

Case Study: Compliance monitoring of large scale environmental projects and Major developments

Attribute 8: The planning authority has effective and efficient decision-making processes

Context

Location – planning committee and various large scale and Major development sites across East Ayrshire

Dates – from 2014 and every quarter at planning committee and monthly or appropriate other timescale for compliance monitoring visits

Background

The Independent Review of the Regulation of Open Cast Coal Operations in East Ayrshire that was undertaken following the collapse of the coal sector included as one of its recommendations that quarterly reports should be submitted to the Planning Committee recording progress of mining activity and restoration of the particular sites and complexes. This was a direct result of the part played by the Planning Service in failing to properly monitor the ongoing works at such sites and, in part, contributed to having insufficient restoration guarantee monies to be able to ensure that these sites could be restored to the agreed restoration plans. At the Planning Committee on 27 June 2014, it was agreed that the remit of this quarterly report be widened to include the other environmental development subject to compliance monitoring including quarries, landfills, onshore wind farms and the electrical interconnector project. At the Planning Committee on 22nd of April 2016, it was agreed that the remit of the Quarterly Report be further expanded to include information on single turbine developments. The remit now also includes all other Major developments. The requirement for planning authorities to report on the monitoring of compliance with planning permissions on all Major developments will be introduced in future as a statutory requirement under Section 44 of the Planning (Scotland) Act 2019 and has been introduced into the report ahead of this requirement legally coming into force.

What happened?

Following conclusion of every quarter in a calendar year, a summary of compliance monitoring activity during that quarter is presented to our planning committee. This provides the planning committee with an opportunity to be informed of any matters arising from the compliance monitoring activity, such as any formal enforcement action that may have been needed, and to give elected members an opportunity to seek further details of officers on any individual development. A copy of the report is made publicly available ahead of planning committee on our website, providing members of the public with access to that same information. Behind the compliance monitoring summary report and informing the content of the report, officers and/or consultants employed by the Council as independent Planning Monitoring Officer (PMO) undertake compliance monitoring activities at each relevant development being reported on. Those visits often take place monthly on active construction sites with reports on compliance submitted to the Planning Authority and the developer after each visit. These reports are placed on the Council's website for public view, allowing for public scrutiny of any active large scale construction/development site that is being monitored.

This level of scrutiny holds developers to account and reassures the public that large scale environmental projects are being properly monitored and that all of the good practice environmental commitments made in environmental statements, application documentation and discharge of conditions is properly carried out and that any non compliance is quickly tackled and addressed.

Additionally, where there are community liaison groups for certain developments, the meetings of these are included in the reporting as well as also being placed online and details of any appropriate financial guarantee that is in place is also reported, allowing for a one stop shop of development critical information to be available in a public forum. Our elected officials are particularly interested in these matters, often via their constituents, and having frequent progress updates allows them to be more aware of what is happening throughout the district and to be able to bring relevant matters to Council officials quickly. This also allows our members to track progress of developments, from an initial planning decision taken by the planning committee through to active build out and completion. This has extended to our members attending a number of compliance site visits, particularly so for wind farm developments and open cast coal restoration sites, including Sneddon law, South Kyle and North Kyle/Chalmerston developments. Most developers actively wish to participate in this process, given that the use of Planning Monitoring Officers has become more common, particularly on large scale wind developments, over the last decade. Most developers are willing to engage with the Council on the use of a Council appointed PMO, reimbursing the Council's costs through a legal agreement. Where that has not happened, a developer appointed PMO allows for a similar process to take place. Our public reporting can be found at: [Minerals, waste and electricity generating stations · East Ayrshire Council \(east-ayrshire.gov.uk\)](https://www.east-ayrshire.gov.uk/minerals-waste-and-electricity-generating-stations)

Areas of collaboration

Lead officer: David Wilson, Interim Development Management Manager Stakeholders: Planning Authority staff, planning committee, developers, Planning Monitoring Officers, Ecological Clerk of Works.

What was the overall result?

The compliance monitoring reporting system and work around compliance monitoring activity generally in East Ayrshire have resulted in variously (a) a process that underpins and ensures that any financial guarantee's in place to ensure that sites are restored are sufficient, by being fully aware and up to date with the extent and progress of works; (b) heightened public scrutiny and overview of the compliance monitoring of projects (c) increasing the knowledge, awareness and participation of our elected members in the construction stage of projects, after original planning decisions have been made, including arranged visits to a number of under construction projects (d) developers held to greater public account for the quality and compliance of their construction phase, with many welcoming this scrutiny and able to demonstrate good environmental and construction practice in a public forum (e) being ahead of the forthcoming legislative requirements to monitor and report on Major developments and (f) the best protection of the environment from projects by bringing together skilled professionals to ensure that good practice and commitments are adhered to, positively promoting and protecting place and the wider environment. Collectively, this level of scrutiny and the various benefits it brings is considered to heighten confidence in the planning system generally.

Lessons learned

The existence of the compliance report and the extensive efforts and resource that this Council puts into compliance monitoring is the lesson that has been learned. Failure to properly monitor the large scale open cast developments resulted in insufficient scrutiny such that many sites included unauthorised work, had progressed more quickly than anticipated or had not been undertaking progressive restoration as envisaged by the approved plans. Our compliance monitoring efforts and report have evolved over time to encompass all large scale environmental projects, wind turbines and Major developments and it has the potential to evolve further if required. This has ensured that potentially significant environmental non compliance has been quickly identified and either solutions put in place or enforcement action progressed. Ultimately this contributes to greater public awareness and understanding of a frequently 'hidden' part of the planning system and builds confidence that the planning system in East Ayrshire works for them, their community and their environment from pre-application processes through to completion and operation of a development.

What contribution did it make towards delivering outcomes?

NPF4

☒ Sustainable places

☒ Climate change and nature crisis

☒ Climate mitigate and adaptation

☒ Biodiversity

☒ Natural Places

☒ Soils

☐ Forestry, woodland and trees

☐ Historic assets and places

☐ Green belts

☐ Brownfield, vacant and derelict land and empty buildings

☐ Coast development

☒ Energy

☐ Zero waste

☐ Sustainable transport

☐ Liveable places

☐ Design, quality and place

☐ Local living and 20 minute neighbourhoods

☐ Quality homes

☐ Rural homes

☐ Infrastructure first

☐ Heat and cooling

☐ Blue and green infrastructure

☐ Play, recreation and sport

☐ Flood risk and water management

☐ Health and safety

☐ Digital Infrastructure

☒ Productive places

☐ Community Wealth Building

☒ Business and industry

☐ City, town, local and commercial centres

☐ Retail

☒ Rural development

☐ Tourism

☐ Culture and creativity

☐ Aquaculture

☐ Minerals

☒ Place and Wellbeing Outcomes

☐ Movement

☐ Spaces

☒ Resources

☐ Civic

☒ Stewardship

Images below are extracts from various compliance monitoring reports of large scale environmental projects:

Tincornhill Quarry
Planning Ref: 19/0230/PP
Condition Audit Matrix – June 2023

Condition	Status						
	Discharged	Continuing Compliance	General Compliance	Partial Compliance	Awaiting Information	Not Applicable	Non Compliance
1		•					
2	•						
3		•					
4			•				
5		•					
6		•					
7		•					
8		•					
9						•	
10		•					
11	•						
12		•					
13		•					
14		•					
15		•					
16		•					
17			•				
18		•					
19		•					
20		•					
21		•					
22		•					
23		•					
24		•					
25		•					
26		•					
27		•					
28		•					
29						•	
30		•					
31		•					
32		•					
33						•	
34		•					
35		•					
36		•					
37		•					
38						•	

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Dalgleish Associates Ltd

Extract from compliance monitoring report on Tincornhill quarry 2023 compliance visit - [16_0013_CM-PLANNING_AUDIT_MARCH_2023-1161181.pdf \(east-ayrshire.gov.uk\)](#)

PMO Site Visit and Planning Audit Report – North Kyle Windfarm

This 'Planning Compliance and Site Visit Report' has been prepared by the "Planning Monitoring Officer (PMO)" appointed by East Ayrshire Council to monitor activities on the North Kyle Windfarm and check compliance with the terms of all Planning Permissions, Planning Obligations and associated Approved Planning Application Conditions attached to the development.

Consent under Section 36 of the Electricity Act 1989 and deemed planning permission under Section 57(2) of the Town and Country Planning (Scotland) Act 1997 for construction and operation of North Kyle Energy Project within the Planning Authority area of East Ayrshire Council.

The proposed Development is located approximately 5.5km east of Patna, 6km west of New Cumnock and 2.5km south of Skares in the East Ayrshire Council area with a total generating capacity approximately 205 Mega Watts (MW).

Site Visit and Planning Audit Reports will be issued to East Ayrshire Council (Graham Mitchell, Paul Outram), Brockwell Energy (Richard Buckland, Stuart Bell), Natural Power (Mark Nicolson, Allan MacDonald), ECoW MacArthur Green (Natasha Woest), Jones Bros (Kieran Pugh, David N, Mitch Doyle)

CURRENT STATUS - Traffic Light System

1	Red Status	Red denotes a strict contravention of planning conditions or major incident with potential for environmental impact - requires immediate action.
2	Amber Status	Amber denotes a failure to ensure strict compliance with planning conditions or incident with risk of leading to environmental impact - requires scheduled action.
3	Green Status	Green denotes an observation of progress, records best practice and also records when issues are resolved - no further action required.
4	White Status	Audit point removed, when an issue self-remediates or the circumstances contributing to the issues have been removed

Please note that Amber actions observed on subsequent site inspections that remain un-actioned will automatically switch to Red.

Extract from early PMO visit to North Kyle windfarm - [23_0001_CM-COMPLIANCE_REPORT_NO_2-1172429.pdf](#) (east-ayrshire.gov.uk)

SITE PHOTOGRAPHS SEPTEMBER 2023



Revegetation at the Hareshawmuir Water



Revegetation of verges Spur 1



Development of bog pools near T11



Development of bog pools at J7

insideFarrar

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18. Sneddon Law Windfarm Planning Compliance Checklist September 2023 FINAL

Extract of photo evidence from PMO report at Sneddon Law windfarm nearing end of construction period - [22_0001_SM-PMO_REPORT_SEPTMBER2023-1148415.pdf](#) (east-ayrshire.gov.uk)

Images below relate to various compliance monitoring visits to Battery Energy Storage, windfarm and quarry developments within East Ayrshire:

