

17. Overall, I am satisfied that the council has properly explored the potential traffic implications of its development proposals in Stewarton, and has identified the necessary mitigation measures that would allow the development to proceed.

18. Regarding the train service through Stewarton, this appears to be regular and frequent. Some representations indicate a dissatisfaction with this service, but the council's evidence above is that it meets or out-performs ScotRail's overall performance targets. Overall I consider the existence of the train service strengthens the case for Stewarton as a relatively sustainable location for new development where people can live a lifestyle less reliant on private cars.

19. Turning to other transportation matters that have been raised, it is undoubtedly the case that some of the potential residents of new development will commute to jobs elsewhere. However, I note that job opportunities do exist within the town and that non-car commuting options exist. The council acknowledges some pressure on town centre parking. There may be management measures that can help address this, but I

consider an advantage of a compact town like Stewarton to be that many people can access the town centre without requiring to use a car.

20. Issues of rail electrification and EV charging points are beyond the scope of this examination.

#### Other matters

21. I largely address the matter of education provision above. It is clear that the council recognises the capacity issues that exist, and is seeking to resolve these through the provision of a new school as part of the ST-H2 proposal site. As discussed above, this would appear to be a pragmatic, considered and workable solution.

22. It would be unusual if there were not a technical solution to ensure sufficient water supply and wastewater capacity could be made available to serve new development. The council acknowledges that a growth project may be required to accommodate the entirety of the proposed development (I take this to mean the provision of additional sewage treatment capacity). However, I am satisfied this matter is unlikely to prove a significant constraint. I see no reason why other utilities, such as broadband, cannot be expanded, and upgraded if necessary, to meet the needs of the new development without damaging the service to existing residents.

23. Any new development would be required to meet the open space standards set out in the plan, but it is not the responsibility of developers to address pre-existing deficiencies. I address any open space or biodiversity function that site ST-H2 may currently have, and its value, below.

24. The allocation of site ST-H2 should help to address any shortage of affordable housing in the town through the application of Policy RES2 of the plan, which would require 25% of the houses to be affordable. Discussions would be held with the council regarding the nature of the affordable provision, for instance whether it should include an assisted living component.

25. Broadly, I note that Policy 18 of NPF4 and Policy INF4 of the proposed plan exist to require developers to mitigate the impact of their proposals on infrastructure and potentially pay financial contributions towards the cost of providing or improving any necessary infrastructure, facilities or services.

26. Some matters raised, such as the maintenance of the existing public realm and the existence of antisocial behaviour, are beyond the scope of this examination.

#### **ST-H2/ PROP11 – Kilwinning Road**

27. Comments relating to general impacts on Stewarton are discussed above.

28. This site comprises a large block of agricultural land to the west of Stewarton. It is relatively well contained by its siting in a shallow valley, by existing roads and hedges, and by a gappy row of trees along the northern boundary. The existing urban edge at this location is softened by an attractive mature hedge, but remains widely visible in views from the west. The site itself is mainly open to the west, and it is likely that

structural landscaping would be required here. However, the site provides the potential to ultimately provide a stronger settlement edge than at present.

29. The southern part of the site, adjacent to Kilwinning Road, contains some steeper and some less well-drained land. This area may be less well-suited to built development, but may be worthwhile to include within the site boundary if required for access, open space or sustainable urban drainage.

30. I calculate the centre of the site would be around 1.5 kilometres walk from Stewarton Cross in the town centre. As such, this is a moderately peripheral site, not outstandingly well located in terms of local living and the concept of 20-minute neighbourhoods as promoted in NPF4. However, the site is within the maximum 1,600 metre walking threshold to local facilities quoted in PAN 75. Overall, I consider the site to be only moderately well-located in this respect.

31. Any developer of the site would be required to submit a transport assessment. Access to the site would require to be taken from either the B778 to the north and/ or Kilwinning Road to the south. Both these roads are subject to width restrictions and traffic calming, and the steeper slopes in the southern part of the site add a further constraint. But overall I expect the site is capable of being accessed satisfactorily.

32. If access were taken from Kilwinning Road, traffic travelling towards the town centre would pass 7 David Dale Avenue, a listed building. However, it seems very unlikely that some additional traffic on this existing road could be said to have any real effect on the building's setting.

33. Any greenfield release may be expected to have some environmental impact. As an area of open land on the urban edge, I expect these fields are used occasionally for informal access, but they are not promoted as such, and I do not consider them to have any special value in this regard. Similarly, the land will doubtless be of some value to wildlife, but it appears relatively intensively farmed (with the exception of the strip along the southern boundary), is not covered by any biodiversity designation, and has not been the subject of any adverse comment by a body with any specialist biodiversity remit.

34. I have no reason to doubt the council's evidence that the northern part of the site is covered by the Coal Authority's Low Development Risk Area. On this basis, I am satisfied that this matter is unlikely to constitute an absolute constraint and can be adequately addressed at the planning permission stage.

35. Potential impacts on the amenity of neighbouring property, such as due to overlooking or overshadowing can be addressed at the detailed design stage. Impacts during the construction phase could be addressed through planning conditions. Net zero construction techniques are largely a matter for building standards and not the planning system, but where planning does have a role, this can be addressed at the detailed design stage.

36. This location was identified in the existing adopted LDP as a future growth area (the only such area in Stewarton). There is therefore some established commitment to supporting development here, albeit subject to further detailed assessment. I do not

consider this position from the existing LDP to bind the content of the emerging plan. However, I do place some weight on the value of delivering a consistent policy approach through successive iterations of the development plan.

37. Turning to the relative timings of the school proposal and the housing development, volume 2 of the plan states that this will be detailed in the masterplan of the site. No development is to take place until this masterplan has been agreed, and so the council will retain control over this aspect. The phasing of the site may be quite complex and depend on a variety of factors, such as the school roll, pertaining at the time. I consider it is acceptable for this level of detail to be set out in the masterplan rather in the LDP.

38. Funding arrangements for the construction of school are handled by the education authority and are largely beyond the scope of the planning system. Planning may have a role in identifying and securing land for the school, and potentially securing financial contributions from developers through section 75 legal agreements. But I would not expect the LDP to concern itself with funding applications made by the education authority to central government.

39. Overall, and for the above reasons, I am satisfied that site ST-H2 forms an appropriate site for housing development.

#### **ST-F1(H) – Kilwinning Road (W)**

40. I have discussed some of the matters raised in relation to site ST-F1(H) above, and many of the same landscape and access considerations apply as for site ST-H2. However, I note site ST-F1(H) is further from the town centre than ST-H2. Depending the site layout, the walking distance to Stewarton Cross could be up to two kilometres. There does not currently appear to be a frequent bus service serving the site. I recognise that a new primary school is expected to be constructed nearby, and there is a suggestion of 'other community facilities'. However, I am not satisfied that a sufficient range of facilities and services are likely be provided (e.g. shops) such that people living here could realistically be said to be able to meet the majority of their daily needs within a reasonable distance of their home. Overall I conclude, from the information available at this time, that site ST-F1(H) does not sit comfortably with the concepts of local living and 20-minute neighbourhoods promoted by NPF4.

41. It may ultimately be proved, through a future review of the plan, that there is an over-riding need to allocate this land, for instance to deliver a strategic housing land requirement pertaining at that time. Or it may be that the concerns I express above can be shown to be capable of mitigation, for instance through the provision of more local facilities or public transport services. I therefore do not rule out the potential of this land in the long term. I note that site FW-F1(H) is included in the plan as a future housing growth area rather than a housing opportunity site, and that therefore its allocation is not essential now to deliver current identified housing needs.

42. For these reasons, and on balance, I consider that site ST-F1(H) should be removed from the plan because it would not appear to support local living and 20-minute neighbourhoods. In making this recommendation, I am not intending to indicate that this land may never be required for urban development in the future. I am simply



taking the view that the case for this land being required is not fully established at this time. The requirement to utilise this land may be revisited in future reviews of the LDP. Given this recommendation, I find it unnecessary to address the other matters raised in respect of this site.

### **ST-M2 – Kilwinning Road**

43. This site is currently occupied by Lainshaw Primary School. Whether it would be preferable for the current building to be refurbished, or a new school built elsewhere, is ultimately a matter for the education authority. It does, however, appear to be broadly acknowledged that lack of education capacity in the town is an issue, and that the current arrangements are far from optimal.

44. Above, the council explains some of the reasons why it considers the new-build option at site ST-H2 to be preferable, and I have no reason to doubt these arguments. While the current central site may have some advantages, equally the proposed new site could, for instance, allow sports facilities to be provided on-site. Overall, and as discussed above, I am prepared to accept that a great deal of analysis appears to have been carried out to inform the council's position on these matters, as expressed in the Stewarton development framework.

45. The existing school site includes outdoor grassed areas, but not, apparently, formal sports pitches. There would not therefore appear to be a requirement for compensatory alternative provision. That said, it is inevitable that any replacement school would be equipped with outdoor sports space. I note that the developer requirements for site ST-H2 include the release of land for the school and relevant infrastructure and community facilities. No modification is required.

46. The situation with regard to the proposal for health services to move to this site following its vacation by the school appears less clear-cut. Clearly the council does not manage health services itself, and so has less control over this aspect. Again, what does seem clear is that there is an acknowledged need for investment in improved health facilities in the town. In this context, site ST-M2 represents a significant piece of publicly-owned land, close to the town centre, that is expected to become available for alternative uses in due course. In these circumstances, including the suggestion that this site could be used for healthcare purposes, alongside other possible uses, appears eminently sensible. No modification is required.

47. Any potential impact on the listed building at 7 David Dale Avenue can be fully considered in the context of any planning application that may emerge for the site.

### **ST-B1(O) – Magbiehill**

48. This site represents a northerly extension to Stewarton, and apparently was formerly used as a quarry/ mineral workings. A network of access roads has been laid out, and the central area of the site has been developed as a modern business park. Large sheds apparently in agricultural use also exist on an unallocated section of the wider site. While development here has something of a landscape impact, this is limited by the presence of a ridge of higher land to the north. I have not been furnished with the planning history of the site, but clearly the business/ industrial use of (at least much

of) the site is now established.

49. The representation relating to this land was submitted by residents of Sutherland Avenue to the south, and I assume relates principally to an area of residual open land immediately to the north of those properties. I consider that most of the matters raised, including loss of privacy, noise and light pollution, visual impact and surface water run-off could be adequately addressed at such time that any detailed proposals came forward, through the application of the appropriate generic policies of the plan. These include: Policy SS2 which requires new development to be fully compatible with surrounding established uses; Policy NE12 which discusses noise and requires measures to minimise light pollution; and Policy CR1 which enshrines a precautionary approach to flood risk. However, there is no right to the protection of private views, and any possible impact on property values is not a valid planning consideration.

50. There is some confusion as to the proposed use for the land, in that the site is allocated as a business and industry opportunity, and this is the development type shown in volume 2 of the plan. However, the use is given as 'Housing (+)', which the plan explains means housing sites reserved for affordable housing.

51. I would not rule out the potential suitability of at least the southern part of site ST-B1(O) for affordable housing, but I assume the intention is for at least the bulk of this land to be developed for employment uses. I therefore recommend a modification to clarify that business/ industry is an appropriate use for this land.

#### **ST-X12 – Non-inclusion of land to the south of Old Glasgow Road**

52. This site comprises an area of agricultural grazing land on the north-eastern edge of Stewarton. Along the Old Glasgow Road frontage, development here would infill between the existing urban edge and the buildings of Causewayhead Farm. However, the site as a whole is exposed to views from the east and south and does not have strong boundaries beyond low farmland hedges. Structural planting could potentially strengthen these boundaries, but nevertheless I consider that the site represents a relatively poor landscape fit.

53. The most obvious access point onto Old Glasgow Road would appear to have challenging sightlines due to buildings and the curvature of the road to the north-east. However, I note the assurances in the site promoter's transportation overview that a suitable access can be achieved. The nearest bus stop to the site is over 800 metres away at Old Mill View, so I do not consider the site to be currently well-served in term of public transport.

54. I calculate the central part of the site to be around 1.6 kilometres walking distance from Stewarton Cross in the town centre. It is not, therefore, particularly well-located in terms of fostering local living and 20-minute neighbourhoods as promoted in NPF4. That said, much of the site does fall within the 1,600 metre maximum walking threshold to local facilities mentioned in PAN75. Overall, I find the site to have broadly equivalent levels of accessibility to the town centre as the allocated site ST-H2.

55. I note the site promoter's arguments about proximity to Nether Robertland Primary School. This is a potential advantage of the site. However, I do not consider that

accessibility to this school amounts to people meeting the majority of their daily needs within a reasonable distance, which is the aspiration of 20-minute neighbourhoods. Rather, I agree with the council that Stewarton is better considered as a single neighbourhood in this regard, grouped around the town centre. I also note the suggestion that development could support pupil numbers in Nether Robertland Primary School, but I am not aware that this school is under any threat.

56. I agree this land has the potential to provide more family homes, but this would equally be the case for site ST-H2, or most other potential development sites.

57. In any event, at Issue 17 I found that the housing land allocation made in the plan was more than sufficient to meet the minimum all tenure housing land requirement, and that there was no need to allocate additional sites. Within Stewarton itself, the plan allocates site ST-H2 with an indicative capacity of 350 homes. Above, I have supported the allocation of this site in the plan. On this basis, there is no requirement to identify additional land, such as site ST-X12, for allocation in this plan.

58. In summary, I consider that this site has a number of disadvantages, and there is no over-riding need for it to be allocated at this time. I recognise that development here could serve to balance the development that has taken place to the west and south of the town in recent years, and that there is every likelihood of the site being effective and deliverable. I would not, therefore, absolutely rule out its potential in the long term. However, for the reasons stated, I conclude that it should not be allocated in this emerging plan, and that no modification is required.

59. It is not part of my role to critique the council's housing site assessment methodology, or to recommend any changes to that document. I base my conclusions on this and other sites on my own assessment.

60. The suggestion that the plan should contain a 'departure policy' for the release of additional housing land is discussed at Issue 16.

#### **ST-X10 - Non-inclusion of land to the east of Dunlop Road**

61. The suggestion that land east of Dunlop Road be used as a new site for Stewarton Academy, a local park and doctor's surgery is somewhat speculative, and is not supported by detailed evidence. However, the site does appear to have some advantages in terms of landscape fit, accessibility and proximity to the town centre. The presence on site of Corsehill Castle clearly represents a major constraint, but equally one could imagine this forming a dramatic focus for any development. I do not therefore rule out the potential of this land in the long term.

62. However, I have no evidence of any desire from the education authority to relocate the academy to this site. For this reason, together with a lack of detailed justification for the proposed uses, I conclude that no modification to the plan is required.

#### **ST-X8/ X14 - Non-inclusion of land at Peacockbank Farm**

63. This site comprises an area of north-facing farmland to the south of Stewarton.

Were built development to be reserved to the northern part of the site (as suggested in the representation) then development would be quite well visually contained by Cairnduff Hill to the south. Of more concern is the fact that development would extend the built-up area of Stewarton across the Annick Water. This has already occurred at Kirkford and in the modern housing estates further to the east, but I consider that the river in the vicinity of site ST-X14 does still have an important role to play in defining the physical boundary of the settlement.

64. Access to the site appears achievable from the C117 to the east, and potentially the A735 to the west (though the impact of a railway overbridge and the curvature of the road here may complicate matters). The site promoter suggests that the building of a link road through the site (and potentially on to the B778) could be an added advantage of development. From the evidence before me, I find myself unable to comment meaningfully on the merits of this proposal, including on how useful it would be in reducing congestion in central Stewarton. However, this may be an idea that warrants further investigation. The suggestion that development on the southern side of the town would generate less additional traffic in the town centre appears plausible, given that the roads to the M77 and Kilmarnock both lie to the south. But I cannot confirm this is the case in the absence of detailed transport evidence.

65. I calculate the centre of the site to be less than 800 metres walking distance from Stewarton Cross in the town centre. I therefore consider that that the site can be said to comply well with the concepts of local living and 20-minute neighbourhoods as promoted by NPF4.

66. From the evidence before me, I accept that the land may be free of any unsurmountable technical constraints, and appears to be deliverable. I note that the previous LDP examination report focussed on the wider need for a land release in this location, rather than the site-specific merits.

67. At Issue 17 I found that the housing land allocation made in the plan was more than sufficient to meet the minimum all tenure housing land requirement, and that there was no need to allocate additional sites. Within Stewarton itself, the plan allocates site ST-H2 with an indicative capacity of 350 homes. Above, I have supported the allocation of that site in the plan. On this basis, there is no requirement to identify additional land, such as site ST-X8/ X14, for allocation in this plan.

68. According to the Development Planning Guidance, I am not tasked with making the plan as good as it can be, but with modifying those parts that are clearly inappropriate or insufficient. It is not my role to preside over a 'beauty contest' and select the 'best' site out of those proposed. I have found that the land at Peacockbank Farm would have some advantages (but also some disadvantages) as a residential development site. Its potential may certainly be worth reconsidering in any review of the LDP. But the allocation of site ST-H2 is also appropriate, and there is no current need to allocate additional land in Stewarton. On this basis, I conclude that site ST-X8/ X14 should not be allocated at this time, and no modification to the plan is required.

69. It is not part of my role to critique the council's housing site assessment methodology, or to recommend any changes to that document. I base my conclusions on this and other sites on my own assessment.

### **ST-X6 - Non-inclusion of land at Lainshaw Estate**

70. This site comprises an agricultural field on the south-western edge of Fenwick. It is bounded by the existing built-up area to the south and east, is moderately well-contained to the north by a farm complex, small copse and rising topography, but is open to the west. Access to the site would presumably via a narrow road leading from Montgomerie Drive, and does not appear straightforward. However, I doubt this would prove an insurmountable constraint.

71. I calculate the centre of the site would be over one kilometre's walking distance from Stewarton Cross in the town centre. I would not, therefore, class this as a particularly accessible site in terms of fostering local living and 20-minute neighbourhoods. However, it is within the maximum 1,600 metre walking threshold of many local facilities stated in PAN 75.

72. From the evidence before me, I accept that the land may be deliverable and free of any unsurmountable technical constraints. I would not rule out the possibility of its having development potential in the long term. However, at Issue 17 I found that the housing land allocation made in the plan was more than sufficient to meet the minimum all tenure housing land requirement, and that there was no need to allocate additional sites. Within Stewarton itself, the plan allocates site ST-H2 with an indicative capacity of 350 homes. Above, I have supported the allocation of that site in the plan. On this basis, there is no requirement to identify additional land, such as site ST-X6, for allocation in this plan. I conclude that this land should not be allocated at this time, and no modification to the plan is required.

73. It is not part of my role to critique the council's housing site assessment methodology, or to recommend any changes to that document. I base my conclusions on this and other sites on my own assessment.

### **ST-X16 - Non-inclusion of site at Highcross Farm**

74. This site consists of a group of derelict farm cottages and farm buildings, separated from the built-up area of Stewarton and from the extended settlement boundary at site ST-H2. In its current state, the site presents an unsightly and unkempt appearance, and could potentially benefit from sympathetic restoration or redevelopment. As a brownfield site, the reuse of the land for housing could receive a measure of support from NPF4 Policies 9 and 17.

75. However, I consider that isolated rural sites of this nature are not suited to formal allocation as housing sites in LDPs, but are better considered on their own merits under the provisions of the generic rural housing policies of the development plan. These include the afore-mentioned policies of NPF4, and the rural housing policies of the LDP. I conclude that no modification is required.

### **ST-H1 – Draffen East**

76. At the time of my site inspection, the development of this site, though largely complete, was still underway. I am therefore content that it remains as an allocation in the plan, and no modification is required.

**Reporter's recommendations:**

I recommend that:

1. Site ST-F1(H) be removed from the plan, including from the proposals map, schedule 3 and volume 2.
2. The words 'Business/ industrial' be added in the box to the right of the box containing the word 'Use' for site ST-B1(O): Magbiehill in volume 2 of the plan.



Issue 43	Rural area	
Development plan reference:	Site RU-M1 and suggested new sites within the rural area (LDP1 site 059M, RU-X1 and RU-X3)	Reporter: Steve Field
Body or person(s) submitting a representation raising the issue (including reference number):		
Scottish Wildlife Trust (110) Paul Cobb (189) NatureScot (157) Beam Suntory (231)		Crawford Sloan (213) Audrey and George Marriot (204) Egger UK Ltd (211)
Provision of the development plan to which the issue relates:	The allocation and non-allocation of sites as set out in Volume 2 of the Plan	
Planning authority's summary of the representation(s):		
<p><b>Site RU-M1 Barony Colliery</b></p> <p><u>Scottish Wildlife Trust (110)</u></p> <p>If the current planning application for the Barony Colliery site is unsuccessful, the site should be removed as a Development Opportunity within LDP2.</p> <p><u>Paul Cobb (189)</u></p> <p>The site should never have been allocated and should be removed from the LDP on the basis of:</p> <ul style="list-style-type: none"><li>• The stage 2 SEA assessment identifies a significant negative impact against biodiversity, flora and fauna</li><li>• Development of the site would be contrary to parts of the LDP2 – paragraph 34, policies NE6 and NE8 and SEA objectives (Appendix 5 of the SEA)</li><li>• The views of statutory consultees should not be disregarded.</li><li>• The number of species recorded is understated (e.g. moths is 133, bee/wasp 30, beetles 129)</li></ul> <p>There is a misspelling of Hypopitys monotropa.</p> <p><u>NatureScot (157)</u></p> <p>Whilst the emphasis on the biodiversity value in volume 2 is supported, the type and scale of development will be important. Building that would lead to building on or modification of a significant part of the site cannot be supported, however it is accepted that the parts of the site that have lower biodiversity value could be developed with limited impacts. Development that primarily improves interpretation and access would</p>		

be supported, as would the site being designated by the Council as a Local Nature Conservation Site.

**Site adjacent to RU-M1 Barony Colliery (Barony Power Station, EALDP Site 059M)**

Egger UK Ltd (211)

It is noted that the site adjacent to RU-M1 and in close proximity to RU-B1(S) has not been allocated within LDP2. It was previously allocated as 059M (Barony Power Station) within the current LDP, with support for leisure and recreational use or business, industrial, storage and distribution uses. The site should be re-instated as a Miscellaneous site for business and industrial development. The designation of the site would not have any detrimental effects on the wider use of site RU-M1 for tourism, leisure and recreation.

If allocated, the trees fronting the site on Barony road and on the eastern boundary would be retained to reduce any visual impact and to reduce any impact on the listed structures within the former Barony Colliery Site (RU-M1).

It is further noted that the extents of site RU-M1 (previously 060M) have been amended, yet the site areas remains at 46.6 hectares in both Plans.

**RU-X3 [New Site] - Land at Kingswell, by M77**

Beam Suntory (231)

An identified site at Kingswell, in the northern part of East Ayrshire should be removed from the Rural Protection Area on the Rural Protection Map, Page 102 of Volume 2.

Following a site search process across Scotland, it has been identified as a suitable site for a substantial warehouse facility for a whisky maturation site. The LDP should support this. Considerable supporting information is provided to demonstrate the suitability of the site for this use, but in brief:

- In terms of size, the site meets the requirement for current and future phases (circa 30 – 35 hectares)
- A rural location is sought to ensure HSE requirements can be met in terms of segregation from residential properties and to keep HGV movements away from sensitive uses.
- The site offers good access to the trunk road network
- The site promoter is keen to connect to the Ayrshire Growth Deal, however none of the AGD sites in East Ayrshire are suitable
- The site context would allow for the development to be designed in a way to minimise visual impact.
- There are various nearby examples of business/industrial development within the rural area including North Drumboy quarry, Whitelee windfarm, and plant hire companies

### **SK-X1 [New Site] - Extension to the settlement boundary of Skares**

#### Crawford Sloan (213)

A modest extension should be made to the settlement boundary of Skares to allow for an additional 5 houses. In summary, the proposal is considered suitable because:

- The site is within the rural diversification area, where greater flexibility is encouraged through the Plan's spatial strategy
- the site could provide an ideal 'cluster' given that it is an infill between Skares settlement boundary and 3 houses to the south at Whitesmuir
- the site is vacant and of such a low quality that it cannot be productive agricultural land
- there are no residential opportunities within Skares
- there are no environmental designations relating to the site.
- There is a nearby bus stop, providing a public transport link to Ayr and Cumnock and the site could connect to the core footpath network
- The hedgerow to the eastern boundary could be retained and additional one established to the east to help biodiversity and integrate the site with the surrounding countryside
- There is no flood risk
- Whilst the site has not been subject to SEA, it would likely be assessed as neutral or largely positive

The proposer owns a larger amount of land that currently being put forward and would be willing to consider alternative sites within the ownership, if preferable to the Council.

### **RU-X1 [New Site] - Land at Newhouse Smiddy, Kilmarnock**

#### Audrey and George Marriot (204)

A site at Newhouse Smiddy, to the East of Kilmarnock, should be removed from the Rural Protection Area and identified as a miscellaneous opportunity site, with the potential for a farm shop, local retail, business/industrial space, EV charging provision and ancillary services.

The site is considered brownfield and benefits from good access to the A77. There is market demand for sites of this site for EV charging stations close to arterial routes, which can be integrated with different uses to create a successful mixed use development.

**Note:** There are further details within representation (204) that include site photographs, proposed layout and other supporting information (See supporting documents RD78, RD79, RD80 and RD81).

#### **Modifications sought by those submitting representations:**

**Site RU-M1: Barony Colliery**

Paul Cobbs (189)

The site allocation should be removed from the Plan

Scottish Wildlife Trust (110)

The site allocation should be removed from the Plan, if the current planning application is refused

NatureScot (157)

No explicit modifications are suggested

**Land adjacent to RU-M1: Barony Colliery (Barony Power Station, EALDP Site 059M)**

Egger UK Ltd (211)

The site adjacent to RU-M1, which was allocated in the LDP 2017, should be re-instated in LDP2 as a miscellaneous opportunity site for business and industrial development.

**RU-X3 [New Site] - Land at Kingswell**

Beam Suntory (231)

The Rural Protection Area should be amended to remove the proposed site for the warehouse facility at Kingswell

**SK-X1 [New Site] - Extension to the Skares settlement boundary**

Crawford Sloan (213)

The extension to the Skares settlement boundary should be amended to include the proposed sites, capable of accommodating 5 houses.

**RU-X1 [New Site] - Land at Newhouse Smiddy, by Kilmarnock**

Audrey and George Marriet (204)

The site at Newhouse Smiddy should be removed from the Rural Protection Area. It should be allocated as a miscellaneous opportunity site, with the potential for a farm shop, local retail, business/industrial space, EV charging provision and ancillary services.

**Summary of responses (including reasons) by planning authority:**

**Site RU-M1: Barony Bing**

Status of planning application (110)

In respect of the representation by 110, it is noted that a planning permission in principle application for the development of the site for an eco-wellness park was refused by the Council's Planning Committee on 17 February 2023. The consideration of the application is set out in detail in the report to planning committee (CD104), but in summary, it was considered that on balance the concerns over the development in terms of impact on biodiversity in the context of the nature crisis, did not outweigh the economic development advantages of the proposal. Notwithstanding the determination of the application, the Council considers the LDP2 designation to be reasonable in terms of providing an opportunity for a tourism/leisure use that could co-exist alongside the nature conservation features of the site. The safeguards in the Plan, primarily policies NE4, NE5, NE6, SS1 (which ensures the mitigation measures set out in the SEA are taken account of) and the developer requirements set out in volume 2 in relation to RU-M1, will, in the view of the Council, ensure there is a robust framework in place to assess any future development proposal. In addition, any future proposal, would be advised to take account of the consideration of the recent application, when formulating development proposal and preparing detailed designs,

#### Nature conservation value of the site (189)

The Council notes the concerns of 189 in respect of the nature conservation value of the site. The Council fully recognises the value of the site in terms of the flora, fauna and biodiversity it supports. However, the Council is of the view that with good site planning and design, a high quality development could come forward on the site that respects and indeed enhances its natural qualities of the site. The information contained in volume 2 in relation to RU-M1, makes clear the conservation value of the site and states that 'development should be placed to co-exist with the nature conservation value of the site, which should not be unacceptably impacted by the development'. In affect, therefore, whilst the site allocation supports the development of the site for tourism, leisure and recreation, this is not at any cost; a development will only be supported where it can be demonstrated that the proposal will not unacceptably impact the natural qualities of the site.

In order to better understand the site and ensure an up-to-date understanding of its values, the site is being examined as part of an authority-wide review of Local Nature Conservation Sites, referred to on Page 104 of Volume 2. Whilst the site is currently not designated as such, the review process will examine whether it should be. If it is found that there is merit in designating the site, it will be included within the LNCS supplementary guidance that will be prepared to support the Plan, which it is assumed will meet the request of respondent 157. Any development proposal would be required to be planned and designed to co-exist alongside the Local Nature Conservation Site.

#### Detailed site objections (189)

In terms of the detailed points raised by 189 the Council would respond as follows:

- Whilst the SEA process is a key part of the Council's overall approach to site assessment and selection, its role is also to identify impacts and associated mitigation measures that will reduce impacts. In terms of site RU-M1 the Council is of the view that with the SEA mitigation measures and other matters made clear in the site allocation on page 104 of volume 2, development of the

site can come forward without unacceptable impacts.

- The council is of the view that with good site design, which avoids those parts of the site that are more sensitive, an appropriately scaled development could be brought forward that is not contrary to policies of the Plan.
- The view of statutory consultees have been taken into account in the preparation of the Plan and associated SEA. The Council is unclear why it is considered by the respondent that views were disregarded.
- The information contained on page 104 of volume 2 relating to species was taken from survey information from Scottish Wildlife Trust.
- The Council acknowledges that *Hypopityus monotropa* had been misspelled as *Hypopytus monoptopa*. The Council would be content for the reporter to rectify this oversight.

### **Land adjacent to RU-M1: Barony Colliery**

#### Allocation of the site for business and industrial use (211)

The council does not agree that the site, allocated in the 2017 LDP (059M), should be re-allocated. The site was reviewed as part of the preparation of LDP2. There are no extant planning consents or pending applications for the site. Whilst some brownfield land remains, it has largely naturalised, with established woodlands now covering much of the site and certainly from surrounding roads it appears relatively well embedded into its rural setting. An important part of the spatial strategy of the Plan is to direct development to sustainable locations and reduce the need to travel unsustainably (paragraph 32), which is fully complimented by Draft Revised NPF4 with its focus on the planning and delivery of sustainable places. The allocation of a site for business and industrial use at this location in the rural area, is considered incompatible with these overarching principles and is not considered to comprise good planning or placemaking. In addition, as the site has naturalised and will continue to naturalise further, its allocation is not in accord with the aims of LDP2 and NPF4 to tackle the nature crisis set out in aim 8 of LDP2, supported by policy NE4, and Policy 1 of the Draft Revised NPF4.

### **RU-X3 [New Site] - Land at Kingswell for business and industrial use**

#### Implication of amending the Rural Protection Area (231)

The Council notes the proposal to locate a large scale warehouse development at Kingswell, by the M77. It is noted that the representation (231) seeks to amend the Rural Protection Area to remove the proposed site. Firstly, it is pointed out by the Council that the Rural Protection Area (RPA) only applies to residential development, in reference to associated LDP2 policy RH1 (Housing in the Rural Protection Area). Removing this site from the RPA would not change how a business and industrial development would be assessed in terms of the policies of the Plan, therefore the Council sees no merit in amending the RPA in light of the representation.

#### Allocation of the site (231)

For completeness, whilst the representation has not explicitly requested that the site be allocated as a development opportunity in the Plan, the Council considers that it is not



necessary or reasonable to do so. The site has not been subject to Strategic Environmental Assessment or the necessary internal and external consultations that sites are normally subject to, prior to inclusion within the Plan. If the site were to be allocated generally for miscellaneous or industrial uses, it is of a considerable scale and would raise significant questions in regards to the spatial strategy of the Plan due to its location within the rural area. Notwithstanding this, the Council recognises that the proposal offers significant economic development opportunities, in terms of bringing new investment and jobs to East Ayrshire and linking to the Ayrshire Growth Deal, and in particular the food and drink workstream, On balance, and without prejudice to any application that might be received, it is considered that such a proposal could be compliant with policy SS9: Ayrshire Growth Deal. As such, it is considered that allocation of the site would not be necessary, and to allocate it as a site generally could lead to inappropriate development.

### **Amendment to the settlement boundary of Skares to allow new housing (SK-X1)**

#### Requirement for further housing (213)

The representation seeks a change to the settlement boundary of Skares to include an area of land, which it is suggested has capacity for 5 houses. It is also stated that the representation applies to Schedule 3 of the Proposed Plan, which lists the Housing opportunity sites, therefore it is assumed the respondent requests the site comprise an allocated housing site. It is firstly pointed out that sufficient land has been allocated in P-LDP2 to meet the Council's MATHLR during the Plan period. Additional land for residential development is not considered necessary.

The proposed site in Skares has not been subject to assessment and discussion within the Planning Service or with EAC internal and external consultees. Whilst the representation outlines some merits to the site, a further detailed assessment of the site would be required to determine its suitability.

#### Requirement for a housing allocation in Skares (213)

It is acknowledged that there are no housing sites allocated within Skares. This is not uncommon for small settlements across East Ayrshire, which have limited services and facilities. In order take a sustainable approach to development, the Council has sought to allocate sites in settlements with community and commercial services in order to reduce car travel and aim towards achieving 20 minute neighbourhoods. Skares comprises of a small number of houses (approx. 15) and aside from the bus stop, has no other community facilities. Given the lack of facilities and services, it is not considered a sustainable location to direct new development to. In addition, 5 new residential units would result in a significant increase to the size of the village. Such a change should be fully assessed, and importantly, the residents of the village should be consulted and neighbour notified. As the proposal has been provided to the Council at a late stage in the LDP2 process, such consultation has not been possible.

In light of the above, the Council is of the view that the Plan should not be amended to include the requested site as a housing opportunity site, nor should the settlement boundary of Skares be amended. It is suggested that the respondent engage in the plan making process earlier in terms of LDP3, at which time the site can be given fully

and detailed consideration.

### Rural housing SG (213)

For clarity, it is anticipated that draft supplementary guidance on rural housing clusters will be published and consulted on early in 2023. The identification of rural housing clusters is intended to provide a more planned approach to rural housing, helping to meet the Planning Act (2019) aspiration to re-populate rural areas, in a plan-led manner (CD63). Whilst this work is ongoing at the time of writing, it is intended to focus on small clusters of rural properties that are not delineated by a settlement boundary, rather than extensions to existing boundaries, as is being proposed by 213 at Skares.

### **RU-X1 [New Site] - Land at Newhouse Smiddy, by Kilmarnock**

#### Inclusion of new miscellaneous site (204)

The site promoted for inclusion within the Plan sits outside of the settlement boundary of Kilmarnock, to the East of the A77, in close proximity to a junction of the A77 to the north. The site has not previously been suggested for inclusion, either through the Call for Sites or Main Issues consultation processes. The site has therefore not been considered in the preparation of the Proposed Plan and has not been subject to Strategic Environmental Assessment.

Firstly, it is noted that the representation seeks the removal of the site from the Rural Protection Area. It is pointed out by the Council that the Rural Protection Area only applies to residential development, through policies RH1-5. Removing this site from the RPA would not change how it is assessed in terms of the policies of the Plan, therefore the Council sees no merit in amending the RPA in light of the representation.

In terms of the allocation of the site as a miscellaneous site, whilst the Council notes the brownfield nature of the site and its good access links, the Council considers its allocation would be contrary to the overall spatial strategy of the LDP. A key part of the spatial strategy is to reduce the need to travel and direct development to sustainable locations within settlements (LDP2 volume 1, page 22). In general terms, very few development opportunity sites have been allocated within the rural area and those that have are those that on a strategic basis, offer significant benefits in terms of stimulating economic activity. Whilst representation 2014 requests that the site be allocated for a mix of uses, a compelling case has not been presented as to why this site in the rural area should be allocated. Whilst it is accepted that development would re-use a brownfield site, this does not over-ride all other considerations.

Notwithstanding the above points, the Council is of the view that the policies contained within the Proposed LDP2 provide a robust framework for which to consider and determine a proposal at this location. In particular, with regards to the uses suggested in the representation, policy TC3 (i) ensures the Council can consider class 1 retail outwith the network of centres, where these are linked to tourism, charging stations or farm units. Policy IND2 (ii) outlines circumstances in which business and industrial use will be supported in the rural area and policy T4 outlines requirements for EV charging infrastructure.

**Reporter's conclusions:****Site RU-M1: Barony Bing**

Status of planning application (110), nature conservation value of the site (157 and 189) and detailed site objections (189)

1. It is clear from the developer requirements set out for the Barony Colliery site in volume 2 of the proposed plan that successful reuse of the site for tourism/leisure/recreation purposes will involve striking a sensitive balance between biodiversity and development. I do not consider the fact that the council considered that this balance was not struck by the recent proposals for an eco-wellness park (refused planning permission in February 2023) invalidates the allocation of the site for development. Indeed, I consider that the council is correct to say the process of determining that planning application will assist prospective developers in ensuring any future proposals comply with policies in the proposed plan.
2. The general and site-specific developer requirements also provide helpful guidance in this regard. These requirements are underpinned by proposed natural environment Policies NE4: Nature Crisis, NE5: Protection of Areas of Nature Conservation Interest, NE6: Vulnerable and Threatened Species, NE8: Trees, Woodland, Forestry and Hedgerows as well as SS2: Overarching Policy. Section (vii) of Policy SS2 requires developers to implement the relevant enhancement and mitigation measures contained within the Environmental Report, where required in volume 2 of the proposed plan.
3. I consider that the developer and policy requirements I have highlighted provide a sufficiently strong framework to support the council's consideration of any future proposals. Therefore, I also find that it is appropriate to retain the allocation of the RU-M1 site at Barony Colliery for tourism/leisure/recreation use.
4. I have no evidence that the views of statutory consultees have been disregarded in the decision to allocate this site. Indeed, I note that NatureScot accepts that parts of the site that have lower biodiversity value could be developed with limited impacts.
5. It is suggested that the number of bee/wasp, beetle and moth species is understated in the first paragraph of the site-specific developer requirements. The council advises that the information used was provided by the Scottish Wildlife Trust (SWT). I consider the SWT to be an authoritative and reliable local source. Furthermore, Policy NE6 requires that, where there is likely to be an adverse impact on biodiversity, developers are required to provide an ecological appraisal. This would provide an up-to-date detailed record of species present on the site, along with proposals for protection, mitigation and enhancement, as appropriate.
6. The council accepts that the name of a parasitic plant, *Hypopitys monotropa*, is misspelt in the first paragraph of the site-specific developer requirements. I agree that this should be corrected and have made a recommendation to that effect below.
7. NatureScot advises that it would support designation of the Barony Colliery site as a Local Nature Conservation Site. In volume 2 of the proposed plan, the council advises that it is undertaking a review of Local Nature Conservation Sites which

includes Barony Colliery. If the review concludes that the RU-M1 site should be designated, either in part or whole, this would be reflected in the next iteration of the local development plan.

8. With the exception of correcting the typographical error referred to above, I conclude that it is not necessary to modify the plan in relation to site RU-M1: Barony Colliery.

### **Site adjacent to RU-M1: Barony Colliery**

#### Allocation of the site for business and industrial use (211)

9. Section 6.2 of the proposed plan, titled Economy and Employment – Business and Industry, states that, outwith Kilmarnock, the plan ensures there are opportunities throughout settlements for business and industrial development of a scale appropriate to the size and character of those settlements. It is also stated that identification of sites primarily takes account of sustainability and viability.

10. I do not have evidence to suggest that there is a shortfall in the business and industrial land supply, either in East Ayrshire in general or this part of the plan area in particular. There is no immediate population catchment for the site and I have no evidence that the site is readily accessible by sustainable means of transport. I note that the site is allocated in the adopted plan but no developer interest is reported other than this representation. Although previously developed, natural regeneration is well advanced and the site makes a valuable contribution to the River Ayr Valley Local Landscape Area lying between Ochiltree, Auchinleck and Cumnock.

11. There is no case to suggest there is an overriding site specific need to allocate the site for business and industry. I note from Egger UK Limited's representation that the company considers that safeguarding of its site to the north of Barony Road as a business and industry opportunity (site RU-B1(S)) will enable the company to continue with its plans for expansion. There is no indication that the company is likely to require the site for its own development.

12. I conclude that there is no requirement to modify the plan to allocate the 10-hectare site adjacent to the RU:M1: Barony Colliery site for employment uses.

13. It is suggested that the site area of the allocated Barony Colliery site of 46.6 hectares does not reflect the area of the site as defined in the proposed plan. I consider that revision to the area of the site goes beyond the discretion afforded to the council to make non-material variations to the plan. Although I do not have conclusive evidence which indicates the site area, the boundary shown on the proposals map is clear. Therefore, I do not consider there is any ambiguity about the extent of the allocated site and conclude that no modification is necessary on this point.

### **RU-X3 [New Site] – Land at Kingswell for business and industrial use**

#### Implication of amending the Rural Protection Area and allocation of the site (231)

14. Section 5.1 of the proposed plan explains that the Rural Protection Area, which

includes proposed site RU-X3, has been designated to help manage housing development in the northern part of East Ayrshire where proximity to Kilmarnock and Glasgow, in particular, creates greater pressure for rural housing than in more rural parts of the council area. As such, proposed plan Policy RH1: Housing in the Rural Protection Area applies only to proposed housing development and not to proposed employment development. Consequently, the proposed policy would have no bearing on the council's consideration of any planning application for business, industrial or storage and distribution use.

15. The distilling company that proposes allocation of the site advises that it is seeking a large site of some 30-35 hectares in extent which would allow for the development of a large warehouse with scope for landscape planting and future expansion. The site needs to be detached from residential areas due to health and safety requirements and have good access to the trunk road network. A search of allocated sites in the area has not produced anything suitable.

16. I accept that, in principle, the Kingswell site would appear to meet the company's requirements. However, proposed Policy IND2: Business and industrial development in rural areas would not support the type of development proposed as the site is not an identified business and industrial site, the development does not relate to agriculture and forestry and does not constitute farm diversification. I also note the council's qualified view that the proposal provides a significant economic development opportunity and has the potential to comply with proposed Policy SS9: Ayrshire Growth Deal. Policy SS9 states that the council will encourage and support developments that contribute to the vision, aims and projects of the growth deal as a key means of stimulating and promoting transformational change.

17. The council also advises that the site has not been subject to Strategic Environmental Assessment (SEA). In particular, I do not have evidence that the site is readily accessible by sustainable transport for employees. A large warehouse in a relatively open and gently undulating landscape would require careful siting, design and landscaping. Residents and technical consultees, including Transport Scotland, have not been consulted. However, allocation of the site for employment uses is not sought by the company which advises that technical work is ongoing to develop its proposal. Paragraph 261 of the Scottish Government's Local Development Planning Guidance advises that it is not expected that examination reporters will recommend the addition of any site into the plan that has not previously been subject to SEA and consultation.

18. I consider that it is not necessary to remove the proposed site from the Rural Protection Area as this designation would not prejudice the council's consideration of the planning application for the site submitted during the period of the local development plan examination. I also consider that there is insufficient information to consider allocation of the site in the proposed plan.

19. I appreciate that the council cannot propose policies that anticipate all potential demands for employment uses but, depending on the weight attached to Policy SS9, it would be possible to grant planning permission as a justified exception to Policy IND2 if all other policy issues are addressed satisfactorily and technical consultations and representations are taken into account.

20. I conclude that it is not necessary to modify the plan to amend the extent of the Rural Protection Area as it relates to the proposed site at Kingswell.

### **Amendment to the settlement boundary of Skares to allow new housing (SK-X1)**

#### Requirement for further housing, requirement for a housing allocation in Skares and rural housing supplementary guidance (213)

21. At Issue 17 my colleague found that the housing land allocation made in the plan was more than sufficient to meet the minimum all tenure housing land requirement, and that there was no need to allocate additional sites. He also found that the distribution of the housing allocation between the three sub-housing market areas appears to have been based on a robust approach, and is broadly in line with existing population levels and evidence of need and market demand. As such, it is not necessary to consider in detail the allocation of additional housing sites. In any case, I note that the proposed site at Skares has not been assessed on the same basis as allocated sites or other sites put forward by developers at the earlier 'call for sites' stage of the local development plan process. In particular, the site has not been subject to the same community and technical consultation as these sites, meaning that an even-handed consideration would not be possible. Paragraph 261 of the Scottish Government's Local Development Planning Guidance advises that it is not expected that examination reporters will recommend the addition of any site into the plan that has not previously been subject to SEA and consultation.

22. I note it is not the council's intention that its proposed supplementary guidance on rural housing clusters will focus on communities defined by a settlement boundary, such as Skares. Therefore, I consider the council's advice that the proposed site and/or other sites in the same ownership be put forward for consideration in the next iteration of the local development plan to be well founded.

### **RU-X1 [New Site] – Land at Newhouse Smiddy, by Kilmarnock**

#### Inclusion of new miscellaneous site (204)

23. Proposals to modify proposed plan Policies SS4 and IND2 are dealt with under Issues 4 and 18 of this report.

24. I have summarised above the purpose of the Rural Protection Area in relation to proposed site RU-X3 at Kingswell. For the same reason, the inclusion of proposed site RU-X1 within the Rural Protection Area would have no bearing on the council's consideration of any planning application for non-residential development of the site.

25. I have summarised development plan policy regarding allocation of employment sites above in relation to the proposed site adjacent to Barony Colliery. The same considerations apply to this site.

26. I have no evidence to suggest there is a shortfall in the employment land supply in East Ayrshire, or in the allocation of miscellaneous opportunity sites. In any case, I note that the site has not been assessed on the same basis as allocated sites and has not been subject to the same technical and community consultation, meaning that an even-



handed consideration would not be possible. I have no evidence of any special justification for allocating the site.

27. Proposed plan Policy TC3: Small Scale Retail Developments in Out-of-centre Locations and Policy IND2: Business and Industry Development in Rural Areas provide a policy framework within which the council can assess any planning application for retail or employment development which may be submitted for the site.

28. I conclude that it is not necessary to modify the plan to allocate the proposed site at Newhouse Smiddy for uses including retail, employment and electric vehicle charging with ancillary services.

**Reporter's recommendations:**

I recommend that the words 'Hipopyts monoptopa' be deleted from the first paragraph of the site-specific developer requirements for site RU-M1: Barony Colliery and replaced with the words 'Hipopitys monotropa'.

Issue 44	Loudoun Castle Estate	
Development plan reference:	Policy TOUR6	Reporter: Stephen Hall
Body or person(s) submitting a representation raising the issue (including reference number):		
Scottish Wildlife Trust (110) NatureScot (157) Visit Scotland (165) R Ghosh (197)	NHS (270) Historic Environment Scotland (271) Harcourt Development UK Ltd (282) Suffolk Ltd (283)	
Provision of the development plan to which the issue relates:	The content and wording of the LDP Policy TOUR6 and paragraphs 223-225 (pages 119-127), Volume 1.	
Planning authority's summary of the representation(s):		
<p><b><u>VOLUME 2</u></b></p> <p><b><u>RU-M2: Loudoun Estate (Volume 2; Pages 104 &amp; 106)</u></b></p> <p><u>Scottish Wildlife Trust (110)</u></p> <p>Highlight that the conservation value of the site and its status as a LNCS is mentioned in Volume 2, page 104.</p> <p><u>R Ghosh (197)</u></p> <p>Seeks modification of site allocation RU-M2 (Miscellaneous development opportunity) to include reference to and allocate land at Barr Wood, Galston. The extents of the site can be viewed in Map GA-X9 (as well as RD75 and RD76).</p> <p><u>Harcourt Development UK Ltd (282) and Suffolk Ltd (283)</u></p> <p>Expresses concerns that for areas outwith the core estate (including the Castle and various other assets and landscape features it could be difficult to secure a comprehensive approach to the site and ensure enabling development to consolidate/restore the Castle and designed landscape. Raise concerns that this will dilute funding away from the core estate.</p> <p>Suggest that the boundary, including that set out in the Rural Area Map, should be amended to reflect land ownership as illustrated within the 15/0676/PPP application (CD101).</p> <p><b><u>VOLUME 1</u></b></p> <p><b><u>TOUR6: Loudoun Castle Estate Garden and Designed Landscape</u></b></p>		

*Promotion of Development Opportunity Site: Loudoun Castle*

Harcourt Development UK Ltd (282) and Suffolk Ltd (283)

Support the general thrust of the policy but suggest some amendments.

Consider consolidation works to the castle and a scheme of restoration works to be too narrow a scope, arguing that maintenance of the castle remains would be long term and continue to be subject to the elements. Harcourt Development UK Ltd highlight that TOUR6 should not prevent a scheme of restoration taking place.

Highlight that there is developer interest in this site with the view to restoring the castle, outlining the importance of a restoration scheme being contained within the policy for the Castle, not simply a scheme of consolidation.

Request that the policy recognise that a restoration scheme for the Castle is feasible and that this would result in better long-term outcomes for the ongoing maintenance of the castle remains, with suggested wording amendments provided.

Request that the word 'sympathetic' be removed from paragraph 2, arguing that it is inappropriate given the requirements are set out in policy.

***Hierarchy of Acceptable Uses***

Harcourt Development UK Ltd (282) and Suffolk Ltd (283)

Support the reference to housing as part of a mix of uses, however, oppose the use of a hierarchy of uses for the site arguing that this is disproportionate and could result in a less suitable proposal.

***Conservation Deficit***

Harcourt Development UK Ltd (282) and Suffolk Ltd (283)

Highlight that the EALDP (2017) (CD23) supports enabling development to support tourism development and considers that this should be carried through into the Proposed Plan, with suggested wording provided.

Consider that wording should be amended to ensure that the Council will be bound to consider an enabling development scheme, including residential housing.

Support the need for a conservation deficit being set out in full and contained within the policy, however, argue that it is unclear whether the costs of developing the leisure and tourism uses would be included within the calculation.

State that the requirements for the Castle should be amended to include restoration for the castle, not simply a scheme of consolidation, as this could lower the conservation deficit and secure the long-term future of the building.

Suggest that the policy should specify that the Council will support a developer in their application for grants to reduce the conservation deficit and reduce the need for

enabling development and outlines the benefits of a Section 75 agreement in obtaining grant funds, reducing deficits which would trigger an amendment to any required housing for enabling development.

***Requirement for the Castle and Garden and Designed Landscape and Other Heritage Assets***

***Site Assets***

NatureScot (157)

Provide comments that relate to the support of the content of this policy due to the identification of natural assets on site. Nature Scot wish to reiterate comments provided at the MIR stage with the view to ensure that safe and attractive active travel provision be provided within the site and outwith, integrating with and improving active travel networks.

Suggest that the requirement for active travel be embedded into TOUR6 to ensure sustainable travel and recreational opportunities.

Harcourt Development UK Ltd (282) and Suffolk Ltd (283)

Argue that the wording of the site assets section is too strict and would prevent the Council from looking favourably on any development that is likely to have any adverse impacts instead of significant adverse impacts. It should be reworded to account for **significant** adverse impacts as it is unlikely that any development will not result in adverse impacts, of some degree, on the listed features. Harcourt Development UK Ltd consider this to conflict with other sections within the policy, which acknowledges harm may occur.

Argue that the 'Site Assets' subsection of the policy should be amended to be more flexible and facilitate judgement from the Council based on the application content submitted to them.

***Figure 18: Loudoun Castle – Site Assets***

R Gosh (197)

Seeks modification of TOUR 6 and site allocation RU-M2 (Miscellaneous development opportunity) to include reference to and allocate land at Barr Wood, Galston. The extents of the site can be viewed in Map GA-X9 (as well as RD75 and RD76).

Harcourt Development UK Ltd (282) and Suffolk Ltd (283)

Object to the contents of Figure 18 and Figure 19 as the GDL boundary and areas for potential development extend outwith ownership boundaries.

Express concerns that for areas outwith the core estate (including the Castle and various other assets and landscape features) it could be difficult to secure a comprehensive approach to the site and ensure enabling development to

consolidate/restore the Castle and designed landscape. Harcourt Development UK Ltd have concerns that this will dilute funding away from the core estate.

Suggest that the boundary should be amended to reflect landownership as illustrated within the 15/0676/PPP application (CD101).

### ***Application Requirements***

#### ***NHS (270)***

Recommend that any proposals for Loudoun Estate take into account their suggested requirements for sustainable tourism development, which are outlined across four bullet points but can be summarised as development will be supported where: there is provision for public and active travel networks, there is adequate affordable local housing for staff and community members, an assessment and provision made for infrastructure required as well as ongoing engagement with communities.

**Note:** There are further supporting information within representation (270) that includes Rapid Health Impact Assessment Scoping Exercise (RD112) and information on population groups affected by the LDP2 (RD113).

#### ***Harcourt Development UK Ltd (282) and Suffolk Ltd (283)***

Express concerns over the requirement for the submission of a full application. The policy should be amended to recognise the ability to submit an application partly in full and partly in principle.

### ***Phasing***

#### ***Harcourt Development UK Ltd (282) and Suffolk Ltd (283)***

Within the Phasing section, the Council outline that a phasing plan should ensure a scheme of consolidation for the Castle and scheme of restoration works for the GDL. Harcourt Development UK Ltd support the need for phasing, however, object to wording being limited to consolidation and not restoration.

### ***Maintenance***

#### ***Harcourts Development UK Ltd (282) and Suffolk Ltd (283)***

In relation to the “Maintenance” subsection, reiterate that the restoration of the castle would bring long-term security in terms of maintenance, ahead of consolidation.

### ***Figure 19: Loudoun Castle – Areas with potential for sensitive development in accordance with TOUR6 requirements***

#### ***R Ghosh (197)***

Seeks modification of TOUR 6 and site allocation RU-M2 (Miscellaneous development opportunity) to include reference to and allocate land at Barr Wood, Galston. The

extents of the site can be viewed in Map GA-X9 (as well as RD75 and RD76.

Harcourt Development UK Ltd (282) and Suffolk Ltd (283)

Object to the contents of Figure 18 and Figure 19 as the GDL boundary and areas for potential development extend outwith the ownership boundaries (CD101).

Express concerns that for areas outwith the core estate (including the Castle and various other assets and landscape features it could be difficult to secure a comprehensive approach to the site and ensure enabling development to consolidate/restore the Castle and designed landscape. Harcourt Development UK Ltd have concerns that this will dilute funding away from the core estate.

Harcourt Development UK Ltd have objections concerning the areas shown in Figure 19 (page 126) which illustrates areas with potential for sensitive development in accordance with TOUR6 requirements. These objections are on the basis that it does not include all of the unconstrained areas shown in Figure 18 and that three additional areas should be identified. Harcourt Development UK Ltd do not consider that development should be constrained by these areas and as such that the “areas with potential for sensitive development” should be removed from Figure 19 (page 126).

Harcourt Development UK Ltd argue that additional areas should be added to Figure 19 (page 126), these include the area to the east of the North Belvedere, the north of the East Belvedere as well as to the south east of the East Belvedere as they consider them to be suitable for tourism development. Alternatively, Harcourt Development UK Ltd suggest that these could be removed entirely from the map and be flushed out during pre-application discussions.

Suggest that the boundary should be amended to reflect landownership as illustrated within the 15/0676/PPP application (CD101).

***Other***

Visit Scotland (165)

Suggests that any tourism development should consider wider regional and national plans and wider network connectivity, including active travel, public transport and electric vehicle infrastructure to meet net zero targets.

Suggests that any proposed development should include a [VisitScotland Quality Assurance Scheme](#).

Recommend that VisitScotland be consulted at the concept stage of a proposal.

Suggest and offer the opportunity to work collaboratively with the Council and the prospective developer of this site in order to provide information and manage expectations.



Harcourt Development UK Ltd (282) and Suffolk Ltd (283)

State that a developer is considering proposals based on the contents of the EALDP (2017) (CD23) and that changes from this policy context could disrupt the development of this site.

Consider that the 'Definitions' section (page 127) should be expanded to incorporate content relating to restoration of the castle as outlined throughout Harcourt Development UK Ltd's representation.

**Modifications sought by those submitting representations:**

**VOLUME 2**

**RU-M2: Loudoun Estate (Volume 2; Pages 104 & 106)**

***Developer Requirements (Page 104)***

Scottish Wildlife Trust (110)

Highlights the conservation value of the site given its status as a Local Nature Conservation Site and outlines that this should be reflected within the Developer Requirements in Volume 2 (page 104).

***Extents of RU-M2 (Page 106)***

R Ghosh (197)

Seeks modification of site allocation RU-M2 (Miscellaneous development opportunity) to include reference to and allocate land at Barr Wood, Galston. The extents of the site can be viewed in Map GA-X9 (as well as RD75 and RD76).

Harcourt Development UK Ltd (282) and Suffolk Ltd (283)

Suggest that the boundary should be amended to reflect landownership as illustrated within the 15/0676/PPP application.

**VOLUME 1**

**TOUR6: Loudoun Castle Estate Garden and Designed Landscape**

***Promotion of Development Opportunity Site: Loudoun Castle***

Harcourt Development UK Ltd (282) and Suffolk Ltd (283)

Amend TOUR6, Paragraph 2, to read - "By supporting appropriate development in the Estate, the Council will enable a scheme of consultation **and/or restoration** works to the Castle and scheme or restoration works to the Garden and Designed Landscape, including all associated structures and elements."

Amend TOUR6 to read – “The Council is supportive of the ~~sympathetic~~ development of Loudoun Castle Estate, and the associated Garden and Designed Landscape, for tourism, leisure, tourist accommodation and associated purposes...”

### ***Hierarchy of Acceptable Uses***

Harcourt Development UK Ltd (282) and Suffolk Ltd (283)

Although not explicitly stated, it is assumed that Harcourts Development UK Ltd wish for subheading ‘Hierarchy of Acceptable Uses’ to be amended to read – **Scope** of Acceptable Uses

Although not explicitly stated, it is assumed that Harcourts Development UK Ltd wish for – The hierarchical numbering (1, 2 and 3) to be removed from the list of anticipated uses within development proposals

Although not explicitly stated, it is assumed that Harcourts Development UK Ltd wish for paragraph 2 within this subheading to be amended to read - “There are a range of uses which are, in principle, deemed appropriate and acceptable by the Council ~~on a hierarchical basis~~, as outlined below in order of preference.”

Amend TOUR6, subsection ‘Hierarchy of acceptable uses’ the final paragraph, to read – “Subject to the detail of any proposal, the Council ~~might~~ **will** consider housing of an appropriate scale to be acceptable in order to bridge any outstanding conservation deficit gap.”

### ***Conservation Deficit***

Harcourt Development UK Ltd (282) and Suffolk Ltd (283)

Amend TOUR6, subsection ‘Conservation Deficit’ to be expanded to explicitly state the following – **“Tourism development that requires enabling development to secure and enhance the function and viability of the Castle Estate as a major tourism destination will be supported”, subject to examination on an ‘open-book’ basis.”**

Amend TOUR6, subsection Hierarchy of Acceptable Uses’ final paragraph to read – “Subject to the detail of any proposal, the Council ~~might~~ **will** consider housing of an appropriate scale to be acceptable in order to bridge any outstanding conservation deficit gap”.

Although not explicitly stated, it is presumed that Harcourts Development UK Ltd wish for clarity to be added to the policy on whether the cost of developing the leisure and tourism uses be included within the conservation deficit calculations.

### ***Requirement for the Castle and Garden and Designed Landscape and Other Heritage Assets***

NatureScot (157)

Although no specific wording has been provided, Nature Scot suggest that TOUR6 be

modified to – Outline the requirement for active travel is embedded requirements.

#### NHS (270)

Although not explicitly stated, it is presumed that (270) wish to see TOUR6 modified to state that development will only be supported where there is adequate and affordable provision for public transport and active travel, and where the development will not generate additional private vehicle traffic, which would otherwise have negative impacts on health, wellbeing and climate change.

Although not explicitly stated, it is presumed that (270) wish to see TOUR6 modified to state that development will only be supported where there is adequate and affordable local housing provision for staff and other local community members to avoid negative impacts on the local housing market and to ensure staff can live near where they work, to support health and wellbeing through appropriate housing, reduced travel distances and community cohesion.

Although not explicitly stated, it is presumed that (270) wish to see TOUR6 modified to state that development will only be supported where assessment and provision is made for any other infrastructure required to support rural tourism, such as litter bins and toilet facilities.

Although not explicitly stated, it is presumed that (270) wish to see TOUR6 modified to state that development will only be supported where there is close and ongoing engagement with the local community.

#### Harcourt Development UK Ltd (282) and Suffolk Ltd (283)

Amend bullet point one to read – “a scheme of consolidation **and/or restoration** for the Castle;”

Although not explicitly stated, it is assumed that Harcourt Development UK Ltd wish to see part of the ‘Site Assets’ section to read – “The Council will not support any development which is likely to have **significant** adverse impacts on the nature conservation of the site or the landscape, historic and architectural character of the site.”; Or alternatively – “The Council will not support any development which is likely to have adverse impacts on the nature conservation of the site or the landscape, historic and architectural character of the site **that is not outweighed by other benefits.**”

#### **Site Assets**

#### Harcourt Development UK Ltd (282) and Suffolk Ltd (283)

Amend the ‘Site Assets’ subsection to read – “The Council will not support development which will have **significant** detrimental impacts on the following natural environment and historic asset features, unless appropriate mitigation and enhancement features are proposed:..”; Or alternatively – “The Council will not support development which will have detrimental impacts **that are not outweighed by other benefits** on the following natural environment and historic asset features, unless appropriate mitigation and enhancement features are proposed:..”

Modify TOUR6 to read – “The Council will not support any development which is likely to have **significant** adverse impacts on the nature conservation of the site or the landscape, historic and architectural character of the site.”

Modify TOUR6 to read – “The Council will not support development which will have **significant** detrimental impacts on the following natural environment and historic asset features, unless appropriate mitigation and enhancement features are proposed:...”

Although no specific wording is provided to this effect, Harcourt Developments Ltd request that the policy be amended to – allow flexibility from the Council to judge a proposal based on the information submitted by the applicant.

### ***Figure 18: Loudoun Castle – Site Assets***

Harcourt Development UK Ltd (282) and Suffolk Ltd (283)

Modify the boundary of the Miscellaneous site allocation RU-M2, and TOUR6 policy Map(s) to match the landownership as illustrated within the 15/0676/PPP application. This excludes the area to the west of Bowhill Burn (Loudoun Lodge), Hindberrybank, Bog Wood and the area to the south around Loudoun Sports Centre to the north of the A71.

R Gosh (197)

Although no specific wording has been suggested, R Gosh seeks modification of TOUR 6, policy maps and site allocation RU-M2 (Miscellaneous development opportunity) to - Include reference to and allocate land at Barr Wood, Galston (see Map X).

### ***Application Requirements***

Harcourt Development UK Ltd (282) and Suffolk Ltd (283)

Although no exact wording has been suggested they would like the policy to be amended to - recognise the ability to submit an application partly in full and partly in principle.

Amend the ‘Phasing’ section to read – “A phasing plan should ensure that the scheme of consolidation **and/or restoration** for the Castle and the scheme of restoration works for the garden and designed landscape will begin prior to or in tandem with the commencement of any other aspect of development on site.”

### ***Masterplanning***

Harcourt Development UK Ltd (282) and Suffolk Ltd (283)

Although no exact wording has been suggested they would like the policy to be amended to - recognise the ability to submit an application partly in full and partly in principle.

## ***Phasing***

Harcourt Development UK Ltd (282) and Suffolk Ltd (283)

Amend the first paragraph to read – “A phasing plan should ensure that the scheme of consolidation **and/or restoration** for the Castle and the scheme of restoration works...”

### ***Figure 19: Loudoun Castle – Areas with potential for sensitive development in accordance with TOUR6 requirements***

R Ghosh (197)

Although no specific wording has been suggested, R Gosh seeks modification of TOUR 6, policy maps and site allocation RU-M2 (Miscellaneous development opportunity) to - Include reference to and allocate land at Barr Wood, Galston (see Map GA-X9).

Harcourt Development UK Ltd (282) and Suffolk Ltd (283)

Modify the boundary of the Miscellaneous site allocation RU-M2, and TOUR6 policy Map(s) to match the landownership as illustrated within the 15/0676/PPP application (CD101). This excludes the area to the west of Bowhill Burn (Loudoun Lodge), Hindberrybank, Bog Wood and the area to the south around Loudoun Sports Centre to the north of the A71.

Modify Figure 19 to include and identify additional areas with potential for sensitive development, in the following locations - the area to the east of the North Belvedere, the north of the East Belvedere as well as to the south east of the East Belvedere.

Or alternatively, Harcourt Development UK Ltd would like to modify TOUR6, Figure 19 to remove - the “areas with potential for sensitive development in accordance with TOUR6 requirements” from the Map,

## ***Page 127 (Definitions to be referred to in relation to TOUR6)***

Harcourt Development UK Ltd (282) and Suffolk Ltd (283)

Although no specific wording is suggested for modifications, Harcourt Development UK Ltd would like the definition for “a scheme of restoration works” to include information in relation restoration of the Castle to accord with the rest of their representation.

## ***Other***

Harcourt Development UK Ltd (282) and Suffolk Ltd (283)

Although not explicitly stated, it is assumed that Harcourt Development UK Ltd wish for TOUR6 to be amended to – state that the Council will support a developer in their application for grants that will reduce the conservation deficit and reduce the need for enabling development.

**Summary of responses (including reasons) by planning authority:**

**VOLUME 2**

**RU-M2: Loudoun Estate (Volume 2; Pages 104)**

**RU-M2 Developer Requirements - (110)**

The respondent (110) highlights the conservation value of the site given its status as a Local Nature Conservation Site and although not explicitly stated, it is presumed that (110) seek a modification within the Developer Requirements in Volume 2 (page 104) to ensure that this is mentioned. In response, the Council consider that the current wording and format of Volume 1 and Volume 2 to be appropriate. Policy TOUR6, subsection “site assets” (page 122) outlines that the site contains a host of assets, including two Local Nature Conservation Sites (Loudoun Castle Woodlands & Waterside and Orchard Plantation & West Belvedere, these are also illustrated within Figure 18: Loudoun Castle – Site Assets. Policy TOUR6 explicitly states that *“the Council will not support development which will have detrimental impacts”* on these assets. Any application which is submitted on site will need to meet the stated policy tests. Policy SS2, criterion (vii) also requires development proposals to *“implement the relevant and mitigation measures contained within the Environmental Report where required in Volume 2 of LDP2”*. The Council considers the current policy wording to be appropriate, fair and robust.

**Extents of RU-M2 (Page 106)**

**Modifications to RU-M2 boundary – (197), (282), (283)**

Two separate modifications to the boundary have been requested by respondents.

Respondent (197) seeks modification of site allocation RU-M2) to include reference to and allocate land at Barr Wood, Galston (see Map GA-X9). This site is located to the south of the A71 and to the west of the settlement of Galston. It is some distance from the current extents of the RU-M2 allocation. The Council do not consider there to be any basis for inclusion of this site as part of RU-M2, particularly bearing in mind that a prime reason for allocating RU-M2 is to safeguard the important historic assets of the site. The same justification cannot be applied to land at Barr Wood. In addition, the Barr Wood site was not submitted as part of the Call for Sites for the Main Issues Report, nor was it submitted following the MIR which would have been an appropriate time for considering the site for leisure and residential uses as outlined by (197). A summary of the Council’s response to this site can be viewed in Issue 33. The Council strongly disagrees with amending the boundary of RU-M2 and in turn Figure 18 and Figure 19.

Respondents (282) and (283) seek modification of the RU-M2 boundary to match the landownership of application number 15/0676/PPP (CD101). It is the view of the Council that the current extents of RU-M2 are appropriate. This reflects the current allocation within the EALDP (2017). (282) and (283) argue that some of the land is outwith the ownership area of a prospective developer. While the Council acknowledges the concerns raised that the current boundary could make a



comprehensive approach to the development of the site, the Council disagrees. The Council do not consider this to merit amending the boundary. The prospective developer in question can submit a proposal within the RU-M2 area, as identified within Volume 2 (page 106), which relates solely to the area within their ownership at a scale of their choosing. The whole area within the extents of RU-M2 is not necessarily suitable for development. It is up to the applicant to research and determine the most suitable areas for development, which they have the ability to develop, in line with constraints of the site. As such, the Council strongly disagree with amending the boundary of RU-M2, and in turn Figure 18 and Figure 19.

**Note:** The suggested modifications relating to the extents of the Volume 2, RU-M2 site allocation would results in modifications being required on **Figure 18: Loudoun Castle – Site Assets** and **Figure 19: Loudoun Castle – Areas with potential for sensitive development in accordance with TOUR6 requirements** of TOUR6.

## **VOLUME 1**

### **TOUR6: Loudoun Castle Estate Garden and Designed Landscape**

#### **Key (Fundamental) Comments on TOUR6 in its entirety**

##### **Policy amendments could disrupt development of this site - (282), (283)**

The Council disagree that policy TOUR6 and its contents are likely to disrupt the delivery of the development of this site. Policy TOUR6 was created utilising the experience from 15/0676/PPP and the associated Public Local Inquiry (PLI). The findings and conclusions (CIN-EAY-001) of the Reporters appointed by Scottish Ministers (CD82) were integrated into the policy content. The Council considers the policy TOUR6, removes some of the uncertainty which was present under the contents of the EALDP (2017) and provides a clear and robust framework from which a development proposal can be formulated to develop the site. The Council acknowledge and recognise that there is ongoing communication with a prospective developer for the site. In overall terms, the Council consider the current policy wording to be more appropriate than the content of the EALDP (2017) (CD23), and reflective of significant consideration of the planning issues by numerous parties through consideration of the 2015 application and believe that it should be retained.

##### **Inclusion of “and/or restoration works to the Castle” (282), (283)**

The policy outlines that the Council support a scheme of consolidation works to the Castle and a scheme or restoration works to the Garden and Designed Landscape, including all associated structures and elements. The Council considers the suggested elaboration of the policy to involve the inclusion of restoration works to the Castle to be unnecessary. (282) and (283) argue that this would result in better long-term outcomes for the Castle and its ongoing maintenance. The Council considers TOUR6 to set realistic ambitions for the development of site RU-M2, which the Council considers to be a scheme of consolidation to re-instate or re-inforce the castle walls that remain on site in order to prevent further deterioration. This is very much tied to the necessary conservation deficit that the restoration of the castle would require; it is considered by the Council, based on experience in relation planning application reference

15/0676/PPP, that the cost of restoring the Castle could be so high and the subsequent conservation deficit so large that the level of enabling development required would in turn significantly and irreversibly detrimentally impact on the integrity, character and value of the garden and designed landscape. This would be in complete contradiction to a key purpose of allocating the Estate as a development opportunity site i.e. safeguarding the important historic asset of Loudoun Castle Estate. It is the Council's firm view that, on balance, the best realistic and viable outcome for the Estate is for the Castle to be consolidated and the Garden and Designed Landscape restored, and that this be enabled through suitably scaled enabling development. This is the basis for how the policy has been prepared. What the Council and policy TOUR6 do not promote, is the restoration of the Castle, facilitated by a level of enabling development that is not commensurate with the value and sensitivities of the Estate.

This being said, however, whilst the policy specifies that the Council support a scheme of consolidation works to the Castle, the Council does not consider this wording to be limiting nor does it prevent a subsequent application being submitted, as outlined to be the intention with (282) and (283), which is more ambitious. Such an application could be supported by the policy if it is justifiable in terms of scale, consequent conservation deficit and associated enabling development. The focus of the policy on consolidation it simply sets the Council's expectation for outcomes for the Castle.

Paragraph 225 states ***"It is recognised that all development proposals will result in competing considerations between the positive effects that the development will bring in terms of environmental, economic, social impacts and the potential detrimental impacts that the development will have on the landscape within which it is set"*** and recognises that ***"a balance between the environmental, economic and social impacts of the development and the value and capacity of the heritage assets must be reached."*** In response to the concerns raised by (282) and (283), the Council wish to highlight that subsection 'Requirement for the Castle and GDL and other Heritage Assets' states that ***"any enabling development must be of a scale which the surrounding landscape, infrastructure and services can accommodate"***. This statement does not limit the ambitions of a prospective developer in respect of restoration of the castle, however, it recognises that to insist upon nothing less than full restoration is likely to prove prohibitive to the site's future being secured, based upon work undertaken on conservation deficit during consideration of the 2015 application. This section goes on further to state that "Enabling development is required to secure: • a scheme of consolidation for the Castle..". The Council consider that this wording outlines a minimum requirement and does not state that more cannot be achieved on site given a sensitive and appropriately designed proposal. As such, the Council consider the current wording of TOUR6 to be appropriate.

**Note:** Respondents (282) and (283) explicitly request that "restoration for the Castle" be added to various sections of the policy, specifically subsections: ***Promotion of Development Opportunity Site: Loudoun Castle; Requirements for the Castle and Garden and Designed Landscape and other Heritage Assets, Phasing, Maintenance and Definitions (Page 127)***. For clarity and to avoid duplication within the Schedule 4, the Council's response above relates to all of these sections.

***Promotion of Development Opportunity Site: Loudoun Castle***

Developer Interest in RU-M2 involving the restoration of the Castle (282), (283)

The Council acknowledge and welcome the developer interest in RU-M2 with the view to restore the Castle. The Council understand the desire to see policy TOUR6 to be modified to specify support for the restoration of the Castle. However, as is outlined above, the Council do not consider this to be necessary as it sets the Councils expected outcomes for the Castle. It does not deter or prevent a more ambitious application to be submitted, nor does it prejudice the content of such an application. The merits of any proposal will be assessed on an individual basis through the planning application process.

Use of term sympathetic (282), (283)

Historic Environment Scotland's Managing Change in the Historic Environment: Gardens and Designed Landscapes publication (February 2020) (CD84) utilises the term "sympathetic" (pages 11, 12 and 20). On this basis, this is considered to be an appropriate term to utilise. The Council is of the view that sympathetic is a reasonable term to use within the context of this policy. The suitability of the development proposal will be contingent on how sensitively it has been designed in order to reduce detrimental impacts on the sites historic and natural assets. The term sympathetic is not prescriptive and is flexible. Instead, how sympathetic a proposal is will be assessed on an individual basis at planning application stage, following any pre-application discussions which should give applicants an idea of the appropriateness of their proposal. The Council does not consider it necessary to amend the policy on this basis.

***Hierarchy of Acceptable Uses***

Setting out a hierarchy for acceptable uses and the use of the term hierarchy (282), (283)

The Council strongly disagrees that the use of a hierarchy disproportionately binds the development to a less suitable scheme. The hierarchy of acceptable uses ensures, up front, a clear understanding of what constitutes an acceptable scheme in the view of the Council. In line with the findings of the Public Local Inquiry, this means that housing will only be acceptable if it forms part of a mix of uses, including tourism and leisure facilities and tourism accommodation. This is to avoid significant and irreversible detrimental impacts on the integrity, character and value of the garden and designed landscape, a key heritage asset on site and to ensure long term economic benefits are realised. For clarity, the Council through policy TOUR6 would not support the consolidation of the Castle, enabled purely by residential development. The policy wording, and in particular the inclusion of the hierarchy, makes this clear. The current wording, use of a hierarchy and hierarchical numbering (1, 2 and 3) is considered by the Council to be appropriate.

The Council is of the view that hierarchy is a robust, appropriate and reasonable term to use within the context of this policy, the ambitions for the development of RU-M2, the context of the planning history of the site and the associated outcomes of the Public Local Inquiry. The suggested term to replace 'hierarchy' is 'scope'. The Council do not

consider this suggested replacement term to be appropriate given the content of the policy. The current use of the term hierarchy is considered by the Council to be the most appropriate term to address the desired approach to be adopted by any subsequent developers for RU-M2.

Use of term might (282), (283)

The Council considers the current wording in the final paragraph of subsection 'Hierarchy of acceptable uses' and the use of the term might to be appropriate. (282) and (283) wish to modify with wording of the policy to ensure that the Council will be bound to consider an enabling development scheme which includes residential housing. The Council considers that it is evident throughout the policy that residential housing is considered to be an appropriate use on site, to facilitate enabling development, but only as part of a mix of other uses. The acceptability of the housing mix of any subsequent planning application is dependent on the specifics of a given application including a variety of factors such as scale, location and setting. Whilst it is considered that the current wording is adequate, it is noted that the suggested replacement wording (will) put forward adds a degree of certainty to prospective developers and applications. If the Reporter is minded to replace 'might' with 'will' in this section of the policy, the Council would have no objection to this amendment.

**Conservation Deficit**

Wording around conservation deficit (282), (283)

(282) and (283) provide suggested wording to expand this section of TOUR6, to state that 'tourism development that requires enabling development to secure and enhance the function and viability of the Castle Estate as a major tourism destination will be supported subject to an examination on an open book basis'. The Council disagree with the inclusion of this additional sentence. The Council clearly outline throughout the policy that enabling development will be considered, where necessary to meet a conservation deficit as a means to secure the heritage value of Loudoun Castle, with links to policy HE5: Enabling Development (which can be viewed in Issue 10). Paragraph 226 clearly states that *"the conservation deficit is defined as the amount by which the cost of consolidation and restoration exceeds its market value"* not to secure the Castle Estate as a major tourism destination, and thus, strongly disagree that it should be added into the policy.

Wording to specify costs of developing the leisure and tourism uses be included in deficit calculations (282), (283)

The Council considers that all of the development proposal (including the leisure and tourism uses) contribute to the conservation deficit calculations. This is explained and set out clearly within the Definitions (paragraph 26), which states that 'all development and proposed uses within the site should be considered and utilised to appropriately calculate an overall conservation deficit'. This is supported by the findings and conclusions (CIN-EAY-001, see paragraphs 4.65, 4.95, 4.99, 4.105, 4.141 and 13.27) of the Reporters appointed by Scottish Ministers for the planning permission in principle application recommended for refusal (15/0676/PPP) by East Ayrshire Council (CD82). The council do not agree that there is a need for this to be reiterated within the policy

as it is clearly laid out within the definitions.

### ***Requirement for the Castle and Garden and Designed Landscape and Other Heritage Assets***

#### ***Site Assets***

##### Wording to enable flexibility of judgement (282), (283)

The Council consider the current wording and format of TOUR6 to be robust and appropriate, outlining desired outcomes for Loudoun Castle Estate in terms of uses and impacts. However, the policy does not pigeon-hole development proposals, it is prescriptive to a degree which is appropriate but the Council consider the policy to be flexible, allowing judgements to be made on the part of the Council based on the information submitted by any applicant. The Site Assets section of the policy provides, for the information of any applicant, a description of the features of the site that must be considered in designing a development proposal. The onus remains on the developer as to how to best design and plan a development around these features. The merits and acceptability of a given application will be assessed on a case-by-case basis. As such, the council consider the current wording of this section to be appropriate.

##### Addition of term significant, or alternatively wording around other benefits (282), (283)

Loudoun Castle Estate is a complicated site, with a number of historic and natural assets and constraints. It is vitally important that any development proposal carefully considers these constraints and minimises any detrimental impacts to existing assets on site, as outlined within the current wording of the policy. (282) and (283) argue that the current wording sets a precedent against all development which will have adverse impacts and argue that this is in conflict with other sections of the policy which acknowledges that harm may occur. However, the Council strongly disagrees. The Council considers that wording around adverse impacts to be appropriate yet robust. The final sentence of the second paragraph outlines that development which has detrimental impacts on natural and historic asset features will not be supported, unless appropriate mitigation and enhancement features are proposed. Therefore the policy, as currently worded, can support development that will have a detrimental impact, but only when appropriate mitigation and enhancement measures are embedded in the proposal. This is considered entirely reasonable. The Council consider that the policy is worded to encourage and require proposals to be sensitive, and where impacts are likely to incorporate mitigation. As such, the Council disagrees with the addition of the term significant. However, if the Reporter is minded to include the term significant, this is favourable ahead of the suggested wording around “that is not outweighed by other benefits”, for which the Council strongly disagrees with the phrasing. This would facilitate other benefits to outweigh the current and future heritage value of the site. The primary reason for the allocation of RU-M2 as a miscellaneous development opportunity site is to safeguard the future of this heritage asset.

#### ***Application Requirements***

##### Wording around active travel (157), (270)



Although this is not explicitly mentioned within Policy TOUR6 in terms of application requirements, TOUR6 does state that ***“strong linkages with the existing communities of the Irvine Valley should be proposed”***. Any subsequent proposal must accord with all other applicable PLDP2 policies. This includes policy T3 which looks gives priority to proposals which *develop and promote new circular routes and path links between settlements and enhance green networks, especially where those connect with existing routes*.

Policy SS2, criterion (vii) requires proposals to ***“implement the relevant enhancement and mitigation measures contained within the Environmental Report where required in Volume 2 of LDP2”***. The Strategic Environmental Assessment of RU-M2 (CD47, Appendix 11.25: Rural Area) provides detailed mitigation measures in relation to natural features, natural resources and the social environment, including the requirement to retain and expand the core path and rights of way network. It specifies that ***“the development should not result in the removal or alteration of these routes”*** and that ***“it should be ensured that the site is as accessible as possible, directly linking to existing cycling and walking routes”***. As such, the Council considers that the comments raised by respondent (157) are already addressed through the current wording and policy framework of the PLDP2. The Council also wish to highlight that the ‘Loudoun Castle and Estate Supplementary Guidance’ will provide further detail and clarity in relation site requirements, including active travel provision. The Council do not consider that TOUR6 should be modified in line with the comments provided. The Council considers the current format of TOUR6 to be sufficiently detailed and lengthy. Although requirements relating to active travel are not specified within the policy, this is considered to be a degree of detail which is unnecessary and would result in the duplication of other policy requirements. Active travel provision, networks and connectivity would also be flushed out during any pre-application discussion with a prospective developer, as such, it is not necessary for this to be detailed within TOUR6 itself. The Council does not consider it to be necessary to amend the policy on this basis.

#### Wording around full planning application (282), (283)

TOUR6 outlines that the Planning Authority strongly encourages a full planning application for the development of the site as this is reflective of the complexities of the site, its heritage features as well as the intricacies surrounding any associated enabling development calculations. (282) and (283) suggest that the policy recognise the ability to submit an application partly in full and partly in principle, given that enabling development may be completed in phases. The Council consider the current wording of the policy to be appropriate and fair. Within the policy the Council “strongly encourage” submission of a full application but does not specify that this is a requirement. As such, the concerns raised by (282) and (283) can be addressed during pre-application discussions for any subsequent proposals with the Council. The level of information submitted is ultimately the decision of the applicant. However, the Council would argue that the content of the PLDP2 and allocation of RU-M2 gives support for the principle of a tourism and leisure development on site. The Council consider that the more detailed contents (compared to the contents of the EALDP 2017) (CD1) of TOUR6 alongside the associated Supplementary Guidance document should enable a more detailed proposal to be submitted by a subsequent applicant. As such, the Council do not consider it to be necessary to amend the wording to specify an application partly in full



and partly in principle.

**Note:** The comments provided above by respondents (282) and (283) in relation to the wording around the requirement for a “full planning application” within **Application Requirements** are also provided in relation to TOUR6 subsection **Masterplanning**. To avoid duplication within the Schedule 4, the Council’s response to these respondents above also applies to the requested modifications in the **Masterplanning** subsection.

#### Public transport provision and private vehicle traffic – (270)

Public transport is not provided by and is not within the control of the Council, and is instead operated by private companies. Nevertheless, PLDP2 Policy T1: Transport requirements in new development includes a number of conditions for all new development to ensure that all sites would meet requisite standards, in line with ARA policy.

In response to respondent (270) comments relating to concerning developments only being supported where they will not generate additional private vehicle traffic, the Council wish to highlight that PLDP2 seeks to avoid this. This principle is embedded into the PLDP2s Spatial Strategy which seeks to allow for better travel choice and access to sustainable forms of transport through the creation of 20 minute neighbourhoods and promotion of sustainable development locations. Proposals must accord with Policy SS2: Overarching policy, which sets out a requirement for development proposals **to “(iii) be located in accessible locations that reduce the need to travel”**. Through policy SS2 (v) proposals will need to accord with the requirements of Ayrshire Roads Alliance. As such, the Council consider that the current policy framework of the PLDP2 reflects the comments provided by (270) and no modifications are required.

#### Additional infrastructure required – (270)

The Impacts of local tourism on the environment and local communities are considered and addressed with the current policy framework of the PLDP2. TOUR1 takes cognisance of the impact that proposals can have on the surrounding infrastructure. TOUR1 (ii) states that the Council will support proposals which “*are compatible with the existing uses and / or surrounding area in terms of the nature and scale of the activity and impacts of increased visitors*” and criterion (iii) requires that proposals “**do not adversely impact on communities**”. The PLDP2 contains a robust policy framework with regards to waste management (policies WM1-WM4). Policy WM1 sets a requirement on all development proposals to maximise waste reduction and waste separation.

In relation to the specific infrastructure mentioned within the respondents (270) comments (bins and toilet facilities), depending on the proposal this detail will be submitted by the applicant as part of the planning application process. The merits of each application will be considered and assessed on an individual basis.

#### Engagement with the local community – (270)

The Council acknowledge the comments by the respondent relating to engagement

with the local community. The planning system facilitates opportunities for local community members to engage, including the preparation of development plans and supporting documentation such as Placemaking Maps and Local Place Plans, as well as during the Development Management process where decisions are made on proposals. Local community members, visitors and residents are able to submit representations on any given planning application to ensure that their views are heard in the determination process. For larger scale applications such as national and/or major developments, pre-application consultation with local communities is required before finalising a proposal. The Council consider the respondents comments to be addressed within the parameters of the planning system.

### ***Phasing***

#### Inclusion of “and/or restoration works to the Castle” (282), (283)

(282) and (283) support the need for a phasing plan, but object to the wording being limited to consolidation of the castle and not restoration. As outlined above, The Council considers the suggested elaboration of the policy to involve the inclusion of restoration works to the Castle to be unnecessary. See explanation above in section ***Promotion of Development Opportunity Site: Loudoun Castle.***

### ***Maintenance***

#### Inclusion of “and/or restoration works to the Castle” (282), (283)

(282) and (283) support the long-term maintenance and management of the Castle and Garden and Designed Landscape but reiterate that the best way of achieving this is through the restoration of the Castle. The Council considers TOUR6 to set realistic ambitions for the development of site RU-M2, which the Council considers to be a scheme of consolidation to re-instate or re-inforce the castle walls that remain on site in order to prevent further deterioration. The policy specifies that the Council support a scheme of consolidation works to the Castle, the Council does not consider this wording to be limiting nor does it prevent a subsequent application being submitted, as outlined to be the intention with (282) and (283), which is more ambitious.

#### ***Figure 19: Loudoun Castle – Areas with potential for sensitive development in accordance with TOUR6 requirements***

#### Removal of areas with potential for sensitive development (i.e. Figure 19) (282), (283)

Figure 19 was produced utilising the findings of Peter Drummond Architects Ltd (Conservation Architects) who were commissioned by the Council to review both Inventory and Non-inventory Gardens and Designed Landscapes in East Ayrshire, including Loudoun Castle Estate. The contents of Report 2: Loudoun and Cessnock (February 2022) (CD51) were utilised to produce Figure 19, this included a map which illustrated possible development sites (subject to visual impact assessment). Figure 19 is illustrative and indicative area to aid developers in assessing the most constraint free areas suitable for sensitive development within the site. As stated within TOUR6, subsection ‘Masterplanning’ “there Masterplan will be expected to appropriately reflect the areas with the most potential for development as per Figure 19..’. This clearly

states that the areas are reflective of areas with the “most potential”, not the only potentially suitable areas for development within RU-M2. It is not for the Planning Authority to outline exactly where development should take place; this will depend on the detailed site survey work required as part of a planning application. The Council’s intentions with the amendments made with this policy to Rural Area 4 (Volume 2) of the EALDP (2017) (CD23) was to be more upfront with its expectations in light of the findings and outcomes of the PLI. Figure 19 is included to be an illustrative tool, not a prescriptive illustration of where development will be permitted. (282) and (283) express concerns that Figure 19 will constrain development to these areas. It is up to any subsequent developer to utilise the policy, consider all relevant and necessary constraints and design a site proposal which meets the requirements of TOUR6. As such, the Council disagree with the removal of Figure 19 and its contents.

#### Addition of more areas to Figure 19 (282), (283)

As outlined above, (282) and (283) request the removal of the identification of areas with potential for sensitive development which is the purpose of Figure 19. However, (282) and (283) alternatively suggest that three additional areas be identified. The Council do not consider this to be necessary. The policy section which refers to Figure 19, ‘Masterplanning’, highlights that this illustrates areas with the “most potential”. As such these are not the only potentially suitable areas where there is capacity for development within RU-M2... As outlined above, Figure 19 was included to be an illustrative tool, not a prescriptive illustration of where development will be permitted. It is up to any subsequent developer to utilise the policy, consider all relevant and necessary constraints and design a site proposal which meets the requirements of TOUR6. As such, the Council do not agree that the figure should be amended to include the additional areas outlined by (282) and (283).

#### **Site Boundary**

##### **Boundary of RU-M2 and associated Figures 18 and 19 - (197), (282), (283)**

Two separate modifications to the boundary have been requested by respondents.

(282) and (283) request that the extents of RU-M2 be amended in Figures 18 and 19 to match the landownership of 15/0676/PPP application (CD (CD82) which was refused by East Ayrshire Council and at PLI. It is the view of the Council that the current extents of RU-M2 are appropriate. This reflects the current allocation within the EALDP (2017) (CD23). (282) and (283) argue that some of the land is outwith the ownership area of a prospective developer. While the Council acknowledges the concerns raised that the current boundary could make a comprehensive approach to the development of the site, the Council disagrees. The Council do not consider this to merit amending the boundary. The prospective developer in question can submit a proposal within the RU-M2 area, as identified within Figures 18 and 19, which relates solely to the area within their ownership at a scale of their choosing. The whole area within the extents of RU-M2 is not necessarily suitable for development. It is up to the applicant to research and determine the most suitable areas for development, which they have the ability to develop, in line with constraints of the site. As such, the Council strongly disagree with amending the boundary of RU-M2 and in turn Figures 18 and 19.

(197) requests RU-M2, and thus in turn Figures 18 and 19, be modified to include and incorporate land at Barr Wood, Galston (see map GA-X9). This site is located to the south of the A71 and to the west of the settlement of Galston. It is some distance from the current extents of the RU-M2 allocation as illustrated in Figures 18 and 19. The Council do not consider there to be any basis for inclusion of this site as part of RU-M2, particularly bearing in mind that a prime reason for allocating RU-M2 is to safeguard the important historic assets of the site. The same justification cannot be applied to land at Barr Wood. In addition, the Barr Wood site was not submitted as part of the Call for Sites for the Main Issues Report, nor was it submitted following the MIR which would have been an appropriate time for considering the site for leisure and residential uses as outlined by (197). A summary of the Council's response to this site can be viewed in Issue 33. The Council strongly disagrees with amending the boundary of RU-M2 and in turn Figures 18 and 19.

***Page 127 (Definitions to be referred to in relation to TOUR6)***

Scheme of restoration works to the Castle be added to definitions on page 127 (282), (283)

As outlined above, the Council do not consider it necessary to amend the contents of policy TOUR6 to specify a scheme of consolidation and/or restoration for the Castle. As such, the Council do not agree the definitions provided on page 127 should be amended. See detailed explanation above. If the policy content is not amended, then the definitions do not require amending.

***Other***

Wording around support provided by Council in the application of grants (282), (283)

The Council consider the current content and wording of the policy to be appropriate. The Application Requirements section specifies that early discussions with the council are encouraged and that appropriate communication is maintained at all times. This highlights that the Council are open to ongoing communication and involvement in the application preparation process. This does not specify or limit what this communication is in relation to, as such, this could potentially include support around the application for grants that will reduce the conservation deficit and in turn the need for enabling development. While the Council understands the desire to have this specified explicitly in policy, the Council are of the view that this is disproportionate and unnecessary. The Council consider involvement in applications for grant funding on a case-by-case basis, in order to achieve the most appropriate outcomes for the site, however, it is the responsibility of the developer to ensure the financial viability of their proposed development. The Council want to see an application come forward for the development of RU-M2 and the proposal to proceed. However, it is not appropriate for the Council to specify explicit support for a grant application without knowing any detail. As such, the Council do not consider it to be appropriate to integrate this into TOUR6.

Consideration of wider plans, networks and infrastructure to meet net zero (165)

The Council acknowledge the comments made by (165). The Proposed Plan contains a host of other policies which would be applicable should an application to develop

Loudoun Castle Estate be submitted for consideration by the Council.

#### Visit Scotland Quality Assurance Scheme (165)

The Council acknowledge the comment made by (165). However, this is not a planning requirement and will be up to the subsequent applicant to decide if they wish to include and complete a Visit Scotland Quality Assurance Scheme.

#### Collaborative working and consulting Visit Scotland at concept state (165)

The Council acknowledge the comment made by (165). However, this is not a planning requirement and will be up to the subsequent applicant to decide if they which to engage and consult with this body.

#### Affordable Local Housing Provision – (270)

The Council wish to highlight that the PLDP2 identifies a host of residential development opportunity sites for delivery within the Plan period. Within the settlement of Galston, to the south of RU-M2, two residential development opportunity sites have been allocated: GA-H1 (indicative capacity of 144) and GA-H2 (indicative capacity of 17). In the nearby settlements of a number of housing sites have been allocated: Hurlford (to the west) site HU-H1 (indicative capacity of 100 units), Darvel (to the east) DL-H2 (15 units), DL-H2 (27 units), DL-H3 (40 units) and DL-H4 (21 units). As such, the council consider that the PLDP2 has accommodated residential growth with the local area of RU-M2 which would facilitate local housing provision for staff as well as the local community. Within the PLDP2, policy RES2 sets requirements relating to affordable housing provision within housing sites, any subsequent residential development would need to accord with this, where applicable. In overall terms, the Council consider the current contents of the PLDP2 to address the points raised by respondent (270).

### **Reporter's conclusions:**

#### **Volume 2**

1. The presence of local nature conservation sites and other environmental assets within the wider site is already clearly stated in the policy. No further reference to these assets is therefore required.

#### **Boundary of site RU-M2**

2. The merits of site GA-X9 Barr Wood as a development opportunity are discussed at Issue 33. This land is divorced from the Loudoun Estate and does not appear to have any functional connection with it. I therefore conclude that there is no case to include this land within site RU-M2.

3. I note that the boundary of site RU-M2 does not appear to precisely match the ownership boundary of the current prospective developer. However, the policy contains no requirement for any application to cover the entirety of the site. There therefore appears to be no necessity for the site boundary as shown on the proposals map, or on



figures 18 and 19, to match the land ownership boundary. It also seems to me that the areas not currently under the prospective applicant's control do nevertheless have something of a functional relationship with the remainder of the estate, in landscape terms at least, and on this basis there is a logic to including these areas. In particular, the area in the north-east of the site is shown as an area with potential for sensitive development in figure 19 of the plan. It therefore seems important that this area is included. The site boundaries shown on figures 18 and 19 should match that shown on the proposals map. No modification is required.

### **Policy TOUR6**

4. The proposed policy makes various references to the consolidation of the Castle, and it is clear that this is one of the council's main objectives for the policy. It does not refer to restoration. The council does not consider restoration to be a realistic prospect, and believes that the level of enabling development that would be required in order to finance this would be excessively detrimental to the garden and designed landscape. It appears that the council is not opposed to the idea itself of restoring the castle, but would not support the level of other development that it believes would be necessary to enable this to happen.

5. It is my view that Policy TOUR6 as currently written sensibly focusses on the planning considerations that are to be applied under the apparently most likely scenario of there being a scheme of consolidation works for the castle. I am also prepared to accept that the level of enabling development that would be required to fund a full restoration of the castle would be likely to be much more extensive, and hence more likely to damage the integrity, character and value of the garden and designed landscape. However, I agree that the restoration of the category A listed castle would (assuming this was sensitively carried out) be a good outcome, even if it is relatively unlikely to be achievable.

6. The representees appear to be indicating that the restoration of the castle may be a possibility. It would be unfortunate if anything in the wording of Policy TOUR6 could be interpreted as preventing this from happening. However, it seems to me that the focus and scope of Policy TOUR6 is on the enabling development, and not on the works to the Castle itself. The enabling development is linked to the consolidation, not the restoration of the Castle, for the reasons stated. Any restoration works, if they required planning permission or listed building consent at all, could be considered under Policy HE1 and NPF4 Policy 7. I read nothing in Policy TOUR6 that indicates that full restoration would be resisted. On this basis I conclude that additional references throughout Policy TOUR6 to the possible restoration of the Castle are unnecessary.

7. I do not find the use of the word 'sympathetic' in paragraph 2 of the policy to be problematic. This seems to me to simply summarise the positive outcome for the estate and the associated garden and designed landscape that the policy is seeking to realise. No modification is required.

### Hierarchy of Acceptable Uses

8. An objective of Policy TOUR6 is clearly to secure the consolidation, restoration or protection of the various heritage assets on the estate. But it is also clear that the



council's vision for the site is also to promote it for tourism, leisure and tourism accommodation purposes. On the other hand, there is no wider strategic requirement for the site to be used for housing purposes. I concluded at Issue 17 that the housing land allocation made in the plan was more than sufficient to meet the minimum all tenure housing land requirement, and that there was no need to allocate additional sites. Given these circumstances, it is appropriate that the council, and Policy TOUR6, should express a preference for tourism-related uses ahead of housing in the way that it does. No modification is required.

9. It is clear from the inclusion of housing among the hierarchy of acceptable uses that the council may consider housing proposals to be acceptable in certain circumstances. But it is in the nature of the hierarchy approach that, should it be shown that sufficient value could be generated by tourism-related uses alone, then housing may not be required. I therefore consider that the phrase 'the council might consider housing .. to be acceptable' in the paragraph following the hierarchy is accurate. No modification is required.

#### Conservation deficit

10. 'Enabling development' is defined in the glossary to NPF4 as development that would otherwise be unacceptable in planning terms, but is essential, to secure the future of an historic environment asset or place which is at risk of serious deterioration or loss. In a Scottish planning context, this concept therefore appears to be limited to development tied to historic environment assets. I therefore do not find any basis in national policy to support the application of the enabling development concept to the cross-funding of other types of development such as tourism development.

11. I would not rule out the possibility that such arrangements could be considered in some circumstances. But I have no convincing evidence before me to indicate that either that tourism-related development at Loudoun Castle is so beneficial as to justify other development that would otherwise be unacceptable, or that tourism-related development is unviable without a cross-subsidy. For these reasons I conclude that no reference should be added to enabling development to support tourism uses, and that tourism-related uses should not be included in the calculation of the 'conservation deficit'.

12. I discuss the matter of whether affordable housing requirements should be applied to enabling development at Issue 16.

#### Requirements for the Castle and garden and designed landscape and other heritage assets

13. The focus of Policy TOUR6 is the safeguarding of the historic and environmental assets. Active travel and public transport accessibility will be important considerations in the design and assessment of any proposals, but can largely be considered under other generic policies of the plan. Most notably, Policy T1 requires developers to fully embrace new active travel infrastructure and public transport.

14. Regarding site specific matters, the council points to the mitigation measures relating to core paths, rights of way, cycling and walking routes set out in the

environmental report. These are to be implemented under the provisions of Policy SS2. The council also points to the forthcoming supplementary guidance as providing a suitable vehicle to contain further policy on active travel at this site. As regards vehicle traffic, any proposals can be designed to maximise the attractiveness of public transport, but it would seem unrealistic to suppose that tourism-related development in this rural location would not have some reliance on the private car. I am satisfied that this matter is, or will be, suitably covered, and I conclude that no modification is required.

15. I discuss the provision of affordable housing more widely across the plan area at issues 16 and 17. There I found there to be an apparent surplus in the affordable housing land supply for the Kilmarnock and Loudoun sub housing market area. More locally, the plan makes provision for new housing development in Galston that would be required to include an affordable housing component. I do not see any necessity for affordable housing for staff to be made available on site, unless a particular justification for this is provided at the time of any planning application. I conclude that no reference to affordable housing is required in this policy.

16. I am satisfied that the generic policies of the plan adequately cater for ensuring that the infrastructure required to support rural tourism is provided and negative impacts on local communities are avoided. Most notably Policy TOUR1 requires new tourism development to be compatible with the surrounding area in terms of the impacts of increased visitors, and to avoid adverse impacts on communities. Policy WM1 addresses the needs for waste management in new development. No modification is required.

17. Planning legislation builds in opportunities for the local community to engage in decision-making, including consultation on development plans and planning applications, the requirement for developers to undertake pre-application consultation on major planning applications, and local place plans. I am satisfied that there is no need to add additional text to Policy TOUR6 relating to this matter.

#### Site Assets

18. This section of the policy seeks to avoid any adverse impacts on a list of natural and historic features. The features listed range from nationally important assets, such as the A-listed Castle itself, to assets of local importance, such as local nature conservation sites and C-listed buildings. These different types of asset are all subject to their own detailed policies elsewhere in the plan, and it would be impractical and unnecessary for Policy TOUR6 to set out the full policy test applicable to each.

19. I have some sympathy with the argument that it may be unrealistic to expect all detrimental impacts to be avoided, particularly to assets of only local importance. However, the thrust of Policy TOUR6 is to set out exceptional circumstances where development that would not normally be permissible in this rural location could be entertained in order to achieve certain defined environmental and cultural benefits. In these circumstances, it may be permissible for the policy to include more stringent tests with regard to the protection of these environmental and cultural assets than would be applied elsewhere.

20. The plan is to be read as a whole, and therefore I do not consider it necessary to include a cross-reference within Policy TOUR6 to the other policies of the plan that contain the detailed tests relating to the named assets. However, I consider that it would be preferable for the requirements set out in Policy TOUR6 to refer to avoiding 'significant' adverse impacts, because some minor effects, particularly on assets of only local importance, may be found to be acceptable in the overall planning balance. I note that the council, above, prefers this wording to suggested alternatives. I recommend a suitable modification below.

#### Application requirements/ Masterplanning

21. Given the complexities of this site, I agree that the submission of a detailed planning application would generally be preferred over an application for planning permission in principle. This would allow the potential impacts on important environmental and historical assets to be fully considered at the same time as agreeing to the principle of the development.

22. I acknowledge the representees' arguments in relation to the potential phasing of the housing element, changing market forces and grant availability. However, ultimately the type of planning application submitted is within the gift of the applicant. It is also the case that the proposed policy wording only encourages the submission of a full planning application, and does not require this. On this basis I conclude that no modification is required.

#### Figure 19: Loudoun Castle – Areas with potential for sensitive development in accordance with TOUR6 requirements

23. In general, I find the inclusion of an image like figure 19 to be useful in that it gives clear spatial guidance to potential developers, and would seem to respond well to the aspiration for LDPs to include more graphical and place-based material. My preference is therefore to retain this figure.

24. The 'areas with potential for development' appear to arise out of a robust piece of work in the form of the Loudoun and Cessnock Designed Landscapes Report. The maps attached to this report refer to these areas as 'possible development sites'. I also note that the Masterplanning section of Policy TOUR6 refers to these as 'areas with the most potential for development'. Neither of these references appear to rule out the possibility of some development taking place elsewhere.

25. However, figure 19 itself refers to 'areas with potential for sensitive development', and not to 'areas with most potential'. This wording does seem to imply that other areas do not have potential, as well as being out-of-alignment with the earlier wording in the Masterplanning section. I therefore consider that the wording in figure 19 should be amended to refer to 'areas of most potential'. This change should also go some way to alleviating the representees' concerns that the figure is too restrictive towards the possibility of development elsewhere.

#### Other Matters

26. In the main, I consider that applications for grant funding would be a separate

matter to the statutory planning system, and therefore not a matter that it is necessary to discuss in a LDP. The representees discuss a scenario under which grant-funding could be referred to in a Section 75 agreement, or could be linked to amended housing layouts. However, these scenarios appear rather speculative at this stage. I also consider I would be overstepping my remit if I were to seek to commit the council to supporting particular grant applications through a modification to the LDP. No modification is required.

27. Visit Scotland makes a variety of wider points relating to tourism, and to Policy TOUR1 of the plan, that it considers are also applicable to Loudoun Castle. The matters raised are discussed at Issue 19.

#### **Reporter's recommendations:**

I recommend that:

1. The phrase 'adverse impacts' in the third sentence of the first paragraph of the 'Site Assets' section of Policy TOUR6: Loudoun Castle Estate Garden and Designed Landscape be deleted and replaced with 'significant adverse impacts'.
2. The phrase 'detrimental impacts' in the second sentence of the second paragraph of the 'Site Assets' section of Policy TOUR6 be deleted and replaced with 'significant detrimental impacts'.
3. The phrase 'Areas with potential ...' in the title and the key to figure 19 of the plan be deleted and replaced with the phrase 'Areas of most potential ...'.

Issue 45	Miscellaneous	
Development plan reference:	Comments relating to general plan-wide matters, the introduction and general comments on Kilmarnock town centre and volume 2	Reporter: Stephen Hall
Body or person(s) submitting a representation raising the issue (including reference number):		
E Robin (88) Joyce McCamon (94) SEPA (106) Scottish Wildlife Trust (110) G Cowley (117)		John Murphy (131) REG/ESB (145) ScottishPower Renewables (196) SportScotland (258) Kilmaurs Community Council (236)
Provision of the development plan to which the issue relates:	Plan-wide matters and those matters that cannot be easily grouped into policy or spatial issues.	
Planning authority's summary of the representation(s):		
<p><b>Relationship between LDP2 and NPF4 – entire Plan</b></p> <p><u>ScottishPower Renewables (196)</u></p> <p>A number of concerns are expressed around the way LDP2 has taken on board the national policy position. These are summarised as:</p> <ul style="list-style-type: none"><li>• In terms of the Plan in its entirety, the Plan does not set out how EAC intends to operate the new statutory development plan, when it comprises both LDP2 and NPF4;</li><li>• There is no need for LDP2 to duplicate NPF4. LDP2 should avoid setting overlapping but inconsistent policy tests, as this will generate confusion and lead to policy conflicts. However, it is considered that there is indeed conflict between the LDP2 policies and the Draft NPF4. Several Proposed LDP2 policies have introduced increased protections and diverge from SPP and NPF4, notably in relation to wild land and the historic environment. This will cause conflict between local and national policy.</li><li>• LDP2, across many proposed policies, reflects the Draft NPF4, yet it does not recognise that the draft holds only limited weight and will be subject to change. This change could be significant and this approach could therefore result in conflict between LDP2 and NPF4.</li></ul> <p>In order to resolve the above issues, it is suggested that all policies and criteria that duplicate policies within the draft NPF4 should be recast and simplified. LDP2 should:</p> <ul style="list-style-type: none"><li>• Reference the policy coverage provided by NPF4, without duplicating text from the draft NPF4;</li><li>• Highlight the relevance of the policy for the LDP2 spatial strategy and then focus</li></ul>		

on where NPF4 require details or implementation mechanism to be provided locally through LDPs;

- Different or additional criteria/tests should only be included in LDP2 if there are policy gaps or a strong justification for further criteria to address local circumstances.

In order to action the above, it is suggested that a modified plan should be published and before proceeding to Examination. This would allow it take account of the draft revised NPF4 and should not affect the application of the transitional provisions.

#### RES / ESB (145)

In some parts of the Proposed LDP2, the wording should be changed to ensure it aligns with national planning policy, thus avoiding anomalies between local and national policies.

### **Relationship between the policies of the Plan**

#### ScottishPower Renewables (196)

It is unclear how the overarching policies of the Plan will be applied, in relation to both LDP and national policies, to balance planning decisions. Further clarity is required in the Plan regarding policy priorities, integration and hierarchy. Currently the plan presents a series of individual policies with limited direction as to how they will interact with each other and with national policy. The overarching policies could therefore lead to confusion and inconsistency in decision making. Similarly, how will the consideration of the climate emergency through policy SS1 be implemented in practice. It is recommended that significant weight should always be afforded where there is a positive contribution towards emissions reduction.

### **General comments on the Plan**

#### G Cowley (117)

The Plan documents are not easily readable and do not give any specific detail. They are full of meaningless pictures and maps.

#### John Murphy (131)

Why not help develop rural areas before redeveloping Kilmarnock again

#### Kilmaurs Community Council (236)

Brownfield sites should be built on before encroaching on green space

### **Comments on Introduction**

#### Scottish Wildlife Trust (110)

Paragraph 6 recognise the Climate Emergency, but fails to mention the equally serious



Biodiversity Emergency.

**General comments and suggestions on Kilmarnock town centre**

Joyce McCamon (94)

There should be additional seating beside the grass at Titchfield Street (Kilmarnock). Some musical bars for children to play on along the wall beside the river. Former BHS could be divided into sections for business enterprise, low cost to rent, open to the public and high schools. More adult clothing shops. Anything in the town would be welcomed. Children have to go to Renfrew for a skatepark. This would be an asset for the town in the say the old safeway grounds (Glencairn retail park)

G Cowley (117)

Kilmarnock town centre needs to be prioritised, in order to attract people to the town. King Street should have its own Plan and the Council should pro-actively promote the town centre. The multi-storey car park should be knocked down. It relation to housing in the town centre, what impact will this have on schools, hospitals and doctors. This infrastructure needs to be in place. The policy of the Council to promote homeworking is detrimental to the town centre economy.

**General Comments on Volume 2**

Eric Robin (88)

There is a major problem with Burn Road.

SEPA (106)

When a watercourse is within or immediately adjacent to a site, a developer requirement should be attached to the site to ensure that the watercourse is not culverted and that a maintenance buffer strip of at least 6m.

When there are culverted watercourses within or immediately adjacent to a site, a developer requirement should be attached to the site requiring a feasibility study including an FRA to assess the potential for channel restoration.

SportScotland (258)

Provide comments in relation to CH-H3: Dalgeish Avenue (Cumnock) stating that the Primary school only has one grass football pitch. SportScotland has no objections to the site so long as the new school replaces this provision/facility.

**Modifications sought by those submitting representations:**

**Relationship between LDP2 and NPF4 – entire Plan**

Scottish Power Renewables (196) and RES/ESB (145) would like changes improve consistency between NPF4 and the LDP2. 196 sets out specific actions that should be undertaken. LDP2 should:

- Reference the policy coverage provided by NPF4, without duplicating text from the draft NPF4;
- Highlight the relevance of the policy for the LDP2 spatial strategy and then focus on where NPF4 require details or implementation mechanism to be provided locally through LDPs;
- Different or additional criteria/tests should only be included in LDP2 if there are policy gaps or a strong justification for further criteria to address local circumstances.

### **Relationship between the policies of the Plan**

ScottishPower Renewables (196) require that the Plan provide greater clarity on how the policies of the Plan will operate together in practice and the relationship with the policies of NPF4 .

### **General comments on the Plan**

G Cowley (117) no specific modifications are suggested

J Murphy (131) no specific modifications are suggested.

Kilmaurs Community Council (236) no specific modifications are suggested

### **Comments on the introduction**

It is assumed that SWT (110) would like to see the Biodiversity Emergency referred to in paragraph 6.

### **Comments and suggestions on Kilmarnock town centre**

J McCamon (94) and the G Cowley (117) make various suggestions of the matters that should be included in the Plan in relation to Kilmarnock town centre.

### **General comments on Volume 2**

E Robin (88) no specific modifications are suggested.

SEPA (106)

A developer requirement be attached to all sites containing or adjacent to a watercourse, to ensure that the watercourse is not culverted and that a maintenance buffer strip of at least 6m is provided.

A developer requirement be attached to all sites containing or adjacent to a culverted watercourse, to explore the potential for channel restoration.

### **Summary of responses (including reasons) by planning authority:**

### **Relationship between NPF4 and LDP2**

**Potential conflicts between NPF4 and LDP2 (196) (145)**

The Council notes the concerns raised regarding the relationship between the Proposed LDP2 and the draft NPF4. In general terms, due to the timing of the LDP2 process and the publication of the draft NPF4, the Council took the decision that the Proposed Plan should, where appropriate, take on board draft NPF4. Whilst it was acknowledged that the draft would be subject to change as a result of consultation, the alternative scenario, whereby the Proposed Plan would not take on board the draft NPF4 was considered by the Council to create a greater risk i.e. the Proposed Plan would be significantly out of line with the finalised NPF.

The Council accepts that it would have been preferable for the NPF4 to be published before the finalisation of the LDP2 Proposed Plan. However, the time taken to get to that stage with NPF4, meant this was not possible. The transitional arrangements (CD25) required the Plan to have been at published Proposed Plan stage by the end of June 2022. In addition, it is noted that the current adopted LDP reached its 5 year nominal lifespan in April 2022, meaning there was significant urgency to producing Proposed LDP2.

The Council recognises that there are some disparities between the National Planning Framework and LDP2 Proposed Plan. Where such issues are in the scope of the Examination i.e. relate to unresolved objections, the Council has responded to the detail within the relevant Schedule 4 form. For clarity, where these are outwith the scope of the Examination, it is the Council's position that, as it is anticipated that LDP2 will be adopted after NPF4, LDP2 would take precedence over NPF4 where there are any differences as, as part of the Planning (Scotland) Act 2019, legislation will come into effect that in the event of any incompatibility between a provision of NPF4 and a provision of a local development plan, whichever of them is the later in date will prevail. In this case, the Local Development Plan.

The issue of there being differences between national planning policy and Local Development Plans will not be unique to East Ayrshire, as across Scotland it will take time for national and local policy to come into line with each other. In most instances, National Planning Framework 4 will when adopted, take precedence as the most up-to-date part of the development plan, however, it will be unlikely to be entirely consistent with all adopted local development plans. Until the next round of LDPs are produced that are able to take on board NPF4, Development Plans across the board will be complex and decision making subsequently complex. This is considered a largely unavoidable consequence of the new statutory status of NPF4.

It is the Council's view that in terms of overall vision and policy direction, the NPF4 and LDP2 Proposed Plan are aligned. Differences in policy wording and criteria are not substantive and will not undermine the planning process within East Ayrshire. There is not a therefore a necessity to publish a modified Plan and it has never been suggested to the Council by the Scottish Government in various discussions during plan preparation that pausing the Plan would be a better scenario, and the intent of the Council to produce a Plan was known in 2019.

**Relationship between the policies of the Plan**

**Interaction between the policies of the Plan (195).**

195 questions how the policies of the Plan will work together, and in particular, how the overarching policies will be used in practice. The Council considers the structure of LDP2 to be broadly similar to the current adopted LDP, in so far as they are made up of thematic policies, a range of which will be applicable to any development proposal, depending on its nature and scale. It is the job for the decision maker to consider a proposal against all relevant policies and come to a balanced planning judgement. The Council sees no difficulty in achieving this with LDP2. With particular regards to overarching policy SS1, this is intended to ensure that the climate emergency be given consideration in preparing and then assessing all development proposals, recognising that taking action on climate change should be a key driver for all development across East Ayrshire. The Council consider SS1 a critical part of LDP2. In terms of how it will work in practice, the Council considers it will be similar to the current overarching policy of the adopted Plan; OS1 of the adopted Plan is applied to all developments, before relevant thematic policies are then assessed. SS1 and similarly, SS2 of LDP2, will ensure that regardless of the nature of the development, the climate emergency and other cross-thematic requirements will be taken into consideration in decision making. This is considered an entirely reasonable approach for a Development Plan to take.

The interaction between the policies of LDP2 and NPF4, is sufficiently addressed in the section above under '*Relationship between NPF4 and LDP2*'.

### **General comment on the Plan**

#### Readability of the Plan (117 )

The council disagrees that Proposed Plan is not easily readable. Whilst some terminology is unavoidably technical, effort has been made to make the Plan accessible and understandable to people who may not be familiar with Planning documents. The maps are necessary inform the spatial strategy and particular policies, whilst photographs in the Plan are intended to make it a more attractive document to read and to help illustrate particular policies or sites.

#### Balancing between developing Kilmarnock and the rural area (131)

In terms of developing the rural area, before redeveloping Kilmarnock, a key part of the spatial strategy of the Plan is to direct development to settlement locations, rather than the rural area. This is considered to be fully in accord with SPP, NPF4 and good practice in terms of planning for sustainability and placemaking. This emphasis of the Plan is important and should not be changed. However, the Plan does not ignore the rural area; there are several significant site allocations with it (e.g. RU-M1 (Barony colliery) and RU-M2 (Loudoun Castle)). The Plan also introduces proactive policies that seek to encourage appropriate developments and improvements in the rural area (e.g. SS5: Coalfield Communities Landscape Partnership, SS6: Galloway and Southern Ayrshire Biosphere and TOUR 3: Rural sporting, leisure and recreational activities). It is the view of the council that the Plan sets the correct balance in terms of sustainably directly developments to settlements, whilst at the same time supporting the rural area.

## **Balance between the brownfield and greenfield**

### Priority to brownfield development (236)

Through the land allocations of the Plan the Council has, where possible prioritised brownfield sites over greenfield sites. However, to meet the Minimum all tenure housing land requirement (MATHLR) it has not been possible to allocate site solely on brownfield land; some greenfield site are required. It is also noted that policy SS2 of the Plan prioritises development on brownfield land, whilst policy SS4 gives support and encouragement to the take up of vacant and derelict land. On balance, the council is firmly of the view that the Plan sufficiently prioritises the development of brownfield land over greenfield.

## **Comments on the introduction**

### Biodiversity emergency within the introduction (110)

For the purposes of background and context, paragraphs 6 to 9 of the Plan outline some of the key changes in East Ayrshire since the adoption of LDP1. The paragraphs are not all encompassing, but rather give a flavour of changes across a wide spectrum of planning matters. The Council does not consider it necessary for the biodiversity emergency to be described here. The Plan, through the spatial strategy and policies (particularly OS1, NE4 and NE5) sufficiently and positively addresses the biodiversity emergency and modifying paragraph 6 would not be of any particular merit.

## **Kilmarnock town centre**

### Suggested improvements to Kilmarnock town centre (94), (117)

In general terms, the Council is of the view that the comments of 94 and 117 relate more to the Kilmarnock Town Centre Framework (Supplementary Guidance), than to the Proposed Plan itself. They comments will therefore be taken into account in finalisation of the Supplementary Guidance.

In terms of the issues raised, it is not considered that any changes are required to the Plan. The suggestions outlined by 94 are not, in the view of the Council, matters for the Development Plan to take on board as they relate either to commercial/private sector market matters or small scale public realm improvements. The policies of the Plan would support, in principle, support a skate park in the town centre (TC2).

In response to the comments from 117, the preparation of the Kilmarnock Town Centre Framework, demonstrates the importance the council and the Plan place on supporting and regenerating Kilmarnock town centre. The network of centres and the policies of the Plan have been prepared to ensure Kilmarnock town centre remains a key focus for all footfall generating uses. Policy INF4 will ensure that should housing developments come forward in the town centre, there is a mechanism in place to ensure that infrastructure is sufficient to support it and to seek developer contributions if necessary.

## **General comments on volume 2**

### Issue with Burn Road (88)

The Council is unclear what the representation in relation to Burn Road is intended to address. It is assumed it is in relation to site DL-H1 Burn Road, Darvel, but no further indication is given as to what the concerns are. The council do not therefore consider it would be appropriate or possible to respond to this representation.

### Developer requirements be attached to sites containing or near watercourses (106)

The Council agrees with the general appropriateness of the measures suggested. However, it is considered likely that by adding these requirements on a site-specific basis, instances where these requirements would be appropriate can be missed. Therefore, it was considered more appropriate to include these requirements as part of the policies of the Plan, where they form part of policy NE12: "The Council will not be supportive of developments which will, or which have the potential to, cause significant adverse impacts on water bodies as a result of morphological changes to water bodies such as engineering activities in the form of culverts or changes to the banks or bed." With regard to the maintenance buffer strip, Policy NE12 reads: "Maintenance access buffer strips of a minimum 6 metres in width should be provided between the development and the adjacent watercourse". As such, it is considered that this is sufficiently covered in the current wording of the Plan.

In relation to the restoration of already culverted watercourses, Policy CR1(iv) supports "avoiding the construction of new culverts and the opening of existing culverts". This is considered sufficient to achieve channel restoration where deemed appropriate, and as such no amendment to the Plan is deemed necessary. However, should the Reported be minded to include an explicit reference, the Council would have no issue with adding the recommended wording to the relevant part of policy NE12, with the following wording suggested after "...to the banks or bed": "When there are culverted watercourses within or immediately adjacent to a site, a feasibility study including an FRA should be undertaken prior to development to assess the potential for channel restoration".

### Site CN-H3: Dalgeish Avenue, Cumnock (258)

The Council acknowledge the comments provided by SportScotland with regards to having no objections to site CN-H3 subject to the new school replacing the grass football pitch in terms of facility provision. As outlined within the Housing Site Assessment Methodology (CD16), there was a planning application which was not yet determined at the time of the consultation, this has subsequently been approved by the Planning Authority for 55 dwellings on site. The school in question has been demolished and relocated to the Knockroon Campus, which has substantial playing field provision on site. As such, the Council consider that the comments raised by SportScotland have been addressed.



**Reporter's conclusions:**

**Relationship between NPF4 and LDP2**

Potential conflicts between NPF4 and LDP2

1. It is a consequence of the timing of the preparation of this LDP that there has been an overlap with the parallel process of preparing and adopting National Planning Framework 4 (NPF4). I am not aware of any requirement or advice from the Scottish Government that plan preparation should cease during the preparation period of NPF4, or indeed during the progress and commencement of the Planning (Scotland) Act 2019 ('the 2019 Act'). Indeed, the Scottish Government has put in place transitional regulations and advice to cover the scenario of plans such as the East Ayrshire LDP that were in the course of preparation at the time of the commencement of the new legal regime for development plans and the adoption of NPF4. I am therefore satisfied that the council was within its rights to continue to progress the proposed plan towards adoption rather than beginning the process anew.

2. Above, the council explains its rationale for choosing this approach. The existing plan had reached the end of its lifespan, and the transitional regulations required the replacement plan to have been published before the end of June 2022. While the council had options, I accept that the approach it has taken is a reasonable one in the circumstances. In any event, it is beyond the scope of this examination to require the council to abandon this plan. My role, and that of my colleagues, is limited to making recommendations as to potential modifications (limited always to the consideration of matters raised in representations).

3. The timing was such that the proposed plan was able to take account of the draft version of NPF4. Parties making representations on the plan were similarly able to refer to the draft NPF4. In preparing its responses to those representations, as contained in the 'schedule 4' proformas submitted to this examination, the council was able to take account of the adopted version of NPF4.

4. As reporters we were conscious that the adoption of NPF4 constituted a major change in circumstance since the close of the representations period. Hence we took the opportunity to issue a number of further information requests to parties who commented on topics where it appeared to us: that there was some significant disparity between the draft and final versions of NPF4; that this disparity had an obvious bearing on the matters covered by representations; and where it was a matter of some importance. Ultimately we issued further information requests seeking parties' views on the implications of the adoption of NPF4 in relation to eleven issues at this examination. In this way we consider we are now properly informed as to the implications of NPF4 to the matters in hand, and parties' views on them. Our recommendations have hence been able to take account of the changes that have been made to NPF4 between the draft version that informed the proposed LDP and the final adopted version.

5. Annex A of the Scottish Government's Local Development Planning Guidance deals with transitional arrangements for LDPs, such as the proposed East Ayrshire

LDP, that had reached an advanced stage prior to the commencement of the 2019 Act. Paragraph 6 of Annex A notes that: 'For proposed LDPs prepared prior to the adoption and publication of NPF4, it may be that there are opportunities to reconcile identified inconsistencies with NPF4 through the examination process. However there are clear limitations to this. The scope of an examination is limited to issues raised in representations and the process must remain proportionate and fair.'

6. Paragraph 246 of the Development Planning Guidance states that reporters are not tasked with making the plan as good as it can be, but with modifying those parts that are clearly inappropriate or insufficient.

7. It is therefore clear that there are limits to the extent that the examination process can fully align either detailed policy wordings with NPF4, or the broader format of the plan with the aspirations for new-style development plans under the new system. Generally our approach has been to recommend modifications to policies where we identified clear inconsistencies with national policy. However in other cases we have not sought to always carry across identical wording from NPF4 into the proposed plan where this would be disproportionate and/ or where the existing proposed wording was not clearly inappropriate or insufficient.

8. Similar considerations apply to the question of how far it is necessary for the proposed plan to repeat policy approaches that are already set out in NPF4. Given that NPF4 now forms part of the development plan, it is unnecessary and potentially unhelpful for NPF4's policy approaches to be restated in the LDP, potentially with differing wording. Page 108 of the Local Development Planning Guidance states that LDPs are not required to duplicate NPF4 policies.

9. However, the particular circumstances of this transitional plan need to be acknowledged. As a plan that was initially prepared under the outgoing system, it is inevitable that the LDP will not have taken on all the features of the new system. We are therefore content for there to be some ongoing overlap in the policy coverage of the plan and NPF4.

10. It is also the case that we can only recommend modifications in relation to issues raised in representations. For us to seek to remove duplication with NPF4, or significantly change the format of policies, in certain areas (where a policy issue had been raised in representations), but not in others (which had not been subject to representations) would create inconsistencies in the format of the plan and make it more difficult to use. Our approach has therefore been to not seek to remove duplication with NPF4, or to significantly recast the format of policies across the plan, other than in the circumstances explained at paragraph 7 above. However, as part of the development plan, NPF4 has been considered as part of our assessment where it has content relevant to the issues raised in representation.

11. The next review of the plan will provide an opportunity to fully align East Ayrshire's LDP with the aspirations of the new system.

12. This addresses most aspects of Scottish Power Renewables' representation. Certain other aspects have been overtaken by events, but there is one further matter that still requires to be considered. This relates to how the plan should explain NPF4's

role as part of the development plan.

13. The proposed plan includes various references to the NPF. The introduction to the plan acknowledges the influence that NPF3 and the emerging (at the time the plan was being prepared) NPF4 had on the content of the plan. Paragraph 22 links the plan's spatial strategy to the priorities identified in NPF4. There are references to NPF4 as a justification for various policy approaches, and some policies require adherence to specific elements of NPF4.

14. However, there does not appear to be any reference to NPF4's status as part of the development plan. Indeed paragraph 12 states that it is the LDP, together with supplementary guidance, that comprises the development plan. Following the commencement of the 2019 Act and the adoption of NPF4, this is no longer an accurate statement. I therefore propose a modification below to rectify this matter. This will also serve to explain NPF4's role as part of the development plan.

### **Relationship between the policies of the Plan**

#### Interaction between the policies of the Plan

15. Paragraphs 12 to 14 of the proposed plan describe how the document is to be used. Here it is explained that the plan is to be read as a whole, and how different parts of the plan cover the council's general intentions for future development, the position with regard to specific sites, and the stance on particular topics. It is stated that certain policies or proposals should not be 'cherry-picked' and used in isolation.

16. I find these paragraphs to be a useful explanation of how the plan should and will be used. They appear to set out the normal understanding of how different parts of LDPs should interact. It would be unusual for the text of the plan to pick out certain policies as having a greater status than others. Rather the whole plan should be taken into account when assessing proposals. Where policies appear to point in different directions, a balanced view is required to be taken as to whether proposals comply overall with the plan as a whole.

17. I consider this part of the plan explains these matters reasonably well, and conclude that no modification is required.

### **General comment on the Plan**

#### Readability of the Plan

18. The LDP has a formal role as part of the statutory development plan, used as the starting point for assessing planning applications. Wording therefore needs to be precise, and some technical wording inevitably needs to be included.

19. But overall I do not agree that this plan is particularly difficult to read or to use, compared to the many other plans I have read. The council has used illustrations and various formatting techniques to break up the text and make the plan a relatively visually interesting document. In any event, it is beyond the scope of this examination for the reporters to rewrite the entirety of the document in a more engaging way, and I note no specific changes are sought by this representation. I conclude that no

modifications are required.

#### Balancing between developing Kilmarnock and the rural area

20. A key part of the plan's strategy, as expressed at paragraph 32 of the plan, is to promote compact growth and reduce the need to travel unsustainably. I consider that, in general, the plan's strategy of directing development to brownfield sites within settlements, and limited land releases on the edges of settlements, is more likely to deliver on these aspirations than promoting development in the countryside would.

21. Kilmarnock in particular is the settlement in the plan area with the widest range of facilities and some of the strongest demand for new housing development. There is therefore a good logic to directing a significant proportion of new development to Kilmarnock.

22. That said, I note that Policies RH1 to RH5, and Policy IND2 do allow for a level of housing and employment development in rural areas, particularly in the Rural Diversification Area in the southern part of the plan area.

23. Overall, I consider that the plan proposes an appropriate balance between directing most growth to established settlements, while allowing some leeway for appropriate rural development. No modification is required.

#### **Balance between the brownfield and greenfield**

##### Priority to brownfield development

24. Policy SS2 of the proposed plan seeks for new development to be efficient in the use of land by re-using vacant buildings and previously used land where possible. Policy SS4 is devoted to the council's support for the re-use and redevelopment of vacant or derelict sites within settlement boundaries. I therefore find that the spatial strategy of the plan, as expressed in chapter 3 does serve to prioritise the development of brownfield land.

25. When it comes to the actual land allocations proposed in the plan, it is clear that large areas of greenfield land have been selected, both for housing and industrial development. However, I recognise that there are limits to the amount of urban brownfield land available, and that it is the council's strategy to be ambitious in its aspirations for housing and economic growth. It is also useful to have a range and choice of different types of sites available for prospective developers in order to provide sites that are attractive to different market sectors.

26. I am therefore satisfied that the plan's balance between brownfield and greenfield opportunities is not inappropriate overall. Individual issues of landscape encroachment associated with particular allocations are considered elsewhere in this report.

#### **Comments on the introduction**

##### Biodiversity emergency within the introduction

27. I agree that it might not have been out-of-place to refer to the nature emergency

alongside the climate emergency in paragraph 6 of the proposed plan. However, I am not tasked with making the plan as good as it can be, but only with remedying clearly inappropriate or insufficient content.

28. The plan is to be read as a whole, and I note that other parts of the document deal extensively with biodiversity. These references include part 3.1(c) of the spatial strategy, which is devoted specifically to tackling biodiversity loss. Policy OS1: Green and Blue Infrastructure requires all development to conserve and enhance on-site biodiversity and strengthen ecological connections. Policy NE4 is devoted to addressing the nature crisis.

29. All-in-all, I am satisfied that the plan as whole addresses the biodiversity/ nature crisis, and that no addition is required to paragraph 6.

### **Kilmarnock town centre**

#### Suggested improvements to Kilmarnock town centre

30. Some of the suggestions made in these representations are matters of detail that I would not expect to see addressed in a LDP. The council suggests that these are matters that it can take into account in the forthcoming Kilmarnock Town Centre Framework supplementary guidance. I agree that this would appear to be a more appropriate vehicle for addressing these matters. Other suggestions relate to commercial decisions about how individual retail businesses are run that are beyond the scope of the planning system.

31. Overall I am satisfied that the strategy and policies of the plan provide a supportive context for town centre improvement ideas of the type mentioned in these representations. For instance, paragraph 91 states the aim for town centres to become thriving places that feature a broad range of uses, and Policy PLAY1 supports additional play provision, including as a temporary use of unused land. No modifications are required.

### **General comments on volume 2**

#### Issue with Burn Road

32. I agree that because this representation provides no information as to what the representee's problem is with Burn Road, it is impossible for me to draw any conclusions. Individual sites in Darvel are discussed at Issue 27 of this report.

#### Developer requirements be attached to sites containing or near watercourses

33. I note that the developer requirements sought by SEPA are already largely included in proposed Policy NE12:Water, air, light and noise pollution. The alternative approach of including these requirements in Volume 2 of the plan in association with each relevant site would also have been possible, and might have served to better highlight the particular sites where these requirements come into play. However, I have not been furnished with a list of the sites that contain or are adjacent to a watercourse. I would also be wary of myself and my colleagues being able to definitively identify all

of these sites. In any event, the council's approach of including these requirements in a general plan-wide policy is a reasonable one, and will have the desired effect of applying the requirements to all relevant sites.

34. SEPA raise one additional potential requirement that is not currently included in Policy NE12. This relates to culvert removal/ channel restoration. I note that the wording provided by SEPA does not necessarily require culvert removal, merely the carrying out of a feasibility study. This does not appear to be excessively onerous, and I note the council has stated above its willingness to include some additional wording in Policy NE12. Given SEPA's role as the expert statutory advisors on these matters, I agree that the addition of the words would be desirable, and I therefore recommend this modification below.

Site CN-H3: Dalgeish Avenue, Cumnock

35. This representation does not appear to seek any change be made to the plan. It relates to sports pitch provision at the educational site that is to replace the school at Dalgliesh Avenue. However, the council states above that replacement school provision is now made at Knockroon Campus, which has substantial playing field provision. I have no reason to disbelieve this statement, and in any event, I note that the Knockroon Campus is not a proposal of this plan. On this basis I conclude that no modification is required.

**Reporter's recommendations:**

I recommend that:

1. The words 'and NPF4' be inserted into paragraph 12 after the existing words 'Supplementary Guidance'.
2. The following sentence be added at the end of the third paragraph of Policy NE12:  
Water, air and noise pollution:  
  
'When there are culverted watercourses within or immediately adjacent to a site, a feasibility study including a flood risk assessment should be undertaken prior to development to assess the potential for channel restoration.'