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18 February 2025

Members of the Planning Committee

Chief Executive's Office

Archie Aitken
Chief Officer (Legal & Democratic)
Civic Centre, Windmillhill Street,
Motherwell ML1 1AB
www.northlanarkshire.gov.uk

Notice is given that a Meeting of the **Planning Committee** is to be held in the Council Chamber, Civic Centre, Windmillhill Street, Motherwell, ML1 1AB on Thursday, 27 February 2025 at 10:00 AM which you are requested to attend.

The agenda of business is attached.

Archie Aitken
Chief Officer (Legal & Democratic)

Members :

N Shevlin, G Currie, B Baudo, G Brennan, B Burgess, A Bustard, J Cairns, T Carragher, M Coyle, S Coyle, K Docherty, T Fisher, M Hughes, L Jarvie, T Johnston, J Logue, H Loughran, C McManus, M McPake, A McVey, L Mitchell, J Reddin, D Robb, A Smith, G Woods.

***North
Lanarkshire
Council***

Planning Applications for consideration
of Planning Committee

Committee Date: 27th February 2025

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APPLICATIONS FOR PLANNING COMMITTEE

27th February 2025

Page No	Application No	Applicant	Development/Site	Recommendation
7-17	18/01719/PPP	Mr Bernard Mulheron	Flatted Residential Development (In Principle) Land To The East Of 18 Mavisbank Street Whinhall Airdrie ML6 0JA	Grant (P)
18-47	23/00256/FUL	Infinergy	Four Wind Turbines (Up to 200m Blade Tip Height) with Total Generation Capacity of Approximately 26.4 MW, and Associated Infrastructure including Site Access, Access Tracks, Crane Hardstandings, Underground Cabling, On-Site Substation and Maintenance Building, Temporary Construction Compound and Recreational Paths Land To The North Of Harthill North Motorway Services Harthill	Refuse
48-66	24/00810/FUL	Starlight Energy SPV5 Limited	Construction of Battery Energy Storage System (BESS) Land East Of Biggar Road Cleland	Grant

(P) 18/01719/PPP – If minded to grant, planning permission not to be issued until a legal agreement is concluded to address education and off-site play matters

Application No:

18/01719/PPP

Proposed Development:

Flatted Residential Development (in Principle)

Site Address:

Land To The East Of
18 Mavisbank Street
Whinhall
Airdrie
ML6 0JA

Date Registered:

4th February 2019

Applicant:

Mr Bernard Mulheron
23 Inchcross Park
Bathgate
EH48 2HF

Agent:

Andrew Bennie Planning Ltd
3 Abbots Court
Dullatur
G68 0AP

Application Level:

Local Application

Contrary to Development Plan:

No

Ward:

09 Airdrie Central
James Logue,Chris Costello,Lesley
Jarvie,Janice Catherine Toner,

Representations:

2 letter(s) of representation received.

Recommendation:**Approve Subject to Conditions****Reasoned Justification:**

The site is identified as being part of the wider Green Network where residential development would not normally be promoted. However, given the brownfield nature of the site, planning history and the fact that the integrity of the surrounding green network will be left intact; it is considered that this development is acceptable. Impacts on the site and the immediate surroundings can be adequately addressed by way of planning conditions and a legal agreement.

Legal Agreement

If minded to grant, planning permission should not be issued until a legal agreement is concluded which allows for financial contributions designed to mitigate the impact on local education provision and to ensure that off-site play provision is enhanced.



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Planning Application: 18/01719/PPP
Name (of applicant): Mr Bernard Mulheron
Site Address: Land To The East Of 18 Mavisbank Street
Whinhall
Airdrie
ML6 0JA
Development: Flatted Residential Development (in Principle)



Proposed Conditions:-

1. That before development starts, a further planning application shall be submitted to the Planning Authority in respect of the following matters specified by condition:-
 - (a) the siting, design and external appearance of all buildings and other structures
 - (b) the means of access to the site
 - (c) the layout of the site, including footways and parking areas;
 - (d) the design and location of all boundary walls and fences;
 - (e) details of parking and manoeuvring areas
 - (f) details of the proposed design and location of bin stores;
 - (g) an updated Flood Risk Assessment

Reason: To enable the Planning Authority to consider these aspects in detail.

2. That no approval is conferred on the indicative plans and layout provided as part of the application and notwithstanding the generalities of Condition 1 above, the proposed flatted development shall comply with the following requirements: -
 - (a) The development shall be no higher than 3 storeys in height;
 - (b) Vehicular access shall have visibility splays of 4.5m by 90m in both directions which shall be maintained from the access onto Mavisbank Street;
 - (c) Vehicular access shall have the recommended junction spacing equidistant from the adjacent junctions on Mavisbank Street (minimum 40m spacing);
 - (d) The development shall have a private parking court connection to the road network which shall be via an 8m wide dropped kerb footway crossing leading to a 6m wide surfaced access extending for a minimum of 10m into the site with a vertical gradient no greater than 1:20 for the first 5m.
 - (e) parking to be provided on the basis of 1-2 bedroom flats = 1.5 spaces and 3 and above bedrooms = 2.5 spaces with 30% (unallocated) parking spaces and no more than 30m walking distance to the main block of flats the parking serves
 - (f) The development shall incorporate aisle fronting bays in parking courtyard which terminate at a minimum of 1.0m beyond last bay.
 - (g) The development shall have no direct pedestrian links from the block of flats to Mavisbank Street
 - (h) The development shall have pedestrian links formed to access the development site from the existing footpath network in the vicinity of the site,
 - (i) details of site sections and levels and finished floor levels throughout the site shall be provided.
 - (j) The layout shall take account of the presence of the hot food takeaway at 18 Mavisbank Street in terms of noise and food odours.

Reason: To ensure that the site is developed in an acceptable manner.

3. That notwithstanding the generalities of Condition 1 above, unless otherwise agreed in writing with the Planning Authority, full details of the proposed surface water drainage scheme shall be submitted to the said Authority and shall be certified by a chartered civil engineer as complying with SEPA SUDS guidance.

Reason: To ensure that the drainage scheme complies with best SUDS practice.

4. That the SUDS compliant surface water drainage scheme approved in terms of Condition 3 shall be implemented contemporaneously with the development in so far as is reasonably practical. Within three months of the construction of the SUDS, a certificate (signed by a suitably qualified Chartered Civil Engineer) shall be submitted to the Planning Authority confirming that the SUDS has been constructed in accordance with the relevant SEPA SUDS guidance.

Reason: To ensure that the drainage scheme complies with best SUDS practice.

5. That notwithstanding the generalities of Condition 1 above and PRIOR to any works of any description being commenced on the application site, a comprehensive site investigation report shall be submitted to and for the approval of the Planning Authority. The investigation must be carried out in accordance with current best practice advice such as BS10175: 'The Investigation of Potentially Contaminated Sites' or CLR 11. The report must include a site-specific risk assessment of all relevant pollutant linkages and a conceptual site model. Depending on the results of the investigation, a Detailed Remediation Strategy

may be required.

Reason: To establish whether or not site decontamination is required in the interests of the amenity and wellbeing of future residents of the site.

6. That any remediation works identified by the report agreed in terms of Condition 5 above shall be carried out in accordance with an implementation timetable. This timetable shall be agreed in writing with the Planning Authority before any works start on site. No individual dwelling or flat shall be occupied until a certificate (signed by a suitably qualified chartered engineer) has been submitted to the Planning Authority confirming that any remediation works have been carried out in accordance with the agreed Remediation Strategy.

Reason: To ensure that any remediation identified has been implemented in the interests of the amenity and wellbeing of future residents.

7. That notwithstanding the generalities of Condition 1 above and PRIOR to any works of any description being commenced on the application site, a comprehensive and intrusive site investigation shall be carried out to determine the extent of historic coal mining on site which will allow any required remediation measures to be identified. A report detailing these investigations and remediation measures if necessary shall be submitted for the written approval of the Planning Authority in consultation with the Coal Mine Authority. Once approved the mitigation works identified shall thereafter be carried out prior to the commencement of development on site.

Reason: To ensure that the development takes account of historic mine works.

8. That BEFORE any works start on site, the applicant must confirm in writing to the Planning Authority that the foul drainage can be connected to the public sewer in accordance with the requirements of Scottish Water. The surface water must be treated in accordance with the principles of the Sustainable Urban Drainage Systems Design Manual for Scotland and Northern Ireland published by CIRIA in March 2000.

Reason: To prevent groundwater or surface water contamination in the interests of environmental and amenity protection.

9. That BEFORE the development hereby permitted starts, a scheme of landscaping for all landscaped areas and all boundary treatments shall be submitted to, and approved in writing by the Planning Authority, and it shall include:-

- (a) Details of any earth moulding and hard landscaping, grass seeding and turfing;
- (b) A scheme of tree and shrub planting, incorporating details of the location, number, variety and size of trees and shrubs to be planted.
- (c) Details of biodiversity enhancement
- (d) A timetable for the completion of these works contemporaneously with the development.

Reason: To enable the Planning Authority to consider these aspects.

10. That unless otherwise agreed in writing by the Planning Authority, before the development hereby permitted is brought into use, all planting, seeding, turfing and earth moulding included in the scheme of landscaping and planting, approved under the terms of condition 9 above, shall be completed; and any trees, shrubs, or areas of grass which die, are removed, damaged, or become diseased within two years of completion of the development, shall be replaced within the following year with others of a similar size and species.

Reason: In the interests of the environmental amenity of the area.

Background Papers:

Consultation Responses:

The Coal Authority
Scottish Water
Scottish Power Environmental Planning
Scottish Environment Protection Agency
NLC Greenspace
NLC Education
NLC Environmental Health (including Pollution Control)
NLC Traffic & Transportation

Contact Information:

Lindsay Kellock at 01236 632487 or planningenquiry@northlan.gov.uk

Report Date:

13th February 2025

REPORT

Background

This planning application was submitted in 2018 and made valid in February 2019. In May 2019, it was recommended that planning permission be granted under delegated powers subject to the conclusion of a legal agreement which required financial contributions to be made in lieu of on-site play provision and to mitigate education impacts. That agreement was never concluded and therefore the planning permission was not issued. In accordance with the Council's established stance on 'legacy planning applications' (i.e. applications which have been under consideration for more than 12 months) the applicant was invited to withdraw the planning application. However, the applicant asked that further time be given which would allow for the legal agreement to be concluded. Given the length of time since the planning application was first submitted and assessed, the planning application must be looked at afresh taking into account the current context. This has included the submission of updated information from the applicant, re-notification of neighbours (including a press advert) the re-notification of consultees and the re-assessment of the planning application, taking into account changes in circumstances including the up-to-date development plan.

1. Site Description

- 1.1 The site extends to 0.49 hectares (1.2 acres) and has its primary frontage onto Mavisbank Street with a small frontage onto Wilson Street to the west. The site forms an 'L' shape with the west portion comprising mostly of an area of hardstanding which historically accommodated a house and a public house. The remainder of the site has regenerated and is covered in a blanket of shrubs and self-seeded trees.
- 1.2 The site (adjacent to Mavisbank Street) is generally flat and falls to the rear (north) of the site. The North Burn runs east/west through the middle of the site within a culvert.
- 1.3 To the south of the application site (on Mavisbank Street) are 2 storey flatted dwellings which sit slightly raised above the application site. Immediately to the west of the application site (at the corner of Mavisbank Street and Wilson Street) sits a hot food takeaway although this was out of business at the time of writing the report. To the north and east of the site is an area of public open space (including a children's play area) which forms part of Mavisbank Public Park.

2. Proposed Development

- 2.1 Planning permission is sought in principle for a flatted residential development. In support of this proposal, the applicant has submitted an indicative layout showing 41 flats arranged in 3 and 4 stories which would be located along the south edge of the site alongside Mavisbank Street. Of the 41 flats, 35 could be 2-bedroom flats and the remaining 6 being 1- bedroom. Vehicular access is shown from a single point at the east edge of the site providing access to 41 parking spaces at the lower end of the site. Communal landscaped areas are shown around the blocks and around the parking areas. There are no details given of the likely appearance of the flats.

3. Applicant's Supporting Information

- 3.1 In support of the planning application, the applicant has submitted the following:
 - 1. Indicative layout plan (as outlined above).
 - 2. Coal Mine Risk Assessment
 - 3. Flood Risk Assessment
 - 4. Preliminary Ecological Appraisal
 - 5. Strategic Biodiversity Management Plan
 - 6. Supplementary Planning Statement

4. Site History

- 4.1 Historically, the west part of the site accommodated a public house (thought to be demolished around 20 years ago) with a now demolished cottage on the east part of the site. There is an extensive

planning history on the site for residential development as summarised below:

East half of the site:

- 00/00665/OUT Erection Of 3 Dwellinghouses (In Outline). Granted permission September 2000
- 05/00896/FUL Erection of Two Blocks of Flatted Dwellinghouses. Refused permission January 2007 for 5 reasons including unacceptable impacts on flooding, road safety, open space, nature conservation, open space and amenity.
- 07/00965/FUL Construction of Two and Three Storey Residential Blocks Incorporating 22 Flatted Dwellings. Granted permission January 2009
- 14/00062/AMD Variation of Condition 1 of Planning Permission 07/00965/FUL to Allow Time Extension for Flatted Residential Development. Application withdrawn May 2014

West half of the site:

- 04/02202/FUL Erection of 6 Two Bedroom Flats and Conversion of Existing Building into 12 Two Bedroom Flats. Granted permission June 2005
- 08/00412/AMD Erection of Flatted Development (Amendment to Planning Perm. C/04/02202/FUL) Granted permission April 2008

5. Development Plan

- 5.1 The development plan comprises NPF4 and the North Lanarkshire Council Local development plan. The LDP shows the site as being within the 'General Urban Area' but also identifies the site as being part of the Green Network. Details of all relevant polices are found in section 8 of the report.

6. Consultations

- 6.1 **NLC Infrastructure and Transportation:** No objections subject to provision of adequate access, visibility splay, junction spacing and parking provision. In particular, they ask that the access be located further west along Mavisbank Street (indicative plans show access at the far east corner of the site) and that parking standards be in line with normal guidance (the applicant has shown 100% parking provision which is below the required standard).

NLC Protective Services: No objection subject to submission of a Site Investigation Report and appropriate mitigation measures if necessary.

NLC Education: The proposed development lies within the catchment area of Victoria Primary and St Andrew's Primary schools in Airdrie. Pupils from these school transfer to Airdrie Academy and St Margaret's High school for secondary provision. Education anticipate capacity issues in the primary sector in this area in future years. Based on the indicative sketch plan which accompanied the planning application, a Developer Contribution of £26,082 is requested.

NLC Community Partnership Team (Play): No additional comments were submitted following re-consultation in 2024 but in 2019 they commented that as the development could exceed 30 dwellings there is a requirement for either on site play provision or a contribution to off-site council play provision. The development is located immediately adjacent to a play facility so the preference on this occasion would be a contribution to the future upgrade of this. The off-site contribution rate is calculated at £250 per flat (although this would not apply to any 1-bedroom flats). This guidance remains relevant today.

NLC Greenspace & Country Parks: No objection to the proposed development but comment that clearance should be undertaken outwith the bird breeding season and note that Japanese Knotweed is located on site and is a controlled waste and guidance for its disposal is available from SEPA.

SEPA: No objection given the information submitted in relation to Flood Risk. A Flood Risk Management Plan is conditioned to be submitted as part of any Full or MSC planning application.

Further discussion on flooding can be found in paragraph 8.10 below.

The Coal Mining Remediation Authority: No objection subject to a condition requiring a scheme of intrusive site investigation works in relation to previous mining on the site.

Scottish Water: No objections.

7. Representations

7.1 Following the new tranche of neighbour notification (including a press advert) in 2024, no representations were received. Following the original neighbour notification and press advert in 2019, 2 letters of representations were received as follows:

- The development will improve the appearance of the area but there is a concern that the proposed flats (particularly given they are 4 stories) will be occupied by drink and drug users.

Response: There is no reason to believe that the occupation of the flats should be the cause of any undue anti-social behaviour.

- The area is well known for its flooding problems and associated risk from water pollution.

Response: The planning application has been accompanied by a flood risk assessment which has demonstrated that the development is acceptable in terms of impacts on flood risk. SEPA has no objection in principle to the development.

8. Planning Assessment

8.1 Below is an assessment of relevant policies within NPF4, followed by an assessment of relevant policies in the North Lanarkshire LDP followed by an assessment of other material considerations.

NPF4

8.2 Policy 1 (Tackling the climate and nature crises), Policy 2 (Climate mitigation and adaptation) and Policy 3 (Biodiversity) apply to all developments. It is fair to say that the development would (on balance) have a neutral impact on the first 2 policies. In terms of biodiversity, the application is supported by an ecological appraisal (which confirms that there are no protected species on the site) and by a Strategic Biodiversity Management Plan which sets out how biodiversity on the site could be maintained and enhanced. On this basis, it is concluded that the proposals comply with the spirit and aims of policies 1-3 of NPF4.

8.3 NPF4 Policy 9 (Brownfield, Vacant and Derelict Land and Empty Buildings) states that proposals that will result in the sustainable reuse of brownfield land will be supported. This policy offers support for the proposals given that a significant portion of the site is brownfield (in particular the hardstanding area associated with the former public house which is highly visible from public areas).

8.4 Policy 14 (Design, Quality and Place) states that development proposals will be designed to improve the quality of an area and will be supported where they are consistent with the six qualities of successful places. It is considered that the development proposals complies with this policy with particular strengths relating to the enhancement of the appearance of the site through the removal and improvement of the hardstanding land and also the good location of the site in relation to local facilities at Airdrie town centre.

8.5 Policy 15 (Local Living and 20 Minute Neighbourhoods) states that development proposals will contribute to local living including, where relevant, 20 minute neighbourhoods. In response to this it is noted that the development is within a 5 minute walk (or thereabouts) from the edge of Airdrie town centre and it is fair to conclude therefore that the development complies with policy 15.

8.6 Policy 16 (Quality Homes) states that development proposals for new homes on land not allocated for housing in the LDP will only be supported in limited circumstances where:

- the proposal is supported by an agreed timescale for build-out; and
- the proposal is otherwise consistent with the plan spatial strategy and other relevant policies including local living and 20-minute neighbourhoods;

- and the proposal is for smaller scale opportunities within an existing settlement boundary

- 8.7 In response to the first point, the applicant has stated that the intention is to conclude the legal agreement as soon as possible thus allowing a detailed (aMSC) application to be submitted and approved by the end of this year. This would allow a contract for construction to be signed allowing for a site start in the first quarter of 2026 with the development being completed by the end of 2028. This appears to be a reasonable and achievable target and is in accordance with the first criteria listed above. It can also be concluded that the application complies with the other 2 criteria (based on the assessment of other policies including policy 15 above). Accordingly, it is fair to conclude that the development complies with policy 16.
- 8.8 Policy 18 (Infrastructure First) states that the impacts of development proposals on infrastructure should be mitigated and that development proposals will only be supported where it can be demonstrated that provision is made to address the impacts on infrastructure. In this instance, it has been established that the likely impact on local education provision can be addressed by a financial contribution and therefore the development is judged to comply with this policy.
- 8.9 Policy 21 (Play, Recreation and Sport) states that development proposals likely to be occupied or used by children and young people will be supported where they incorporate well- designed, good quality provision for play, recreation, and relaxation that is proportionate to the scale and nature of the development and existing provision in the area. In this instance, the applicant has asked that the normal requirement for on-site play provision (required for residential developments of 30 units or over) be replaced by a financial contribution to the council which would be used to enhance play provision in the adjoining Mavisbank park. This is deemed to be acceptable by NLC Community Partnership Team (Play) and therefore the development accords with this policy.
- 8.10 NPF4 Policy 22 (Flood Risk and Water Management) states that proposals at risk of flooding or in a flood risk area will only be supported if they are for essential infrastructure where the location is required for operational reasons. In this instance, the indicative sketch plan (along with the submitted FRA) demonstrates that built development on the south half of the site is not at risk from flooding. Should areas at the north side of the site (ie which are subject to flood risk) be the basis of car parking then it is has been suggested that this would qualify as 'essential infrastructure' (as per NPF4 policy 22). SEPA has reviewed the planning application and Flood Risk Assessment and it has no objections to the proposals on condition that any subsequent detailed schemes be the basis of an updated assessment. On this basis, it is concluded that the proposals are in accordance with NPF4 policy 22.
- 8.11 In reviewing the relevant policies as summarised above, it is concluded that the development complies with NPF4.

North Lanarkshire Local Development Plan

- 8.12 Turning to the North Lanarkshire Local Development Plan, the following policies are considered relevant:
- 8.13 In the first instance, it is noted that the application site is within the 'General Urban Area' and Placemaking Policy 3 states that the Council will seek to maintain and improve the level of amenity in urban areas by encouraging development that is in keeping with the residential character of such areas. Clearly this development would be supportive of that policy.
- 8.14 However, within the general urban area, the site is also identified as being part of the wider network of green networks and policy LOC4 (Special Landscape Areas & Green Network Improvements) states that the Council will promote the special qualities of the Green Network. Following on from this, PROT A POLICY (Natural Environment and Green Network Assets) states that the Council will maintain community wellbeing in residential areas by protecting the Urban Green Network. Clearly, in principle, a residential development of this nature would conflict with this policy.
- 8.15 The development complies with Policy C1 (Contributions to Infrastructure) in that identified impacts on local education provision and the applicant's wish to secure off-site play provision can be adequately addressed through a financial contribution secured through a legal agreement.
- 8.16 The proposals comply with EDQ1 (site appraisal) in that adequate supporting information has been submitted. It complies with Policy EDQ2 (Special Features for Consideration) in that the potential flood risk at the north end of the site has been properly explained and mitigated (as outlined in

paragraph 8.10 above).

- 8.17 In terms of Policy EDQ3 (Quality of Development) it is noted that the applicant submitted a sketch plan demonstrating how the site could be developed which showed a flatted development along the roadside (3-4 stories) with parking and open space to the rear and with vehicular access at the east side of the site. At the time of the planning assessment in 2019, it was concluded that 4 stories would be excessive in this location and this remains the case today. As noted in the comments from NLC Transportation, the proposed access point is considered unsuitable and this should be best located further west on Mavisbank Street (in and around the middle of the site). Similarly, it has been highlighted that the proposed level of parking is inadequate. Based on these comments, the applicant was invited to submit a revised sketch plan but they chose not to do so, suggesting that these matters can be addressed by planning condition. This is accepted and it is concluded that the proposals accord with Policy EDQ3.
- 8.18 In summary therefore, although the proposals derive support from NPF4 and from elements of the LDP, it must be concluded the site's inclusion within the Urban Green Network mean that the proposals must be (on balance) considered to be a departure from the development plan and must therefore be refused unless material considerations suggest otherwise. These material considerations are discussed as follows:

Material Considerations

- 8.19 Planning history is a material consideration in the assessment of this planning application. It is noted that over the last 24 years there have been various planning permissions granted for residential developments on the site, none of which have been implemented. It is noted that the earlier applications (including application 00/00665/OUT and 04/02202/FUL) were granted planning permission despite the fact that the then development plan identified the site as an opportunity to improve the open space in the area; a situation similar to the planning application under consideration. It is considered that this planning history weighs in favour of this current proposal
- 8.20 Clearly, the impact on the wider Green Network is a key consideration given the site's zoning within the LDP. However, it is noted that the site plays no functional role in the wider Green Network and there are no plans for it to be integrated into the surrounding Mavisbank Park. Indeed, given the appearance of the site (most notably the unsightly concrete hardstanding) the site impacts unduly on the setting of the park and there is the potential for an appropriate development to enhance the appearance of the wider area including the park. It should also be noted that this development would not sever the network in any way and in terms of both quality there will remain considerable areas of green open space available for the wider area.
- 8.21 Looking at the various consultee bodies which have commented on the planning application, it is noted that none have objected and their requirements can be accommodated by way of suitably worded planning conditions or through the conclusion of a legal agreement.
- 8.22 The planning application was the basis of 2 objections, although it should be noted that both were submitted when the application was first assessed in 2019 and no objections were submitted when the application was the basis of re-notification and a new press advert in 2024. The 2 representations are summarised and addressed in section 7 above and neither would weigh against the proposals.

9. Conclusions

- 9.1 The development plan assessment for this planning application shows that many policies (including all relevant policies in NPF4) are supportive of the proposals, but the fact that the site is identified as being within the wider Green Network means that the on balance, the planning application must be considered to be a departure from the development plan. Accordingly, the planning application must be refused unless material considerations suggest otherwise. Planning history is a key consideration and as noted in section 4 above, there are many unimplemented permissions over several years, some which were granted in similar circumstances to today (ie approvals despite the site being zoned as open space). Despite the site's zoning as part of the Green Network, the site serves no functional benefit to the surrounding parkland and there are no plans in place for it to do so. Furthermore, the unsightly appearance of the site impacts unduly on the character and appearance of the area and this application is an opportunity to address that. The existing green network will not be severed and there will remain

a great deal of usable open space within the wider area. There have no objections to the proposals from consultee bodies and the 2 objections from locals can be addressed.

- 9.2 On balance, therefore, it can be concluded that the material considerations outlined above can outweigh the development plan zoning, and it is therefore recommended that planning permission should be granted subject to the conditions noted above. Planning permission should not be issued until a legal agreement has been concluded which allows for the necessary contributions towards off-site play provision and local education.

Application No:

23/00256/FUL

Proposed Development:

Four Wind Turbines (up to 200m Blade Tip Height) with Total Generation Capacity of approximately 26.4 MW, and Associated Infrastructure Including Site Access, Access Tracks, Crane Hardstandings, Underground Cabling, On-Site Substation and Maintenance Building, Temporary Construction Compound and Recreational Paths

Site Address:

Land To The North Of
Harthill North Motorway Services
Harthill

Date Registered:

29th March 2023

Applicant:

Infinergy
16 West Borough
Wimborne
BH21 1NG

Agent:

N/A

Application Level:

Major Application

Contrary to Development Plan:

No

Ward:

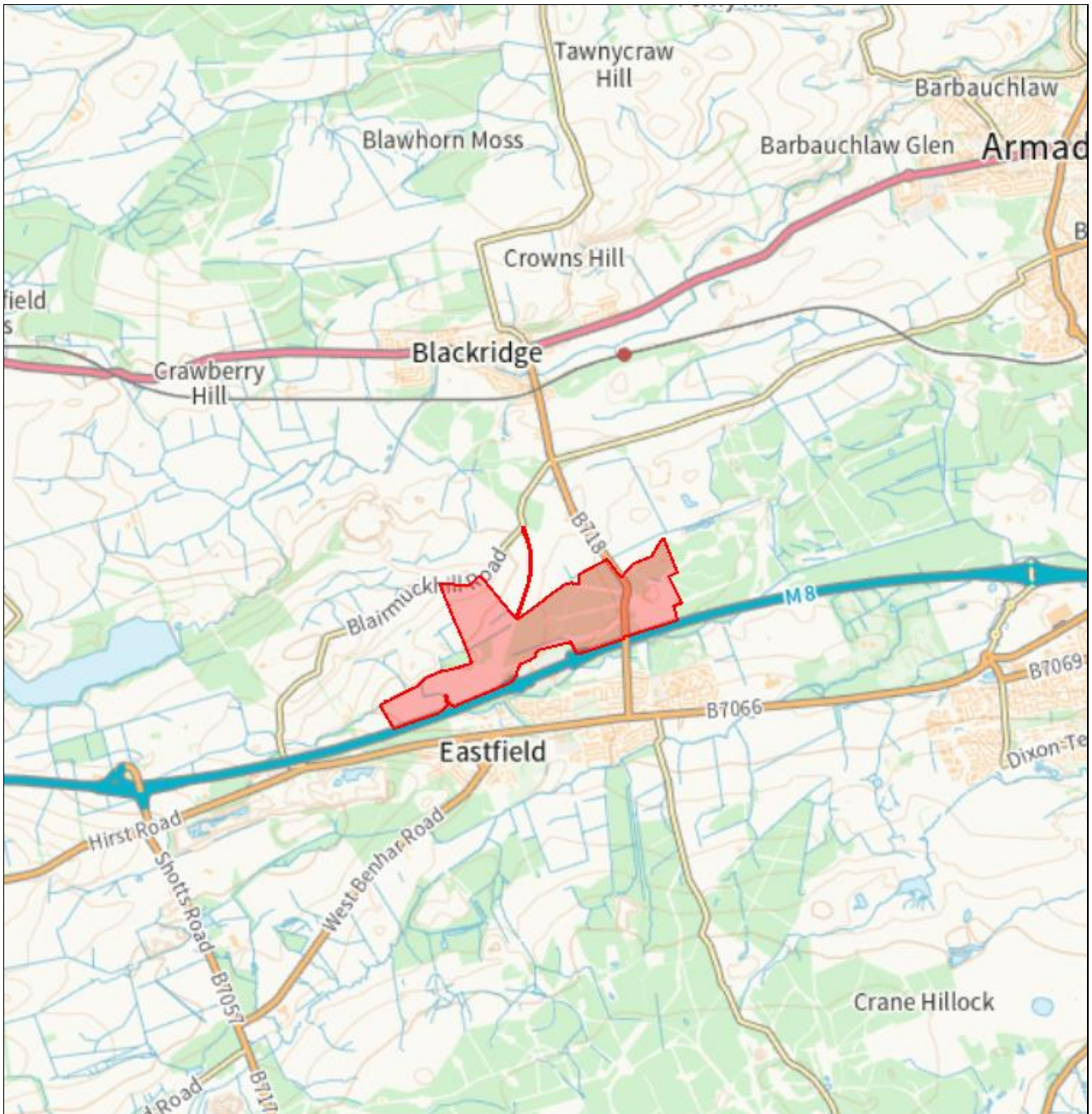
13 Fortissat
Martin McCulloch, Margaret Hughes, John Jo
Leckie,

Representations:

25 letter(s) of representation received.

Recommendation:**Refuse****Reasoned Justification:**

The proposed development by virtue of its scale and proximity would have an unacceptable and overbearing visual impact on the amenity of a number of visual receptors within 2km of the proposed turbines, that includes the recreational, road users and residents of Harthill, Greenrigg, Eastfield, Blackridge and individual dwellings in the surrounding countryside, contrary to Policies 11 Energy e) i and iii. and 14c) Design, Quality and Place of NPF4 and Policies PROM ID2 Utilities Improvements and EDQ1 Site Appraisal of the North Lanarkshire Local Development Plan. Additionally, no details have been provided to mitigate the potential significant adverse effects on the operation of Vodafone's and MBNL's telecommunication links, contrary to Policy 11 Energy e) v of NPF4.



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Planning Application: 23/00256/FUL
Name (of applicant): Infinergy
Site Address: Land To The North Of Harthill North Motorway Services Harthill
Development: Four Wind Turbines (Up to 200m Blade Tip Height) with Total Generation Capacity of Approximately 26.4 MW, and Associated Infrastructure Including Site Access, Access Tracks, Crane Hardstandings, Underground Cabling, On-Site Substation and Maintenance Building, Temporary Construction Compound and Recreational Paths



Recommendation: Refuse for the Following Reasons:-

1. That due to the large scale and close proximity of the proposed turbines to residential properties and the extent and nature of associated views, the proposed development would have an unacceptable and overbearing visual impact on the residential amenity of a number of residents living within 2km of the proposed turbines, including those listed below, contrary to Policy 11 Energy e) i. and Policy 14c) Design, Quality and Place of National Planning Framework 4 and Policies PROM ID2 Utilities Improvements and EDQ1 Site Appraisal of the North Lanarkshire Local Development Plan.

- Residents in the north and northwestern area of Harthill (VP4)
- Residents in the northern and southern areas of Greenrigg (VP5)
- Residents in the northern area of Eastfield (VP2 and VP3)
- Residents in the northern area and southern boundary of Blackridge at Northrigg Road (VP6, VP8 & VP9)
- Resident of Hill Farm (VP1)
- Resident of Loan Farm (Fig 6.57)
- Resident of Nethererton Farm (Fig. 6.58)
- Resident of Torrance Farm (Fig 6.59)
- Resident of Knowehead Farm (Fig 6.60)
- Resident of Blairmuckhole Farm (Fig.6.62)
- Resident of Bogend Farm (Fig 6.65)
- Resident of Standhill Farm (Fig 6.66)
- Resident of School House (Fig 6.67)
- Resident of Northrigg Farm (Fig 6.68)
- Resident of Southrigg Farm (Fig 6.69)
- Resident of Couch (Fig 6.70)
- Resident of property at Edencroft Equestrian Centre (Fig 6.75)

2. That due to the large scale and close proximity of the proposed turbines to local roads and recreational areas and the extent and nature of associated views, the proposed development would have an unacceptable and overbearing visual impact on the following road and recreational users, contrary to Policy 11 Energy e)iii and Policy 14c) Design, Quality and Place of National Planning Framework 4 and Policies PROM ID2 Utilities Improvements and EDQ1 Site Appraisal of the North Lanarkshire Local Development Plan.

Recreational Users:

- Core Path NL/212/1 – 0.3km from the nearest turbine (VP1)
- National Cycle Route 75 - 1.86km from nearest turbine (VP6)
- Polkemmet Country Park - 1.55km from nearest turbine (VP7)
- Core Path NL/213/1 - 0.67km from nearest turbine
- Core Path NL/214/1 - 1.1km from nearest turbine
- Core Path NL/215/1 - 0.92km from nearest turbine
- Core Path NL/216/1 - 0.92km from nearest turbine

Road Users:

- Edinburgh Road (B7066), Eastfield - 0.53km from nearest turbine (VP2)
- Harthill Road at Blairmuckhill Road Junction - 1.15km from nearest turbine (VP6)
- B718 from Harthill to Shotts, at Brownhill Farm - 2.46 km from nearest turbine (VP12)
- Greenrigg - 0.86km from nearest turbine (VP5)
- Main Street, Blackridge - 1.95km from nearest turbine (VP8)
- Hillside Drive, Blackridge - 1.96km from nearest turbine (VP9)

3. The proposed development could potentially interfere with the telecommunication links of the operators Mobile Broadband Network Limited (MBNL) and Vodafone and no evidence has been provided to show mitigation of the effects and/or that a technical solution has been agreed with either operator, contrary to Policy 11 Energy e) v of National Planning Framework 4.

Background Papers:

Consultation Responses:

- (1) Archaeology Consultant received 5th April 2023
- (2) NLC Protective Services (ENV H) received 5th April 2023 and 10 August 2023
- (3) NLC Infrastructure and Transportation (Roads) received 11th November 2024 and 15th January 2025
- (4) Edinburgh Airport received 18th April 2023 and 7th March 2024
- (5) Glasgow Airport received 19th April 2023 and 28th April 2024
- (6) National Air Traffic Services (Safeguarding) received 3rd April 2023 and 24 September 2024
- (7) Ministry of Defence Estates received 2nd May 2023
- (8) Atkins on behalf of Telecommunications Association of the UK Water Industry (TAUWI) received 29 March 2023
- (9) Scottish Water received 3rd April 2023
- (10) Nature Scotland received 28th April 2023 and 24th August 2023
- (11) Historic Environment Scotland received 10th May 2023
- (12) The Coal Authority received 11th April 2023
- (13) West Lothian Council received 13th April 2023
- (14) Transport Scotland received 30th June 2023

The following parties were also consulted: Scottish Forestry; Scottish Government's Directorate for The Built Environment; Scottish Gas Network; National Grid Plant Protection; Cumbernauld Airport Ltd; Civil Aviation Authority; Health and Safety Executive; Joint Radio Company Wind Farm Team.

Contact Information:

Any person wishing to inspect these documents should contact Ann McGregor at 01236 632500

Report Date:

12 February 2025

REPORT

1. Site Description

- 1.1 The application site is located north of the BP Harthill Services Station (eastbound) and the M8 transport corridor, approximately 600 metres from the centre of the village of Harthill and approximately 450 metres from the centre of the settlement of Eastfield. The site occupies an area of 106.2 hectares and consists of agricultural land (sheep farming) and forestry land, including part of Netherton Woodland consisting of a mixed conifer and nearly native woodland plantation established in 2001.
- 1.2 Vehicular access to the site is from the B718 Westcraigs Road to the north of Harthill (Grid Ref: NS906651). This entrance will consist of a crossroad junction onto the B718. The west arm of the crossroad will provide access to the main construction compound and three of the four turbines, with the eastern arm providing access to a further one turbine. The indicative abnormal load vehicle access to the site is via the M8 between junction 4a and 5 Harthill Services.
- 1.3 The site is characterised by a mix of predominantly coniferous woodland, smaller areas of broadleaved woodland, areas of neutral grassland, improved grassland and marsh grassland and areas of degraded hedgerow. A section of Barblues Bing Site of Importance for Nature Conservation (SINC) is also located west of the centre of the site within the site boundary. Netherton Farm is situated in the southeast corner of the site and is accessed off the B718 Road which cuts through the site in a north to south orientation. Two forestry access tracks running east to west lie either side of the B718 within the site boundary.
- 1.4 The site topography is undulating, generally sloping down towards the south and south-east with site levels ranging between 175m AOD and 220 AOD. Various watercourses also lie within the site and drain to the south into How Burn, before discharging into the River Almond.
- 1.5 The site is defined to the west by post and rail timber fencing and to the east by woodland. A mix of degraded hedgerow and woodland defines the southern boundary beyond which lies the M8 motorway. To the north, the site is adjoined by the administrative boundary of West Lothian Council.
- 1.6 There are five operational turbines located to the east and northeast of the site, including, the existing Torrance Wind Farm and Torrance Wind Farm Extension coupled with turbines located at Southrigg; the closest of which is approximately 200m northeast of the site boundary and approximately 420m from the nearest currently proposed turbine (T1). Various telecommunications masts and pylons are also located within the surrounding landscape.
- 1.7 Several farm steadings are within close proximity to the site, including: Loan Farm which is located to the north of the site, directly west of the B718; Blairmuckhill Farm situated to the north of the site on the north side of Blairmuckhill Road; Knowhead Farm located to the north of the site on the south side of Blairmuckhill Road; and Treebanks Farm to the west of the site.

2. Proposed Development

- 2.1 Planning permission is sought for the construction and operation of a wind farm (referred to as "Torrance Wind Farm Extension II") for a period of 40 years. The proposed development consists of 4 three-blade horizontal axis turbines ('T1, T2, T3 and T4' - the Siemens Gamesa SG170 is the current proposed model of wind turbine and used as the reference for the EIAR), with a height of up to 200m to blade tip, together with associated infrastructure including: on-site access tracks connecting the turbine locations; a network of underground cables linking the turbines to an on-site electricity substation and control/maintenance building; a temporary construction compound for use during the construction phase; a construction compound and substation; and proposed pedestrian and cycle recreational paths located within the afforested area and to be connected to Core Path / National Cycle Route 75.

- 2.2 The proposed development would extend an existing wind farm consisting of 5 turbines, each with a height of 125m to blade tip on land at Torrance Farm, Blairmuckhill Road, Harthill (3 turbines approved under reference 10/00973/FUL) and on land at Nethererton Farm, Westcraigs Road, Harthill (2 turbines approved under reference 12/00284/FUL).
- 2.3 Each of the proposed wind turbines would have an output of 6.6 Megawatts (MW), giving a total installed capacity of 26.4 MW. Based on the latest Digest of UK Energy Statistics (DUKES) 2017-2021, it is expected that the proposed development would generate approximately 61,377 megawatt hours (MWh) of electricity annually, equating to approximately 2,455,099 MWh over its operational life (40 years). This equates to displacing approximately 1,060,600 tonnes of fossil fuel mix generation equivalent CO2 emissions, over the 40-year period.
- 2.4 The proposed development falls within Schedule 2 (3) (a) *Energy Industry* (the area of the development exceeds 0.5 hectares) of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017. A Screening Opinion by the Planning Authority was not sought by the Applicant. However, the Applicant has carried out a voluntary Environmental Impact Assessment (EIA) of the development on the basis that: a) the development effectively forms an extension to previously approved wind farm developments to the east, which were the subject of an EIA and; b) the development is likely to result in significant (and complex) environmental effects and is therefore considered to constitute EIA development. The application is therefore accompanied by a voluntary EIA Report (EIAR).
- 2.5 It is proposed that the felling of 6.65 hectares of commercial woodland located within the site boundary would be undertaken to facilitate the development. Compensatory planting is proposed to the southwest corner of the site as shown in Figure 10.5.1 of the Outline Habitat Management Plan (OHMP). An alternative site south of the M8 also been identified by the applicant for potential compensatory planting. The alternative site is within the control of the applicant; however, no details of the site have been provided
- 2.6 A recreational path for pedestrians and cyclists will also be constructed within the site and will extend north of the site to connect to Core Path / National Cycle Route 75. This will provide greater access between the villages of Harthill and Blackridge. The proposed link path would terminate at the boundary between North Lanarkshire Council and West Lothian Council (WLC) administrative areas.
- 2.7 The existing on-site farming and forestry operations would continue throughout the construction and operation phases of the proposed development.

3. Applicant's Supporting Information

- 3.1 The application is accompanied by the following documentation:
- Preapplication Consultation Report (PAC Report)
 - Planning Statement
 - Design and Access Statement
 - Environmental Impact Assessment Report (EIAR) consisting of 5 volumes including:
 - Volume 1 – Written Statement (Chapters 1-17);
 - Volume 2 – Figures Excluding LVIA and Cultural Heritage Visualisations;
 - Volume 3 – Landscape and Visual and Cultural Heritage Visualisations;
 - Volume 4 – Technical Appendices and;
 - Volume 5 – Ecology and Ornithology
- 3.2 The PAC Report describes the methods by which public consultation was undertaken and reports on attendance by members of the community at public meetings. Local residents and other interested parties were initially invited to the early first round of consultation in August 2022, with follow up consultation undertaken in November 2022, both open days were held in Harthill and Blackridge. A total of 17 people attended the first round of community open days with 3 responding to this round of public consultation. The second round of consultation saw two more in-person community open days which together with online consultation, were advertised in the local newspaper and via social media. Around 23 people, together with 45 school children and 5 school staff, attended the second round of consultation with only 2 people providing a written response to the consultation.

- 3.3 Volume 1 of the EIAR addresses the following environmental effects of the development: landscape and visual impact; noise; forestry; traffic and transport; ecology; ornithology; cultural heritage; geology, soils and peat; hydrology and hydrogeology; socio-economics; recreation and tourism; climate change and carbon balance; shadow flicker; aviation; telecommunications and utilities and; health and safety.
- 3.4 Volume 2 of the EIAR contains a series of figures outlining, inter alia: site layout; abnormal road route; turbine elevations; statutory designations; non-statutory designations; protected species surveys; geology; soils; watercourses; shadow flicker; landscape character areas within the ZTV; proximity to residential properties; recreation and transport routes; cumulative ZTV operational and consented turbines; operational noise at various sensitive receptors; forestry baseline; and visibility splays.
- 3.5 Volume 3 of the EIAR consists of a range of viewpoints (VPs), including VPs 1-22 as shown in the 5km, 10km and 15km study areas, together with views from various cultural heritage points and other sensitive receptors.
- 3.6 Volume 4 of the EIAR contains a series of technical appendices, including: a Construction Environmental Management Plan; a Coal Mining Risk Assessment; an Aviation Risk Assessment and details of Shadow Flicker Receptors.
- 3.7 Volume 5 contains ecology and ornithology appendices.

4. Site History

- 4.1 The current application proposes a further extension to the existing 'Torrance Wind Farm' which consists of 5 operational turbines including, 3 turbines at Torrance Farm and 2 turbines at Netherton Farm as detailed below:
- 10/00973/FUL – approved in February 2011 for the erection of 3 turbines (125m to blade tip) on land to the northeast of the application site at Torrance Farm, Blairmuckhill Road ('Torrance Wind Farm').
 - 12/00284/FUL – approved in July 2012 for the erection of 2 turbines (125m to blade tip) on land at Netherton Farm, Westcraigs Road, Harthill was (original 'Torrance Wind Farm Extension').
 - 22/00269/PAN - further to the approval of the above applications, a Proposal of Application Notice (PAN) was submitted to the Planning Authority in March 2022 (Reference 22/00269/PAN). The PAN proposed a further extension to the existing Torrance Wind Farm of up to ten turbines each with a height of 200m to blade tip ('Torrance Wind Farm Extension II') on land encompassing the current application site and the field north of Netherton Woodland. Pre-application Consultation was subsequently carried out in August and November of 2022 in the form of community open days publicised through social media, the local newspaper and via posters placed locally in the villages of Harthill and Blackridge. The first round of consultation was undertaken on 16th August 2022 in Harthill Village Hall and on 17th August in Craig Inn Community Centre, Blackridge. A second round of consultation was undertaken on 29th November 2022 in Harthill Village Hall and on 30th November in Craig Inn Community Centre, Blackridge. A dedicated consultation page was also published on the Applicant's website.
- 4.2 Other relevant planning history includes consented and operational turbines at Southrigg Farm east of Netherton Farm which are within close proximity to the current application site:
- 14/02112/FUL – a single operational wind turbine (Southrigg 1) up to 126.5m in height to blade tip located approximately 850m to the southeast of the three operational wind turbines at Torrance Wind Farm.
 - 19/00644/FUL – a single consented turbine (Southrigg 2) up to 149.44m in height to blade tip situated approximately 275m east of the two operational wind turbines at Torrance Wind Farm Extension.
 - 23/00286/FUL – a single consented turbine (Southrigg 3) up to 149.44m in height to blade tip situated approximately 300m east of the two operational wind turbines at Torrance Wind Farm

Extension.

- 4.3 With the exception of Southrigg 3, the locations of additional notable wind turbines (operational, consented, application and/or appeal stage) within a 5km Cumulative Search Area are shown in Volume 2, Figure 6.17 of the submitted EIA, the closest of which include: Drumduff Wind Farm to the northwest (3 operational turbines 120m in height to blade tip); Burnhead Wind Farm to the northwest (13 operational turbines 127m in height to blade tip) and; West Benhar Wind Farm to the south/southeast (8 operational turbines 150m in height to blade tip).

5. Development Plan

- 5.1 The Development Plan consists of the National Planning Framework 4, Adopted on 13th February 2023 ('NPF4') and the North Lanarkshire Local Development Plan, Adopted 6th July 2022, ('the LDP').

- 5.2 The following Development Plan policies are relevant to the current application:

- NPF4 Policy 1 Tackling the climate and nature crises
- NPF4 Policy 2 Climate mitigation and adaptation
- NPF4 Policy 3 Biodiversity
- NPF4 Policy 4 Natural Places
- NPF4 Policy 5 Soils
- NPF4 Policy 6 Forestry, Woodland and Trees
- NPF4 Policy 7 Historic Assets and Places
- NPF4 Policy 11 Energy
- NPF4 Policy 13 Sustainable Transport (g)
- NPF4 Policy 14 Design, Quality and Place
- NPF4 Policy 22 Flood Risk
- NPF4 Policy 23 Health and Safety
- LDP Policy PP 5 Purpose of Place (Countryside)
- LDP Policy AD 5 Amount of Development
- LDP Policy PROM ID2 POLICY Utilities Improvements
- LDP Policy PROT A Natural Environment and Green Network Assets
- LDP Policy PROT B Historic Environment Assets
- LDP Policy EDQ 1 Site Appraisal
- LDP Policy EDQ 2 Specific Features for Consideration
- LDP Policy EDQ 3 Quality of Development
- LDP Policy CI 1 Category Green Infrastructure, Amenity Space and Play

- 5.3 Material to the assessment of the current application are the following background reports:

- NLC Development Plan, Modified Proposed Plan, *Landscape Capacity Study for Wind Turbine Development, Background Report*, November 2018.
- *Fortissat Ward Wind Energy Landscape Capacity Study, A report for North Lanarkshire Council, Bayou Bluenvironment*, December 2013.

- 5.4 The following guidance is also relevant:

- *Guidelines for Landscape and Visual Impact Assessment (GLVIA3) 3rd Edition*, Landscape Institute, 2013
- *Residential Visual Amenity Assessment (RVAA) Technical Guidance Note 2/19*, Landscape Institute, March 2019

6. Consultations

- 6.1 Archaeology Consultant – has no objection to the proposal. However, the proposed development has the potential to impact on previously unknown archaeological remains and as the scale of remains are unknown, it is recommended that the development should not commence until the developer has secured the implementation of a programme of archaeological work in accordance

with a Written Scheme of Investigation submitted by the applicant, agreed by the local Archaeology Service and approved by the Planning Authority.

- 6.2 NLC Protective Services (ENV H) – has no objection to the proposal subject to the following conditions:
- The location of the proposed maintenance building is in an area marked as a 'high risk former coal mining' with respect to potential mine gas. On this basis, it is advised that if the development is approved, a condition should be attached to ensure that a site investigation for potential ground contamination is submitted before the development is implemented.
 - In relation to noise, if approved conditions should also be attached to ensure that:
 - a) noise limits for the proposed development are based on predicted noise immission levels detailed in Table 7.20, Chapter 7, Volume 1 of the EIAR;
 - b) that post development verification of meeting the above operational noise limits is provided;
 - c) that a scheme for the assessment and regulation of amplitude modulation effects is submitted post development regardless of complaints received and;
 - d) that noise measurements are submitted to determine compliance or otherwise with the above operational noise limits in the event of a complaint and;
 - e) that a further noise impact assessment is provided in circumstances where the candidate turbine model changes from that provided in the submitted noise impact assessment study.
- 6.3 NLC Infrastructure and Transportation - has been in discussion with the Applicant regarding abnormal load routes and visibility splays and subject to conditions outlined in memo dated 11.11.24, has no objection to the proposed development. These matters could be appropriately controlled through condition.
- 6.4 Edinburgh Airport– has no objection to the proposed development subject to a condition requiring that no part of any turbine shall be erected until a Radar Mitigation Scheme is agreed and has been submitted to and approved in writing by the Planning Authority in consultation with Edinburgh Airport in order to avoid any impacts on Edinburgh Airport's aerodrome navigation aids and associated air traffic management operations.
- 6.5 Glasgow Airport – has no objection to the proposed development following examination from an aerodrome safeguarding perspective.
- 6.6 National Air Traffic Services (Safeguarding) – has no objection to the proposed development subject to a condition to ensure that no part of any turbine is erected above ground until a Primary Radar Mitigation Scheme agreed with the Operator has been submitted to and approved in writing by the Planning Authority in order to avoid any impact on the Primary Radar system located at the Lowther Hill, Cumbernauld, Kincardine and Glasgow radar stations and the associated air traffic management operations. A further condition should be imposed to ensure that no blades shall be fitted to any turbine until the approved Primary Radar Mitigation Scheme has been implemented.
- 6.7 Ministry of Defence Estates – has no objection to the proposed development subject to the submission of an aviation lighting scheme for the approval of the Planning Authority in consultation with the Civil Aviation Authority and the Ministry of Defence defining how the development will be lit throughout its life to maintain civil and military aviation safety requirements as required under the Air Navigation Order 2016.
- 6.8 Atkins on behalf of TAUWI – has no objection to the proposed development following examination of the impact on UHF Radio Scanning Telemetry communications.
- 6.9 Scottish Water – has no objection to the proposed development subject to the following condition: Scottish Water records indicate that there is live infrastructure in the proximity of the development that may impact on existing Scottish Water assets. Written permission must therefore be obtained from Scottish Water before any works can begin within the area of Scottish Water apparatus.
- 6.10 Nature Scotland (NatureScot) – has no objection to the proposed development and is satisfied that it poses little risk of significant effects on any birds. NatureScot has advised that if planning permission is granted, the Ecological Clerk of Works (EcOW) should complete pre-construction checks to ensure that nothing substantive has changed since the submitted protected species surveys were undertaken and encourages the developer to engage in respect to ongoing bird monitoring.

- 6.11 Historic Environment Scotland (HeS) – has no objection to the proposed development following review of the information and visualisations provided to support the assessment of impacts on the setting of the Cairnpapple Hill prehistoric ceremonial complex scheduled monument (SM90053) and the Frontiers of the Roman Empire: Antonine Wall World Heritage Site. HeS is satisfied that the proposed development will not have significant adverse effects on the site or setting of any assets within their remit.
- 6.12 The Coal Authority – has no objection to the proposed development subject to conditions requiring submission and approval, by the Planning Authority in consultation with the Coal Authority, of a scheme of intrusive site investigations to establish risks posed to the development by past coal mining activity and, where necessary remediation works and/or mitigation measures to address land instability arising from coal mining legacy, together with a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development.
- 6.13 West Lothian Council (WLC) – has no objection to the proposed development but has offered the following comments: the proposal is for an extension to an existing wind farm in an area of established wind energy at Torrance and Southrigg Farms and it is noted that wind energy development in and around this open valley landscape of the M8 corridor might benefit from a more strategic approach rather than historical piecemeal accumulation of wind turbines of varying sizes characteristic of wind energy development in this area.
- 6.14 Transport Scotland – has no objection to the proposed development subject to conditions requiring that the turbines are constructed in the locations indicated in Drawing Number 3959-PUB-056 (Highway Setback Distances) dated 5/23/2023 and to the submission and approval of the proposed route of any abnormal loads on the trunk road network (including any associated abnormal load accommodation measures required), by the Planning Authority in consultation with Transport Scotland.

7. **Representations**

- 7.1 Following press advertisements and an extended period of neighbour notification to accommodate the holiday period (Easter 2023), the Planning Authority received 25 letters of objection of which three are from the same household and two have been submitted without providing a postal address. The grounds of objection are summarised as follows:

- Objection: Overwhelming visual impact on villages of Harthill, Eastfield, Greenrigg, Blackridge and Whitburn given height of proposed turbines and proximity to those communities.

Response: It is considered that the visual amenities of many residential properties both within the villages outlined above and several properties within 2km of the proposed turbines would be significantly affected by the proposed development. This is addressed under the heading *Visual Effects on Settlements and Residential Properties* paragraphs 8.32-8.40 of this report.

- Objection: Significant visual effects on the A89, B718, B717 and B7066 roads

Response: The introduction of the proposed turbines would impact views of the skyline from various points along affected public roads, particularly residential roads, and despite the views being of short duration, the effects would nevertheless be significant and unacceptable given the height and vertical scale of the turbines. This is addressed in paragraph 8.31 of this report.

- Objection: Visual effects on views from the core path network and Polkemmet Country Park

Response: Significant visual effects to a major level would be experienced by recreational users at: National Cycle Route 75, Core Path NL/213/1; Core Path NL/212/1; Core Path NL/214/1; Core Path NL/215/1; Core Path NL/216/1 and; Polkemmet Country Park. An assessment of the effects is provided in Table 6.10 of the LVIA and is addressed in this report under heading 'Visual Effects on Receptors'.

- Objection: Overbearing cumulative impact and increased sense of enclosure

Response: Cumulative effects would be experienced by residents within 2km of the proposed turbines and by recreational and road users. Significant visual effects to a major level would also be experienced by the above receptors. An assessment of visual and cumulative effects is provided under heading 'Visual Effects on Receptors' in this report.

- Objection: Limited opportunity for mitigation due to the height of the proposed turbines

Response: The turbines are of a height and vertical scale, that would limit opportunity for mitigation.

- Objection: Noise pollution

Response: If planning permission was granted, various conditions would be attached to the permission to ensure that noise from construction, traffic and operation of the turbines, including cumulative noise, was mitigated and managed effectively.

- Objection: Shadow flicker

Response: If planning permission was granted, various conditions would be attached to the permission to ensure shadow flicker was mitigated e.g. turbine shut down.

- Objection: Ice throw

Response: The turbines would be fitted with vibration sensors to detect any imbalance which might be caused by icing of the blades. In icy conditions, the turbines would be shutdown.

- Objection: Turbine failure

Response: To prevent blade damage or loss, the turbines are designed to shut down automatically during high wind speed conditions, typically in excess of 60 miles per hour (mph). In terms of other turbine failure, whilst rare, HSE is working with the wind turbine industry on health and safety initiatives at strategic and working levels to collect accident and incident data that will enable industry benchmarking and the sharing of information to mitigate failure.

- Objection: Abnormal load route/road safety

Response: Abnormal load route options are shown in Volume 4 Abnormal Load Route Assessment, Appendix B of the EIAR. NLC Transportation has been consulted on the application and is satisfied with the options and that existing traffic flow levels on routes within the vicinity of the proposed development could accommodate proposed operational traffic to and from the site without significant effects to the road network. Transport Scotland has not raised any objections to the proposal.

- Objection: Impact on property prices

Response: This is not a material planning issue.

- Objection: Blackridge CC has objected on the basis of significant visual effects but is pleased to see other considerations have been made to improve core path connectivity, by linking Core Path NL/213/1 from Blackridge in the north to Core Path NL/212/1 which is located within the site boundary and further to Harthill via the B718 Westcraigs Road. Local upgrades and repairs to the core path would be beneficial to make the route more accessible in places. They are also pleased to see an Outline Habitat Management Plan and areas of proposed native tree planting and proposed wader scrapes.

Response: As above, significant visual effects on residents, settlements and on recreational and road users are addressed under heading, Visual Effects on Receptors, in this report.

8. Planning Assessment

- 8.1 Section 25 (1) of the Town and Country Planning (Scotland) Act 1997 as amended ('the Act') provides that where, in making a determination under the Planning Acts, regard is to be had to the Development Plan unless material considerations indicate otherwise. The Development Plan consists of NPF4 and the LDP and the determination of the application must be made in accordance

with both. In the event of any incompatibility between the two, NPF4 being later in date is to prevail (Section 24 (3) of the Act). Statements in NPF4 are also material to the determination of the application. With regard to decision making, development that accords with the Development Plan should therefore be approved unless the adverse effects of the development would significantly and demonstrably outweigh any benefits that the development could expect to deliver.

- 8.2 Consideration must also be given to any other material considerations that apply, including assessment of visual effects, cumulative effects and effects on residential (visual) amenity as well as any positive benefits generated by the development, such as climate mitigation and socio-economic benefits.

Location of the Development

- 8.3 The proposed development is located in designated countryside. Although renewable energy in the countryside is not specifically addressed in NPF4, the siting of renewable energy projects in the Green Belt, where stricter controls over development apply, is supported by Policy 8 'Green Belt' of NPF4 provided that the development is compatible with the surrounding established 'countryside and landscape character' in accordance with limb a) ii) of the policy. Unless located in a National Park or National Scenic Area, proposals for all forms of renewable, low-carbon and zero emissions technologies will be supported by Policy 11 a) 'Energy', of NPF4. The proposed development satisfies limb a) ii) of Policy 8 in principle in that wind farm development is generally compatible with countryside use, specifically where it is located within a wind farm landscape. The development also satisfies limb b) of Policy 11 in that it not located in a National Park or National Scenic Area.
- 8.4 The LDP Promote policies seek to promote development and locations that contribute to successful and sustainable places. Policy PROM ID2 of the LDP is one such policy that promotes renewable energy subject to an assessment of it being suitably located within its specific 'Land Use Character Area'. The policy directs wind farm development to areas that may have potential for wind farm development (formerly 'areas of search') and in doing so, references, *'The Landscape Capacity Study for Wind Turbine Development in Glasgow and the Clyde Valley, North Lanarkshire, Land Use Consultants, June 2014'*, which provides a strategic view of landscape sensitivity to wind energy development in the North Lanarkshire Council administrative area. The study was subsequently replaced and updated by the *'North Lanarkshire Local Development Plan Modified Proposed Plan Landscape Capacity Study for Wind Turbine Development Background Report, November 2018'*, ('the Background Report') which evaluates the underlying capacity and sensitivity of each landscape character type in the NLC area for the purpose of identifying areas with potential for significant wind energy development for inclusion in the LDP. The Background Report was informed by the SNH report, entitled, *'Siting and designing wind farms in the landscape - version 3a, SNH, 2107'*. The Background Report addresses landscape capacity and sensitivity issues in relation to turbine heights ranging from **15m up to circa 150m** to tip (see para. 3.40-3.45 and Table 3.1 of the Report) and highlights the need to develop discrete foci or clusters within the Plateau Moorland Landscape Character Area rather than allow a scatter of single turbines and turbine groups across the whole area. However, neither the Background Report nor the SNH report addresses turbine heights greater than circa 150m to blade tip. Further, it is noted that the more focused concept of 'Landscape Sensitivity' is now preferred over the term 'capacity' (to accommodate wind energy) as noted in the Glossary p.35/36 of Landscape Sensitivity Assessment Guidance (Methodology), NatureScot, 2023.
- 8.5 The development lies within the Plateau Moorlands Glasgow and Clyde Valley Landscape Character Type 213 (LCT 213 is a NatureScot designation) and the Plateau Moorlands Local Landscape Character Area 7 (LLCA 7 is a local authority landscape area). This landscape is identified as one such LLCA where significant wind farm development is potentially acceptable (as indicated in Inset Maps 2, 4 and 5 of the LDP Map Book) subject to satisfying all other relevant policy requirements. Therefore, in very broad terms, the principle of locating the development in the Plateau Moorlands LLCA (and wind search area) is acceptable. However, the general location of wind farm development is only amongst a range of factors that must be considered as part of a wider assessment. Whilst the general geographical location of the proposed wind farm within LLCA 7 is in principle acceptable, the LDP Background Report does not take account of landscape sensitivity with respect to turbine tip heights over 150 metres and as noted in Policy 11 e) of NPF4, renewable energy developments must demonstrate mitigation of impacts on, inter alia, communities and individual dwellings, including, residential amenity, visual impact, noise and shadow flicker and; landscape and visual impacts etc

Socio Economic Benefits

- 8.6 Development in the countryside must be supported by evidence to demonstrate that the proposal will result in significant economic benefit, including local and community socio-economic benefits, such as employment, associated business and supply chain opportunities, in accordance with Policy PP5 Purpose of Place of the LDP and Policy 11 c) Energy of NPF4. The predicted socio-economic benefits of the proposed development, outlined in Vol 1, Chapter 15 of the EIAR and Chapter 9 of the submitted Planning Statement, are divided into the following categories:
- Direct effects - including employment opportunities in the construction, operation, maintenance and decommissioning of the proposed development.
 - Indirect effects - such as employment opportunities in the supply chain by companies providing services to the proposed development during construction, maintenance and decommissioning phases.
 - Induced effects – including employment created by the additional spend of wages in the local economy and the purchasing of basic materials and equipment, e.g. supply of building and electrical materials.
 - Wider effects – largely unquantifiable and include opportunities for inter alia research and development, civil engineering and skills development / worker retention.
- 8.7 The principal socio-economic assessment criteria relates to the direct employment effects that the proposed development may generate. The effects are expressed in terms of Full-Time Equivalent (FTE) jobs and the Gross Value Added (GVA) generated by any potential jobs created by the proposed development. It is anticipated that a temporary workforce peaking at 60 people will be employed during the 12-month construction period. The range of local services that may be required during the construction, maintenance and decommissioning phases include but are not limited to, haulage and transport services; site clearance; construction of access road, turbine platform and other civil engineering services; site and ground investigation services; building construction, electrical and mechanical services etc. Further, less quantifiable benefits both within and outside the area (defined in paragraph 15.3.9 of Volume 1, Chapter 15 of the EIAR) may include indirect, induced and wider effects.
- 8.8 Paragraph 15.9.3 of Volume 1, Chapter 15 of the EIAR provides an indication of the Applicant's willingness to develop a shared ownership scheme, which would allow the community to invest in the scheme and obtain an annual return. Paragraph 9.1.7 of the submitted Planning Statement states that the proposed development will contribute £5,000 per MW installed capacity to nearby communities affected by the development, resulting in an annual value of up to £132,000 per year. Over a 40-year operational period, this will provide up to £5.28 million in community benefit. Whilst this is a significant sum, community contributions are voluntary arrangements that sit independent of the planning system as clarified in the Chief Planner's letter dated 20th September 2024, and for that reason are accorded little weight in the planning balance. It is also noted that no firm proposals for the scheme appear to have been drawn up at this time.
- 8.9 Notwithstanding, the wider socio-economic benefits of the proposal in terms of FTE jobs, indirect effects and induced effects are likely to be significant and are an important consideration in the planning balance in the context of Policy 11 c) of NPF4 and Policy PP5 of the LDP. Should permission be granted, it is recommended that a condition is attached to require the developer to give due consideration to local companies in the provision of goods and services during the construction and decommissioning phases of the development and to provide evidence to the Planning Authority of having done so.

Climate Change Mitigation

- 8.10 Policy 1 Tackling the climate and nature crises and Policy 2 Climate mitigation and adaptation of NPF4 seek to address climate change and nature crises and give significant weight to proposals that are sited and designed to minimise lifecycle greenhouse gas emissions and adapt to current and future risks from climate change. Policy PROM ID2 'Utilities Improvements' of the LDP provides that where appropriate, proposals for renewable energy will be supported subject to an assessment against relevant policies in the LDP and other legislative requirements and/or material considerations, including for example, The Climate Change (Scotland) Act 2019. Similarly, Policy 11 of NPF4

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

- 8.11 The development has an estimated installed capacity of 26.4 MW and would make a significant contribution to renewable energy generation targets. Based on the latest Digest of UK Energy Statistics (DUKES 6.3) it is expected that the proposed development would produce approximately 61,377 megawatt hours (MWh) of electricity annually, equating to approximately 2,455,099 MWh of electricity over the 40-year operational life of the development and displacement of approximately 1,060,600 tonnes of fossil fuel mix generation equivalent CO₂ emissions over the operational period of the wind farm. The potential annual carbon emission savings attributed to the proposed development are provided in Table 16.5 of Volume 1, Chapter 16 of the EIAR.
- 8.12 The contribution to greenhouse gas emissions reduction targets must however be viewed in the context of carbon losses associated with the manufacturing, construction and installation phases. The total estimated carbon losses generated by the development through manufacturing, construction and installation of the wind turbines and extra capacity to back up wind power generation equate to 42,994 tonnes CO₂ (Table 16.6, Vol 1, Chapter 16 of the EIAR). However, the CO₂ emissions generated during these processes are forecast to be cancelled out within approximately 3.8 years (worst case scenario) of operation of the proposed development and 0.7 years (best case scenario) if the development was to displace energy generated from grid-mix electricity. In comparison, if the proposed development was to displace energy generated from fossil fuel-mix electricity generation the payback period of the development would be reduced to 1.7 years (worst case) and 0.7 years (best case) as indicated in Table 16.7, Volume 1, Chapter 16 of the EIAR.
- 8.13 The proposed development tackles the climate and nature crisis through significant carbon savings (1,060,600 tonnes over the lifetime of the development) with associated carbon losses (42,994 tonnes) paid back over a period spanning 0.7 years to 3.8 years (depending on type of energy displaced) coupled with significant contributions to renewable/ clean energy targets in line with the objectives of Policies 1, 2 and 11 of NPF4 and Policy PROM ID2 of the LDP. As in the case of socio-economic benefits, the climate change mitigation benefits are an important consideration in the overall planning balance.

Landscape and Visual Impact

- 8.14 Policy 11 Energy of NPF4 advises in subsection e) ii. that development proposals for all forms of renewable, low-carbon and zero emissions technologies will be supported provided that, they are able to demonstrate how significant landscape and visual impacts will be mitigated. Where impacts are localised and/or appropriate design mitigation has been applied, development of this nature will generally be considered acceptable. Policy PROM ID2 Utilities Improvements of the LDP reflects the objectives of Policy 11 of NPF4 in that it requires all applications for wind energy development to be assessed for their geographical suitability relative to the Land Use Character Area in which they are proposed, with a particular focus on environmental quality. Policy AD5 Amount of Development of the LDP provides that applications for development in the countryside will be subject to appropriate assessment. Appropriateness refers to the nature and scale of the development and whether it would be more appropriate to locate the development in an area that could accommodate the scale or size of development proposed. Appropriate Assessment is not however required for renewable energy development in the countryside; rather Policy AD5 requires that renewable energy development is assessed in accordance with LDP Policies EDQ, PROM and PROT. Policy EDQ 1 Site Appraisal of the LDP provides a list of environmental quality criteria that all proposals should achieve, including a requirement that all development is able to successfully integrate with landscape character. When considering the above impacts, significant weight will be placed on the contribution of the proposal to renewable energy generation targets and on greenhouse gas emission reduction targets.
- 8.15 Landscape and visual effects are reported in Volume 1 Chapter 6 Landscape and Visual Impact Assessment (LVIA) of the EIAR. The purpose of the LVIA is to identify, predict and evaluate the potential effects of the development on landscape character and to assess and report on the prediction of magnitude of change and the significance of residual landscape and visual effects. LVIA methodology should follow relevant industry guidance as outlined below:
- Guidelines for Landscape and Visual Impact Assessment, 3rd Edition (GLVIA3), 2013.

- GLVIA3 Statement of Clarification 1/133, Landscape Institute and IEMA, 2023.
- Techniques for Judging Capacity and Sensitivity, NatureScot and the Countryside Agency, 2002.
- Siting and Designing Windfarms in the Landscape, NatureScot (formerly named SNH), 2017.
- Guidance: Assessing the Cumulative Impact of Onshore Wind Energy Developments, NatureScot, 2021.

8.16 Development may have a **direct** effect (physical and visual effect) on landscape fabric and landscape character as well as an **indirect** effect (visual effects of the development in the context of the existing and visual character of the LLCA or adjoining LLCAs). Depending on the **sensitivity** of the LLCA in question and **magnitude of change** (very high, high, medium, low or very low), the level of effects are described as being either **major, moderate, minor or negligible**. Where the level of effects is determined to be major or moderate, the effects will also be considered **significant** in EIA terms. Significant effects may arise as a consequence of the following:

- Changes to landscape elements - the addition of new elements or the removal of existing characteristic elements in the LLCA.
- Changes to landscape qualities - degradation, erosion, or positive/negative reinforcement of landscape elements/ patterns.
- Changes to landscape character - changes to characteristic elements or existing qualities or by cumulative addition of new features. The magnitude of change may be enough to alter part of the overall landscape character of a particular area.
- Cumulative landscape effects - more than one wind farm may lead to potential cumulative landscape effects.

8.17 The potential landscape and visual effects, including cumulative effects during the construction, decommissioning, and operational phases are summarised in paragraphs 6.6 – 6.7 of the LVIA and, in accordance with paragraphs 2.20 -2.21 of GLVIA3, are considered separately; landscape is assessed as an environmental resource in its own right whereas visual effects are assessed on the basis of views and visual amenity as experienced by people (receptors).

Effects on Landscape Fabric and Landscape Character (Within 15km Study Area)

8.18 Paras 6.4.6 to 6.4.21 of the LVIA describe the receiving landscape character of the site and the surrounding study area listing 6 landscape character types (LCT) based on NatureScot's national landscape character assessment and 5 local authority local landscape character areas (LLCA). The detailed assessment is based predominantly on the host LLCA which is the North Lanarkshire Plateau Moorland Landscape Character Area (LLCA 7) and the 5 LLCAs which border it. Table 6.5: Local Landscape Character Areas (LLCA) of the LVIA describes LLCA 7 as:

'a large scale, open upland landscape with considerable inter-visibility between adjacent LLCAs. It is characterised by extensive areas of commercial plantation, almost exclusively coniferous, and demonstrates evidence of past industrial use including numerous former open cast sites, quarries bings and spoil heaps. It is crossed by major transport links, including the M8 and A71 corridors which form a notable division within the LLCA 7'.

It concludes that the predominance of existing and former industrial development [and wind farm development] within LLCA 7 results in a landscape of low sensitivity to "certain development types". This would include wind turbines up to 150m in height to blade tip.

8.19 Section 6.6 and Appendix 6E of the LVIA provides an assessment of the construction effects of the development on the landscape fabric and landscape character. Construction effects are limited to access tracks, substation, transformer and associated works. The effects of the removal of 6.65 ha of forestry land have not been fully assessed for this phase of the proposed development. The LVIA concludes that effects of construction would not be significant, and that no effect would exceed that of the operational phase. It is agreed that the construction effects are unlikely to be significant and would be temporary in nature. However, the loss of 6.65ha of forestry has not been fully considered on the host LLCA or LLCAs within the 15km study area. Any effects would however be compensated for through plantation of native trees on land of an equivalent area within the site boundary within 12 months of completion of the construction phase. Decommissioning effects are covered briefly and are not considered to be significant.

- 8.20 Section 6.7 and Appendix 6.6/6D of the LVIA assesses the operational effects of the proposed development on all LLCAs within 15km of the proposed turbines, including, the host LLCA *Plateau Moorland* (LLCA 7) and 4 other LLCAs bordering it, namely: *Upper Almond Valley* LLCA 6; *Polkemmet Moor* LLCA 8; *Armadale & Bathgate Plateau – Lowland Plateaux* LLCA 9 and; *Avonbridge to Armadale Plateau Edge – Lowland Plateaux* LLCA 11.
- 8.21 The Plateau Moorland LLCA 7 is considered to be of low landscape value and low landscape sensitivity to wind turbines (with a tip height up to 150m) overall, although there are some pockets within LLCA 7 that are of medium landscape sensitivity. As noted in Appendix 6.4/6D of the LVIA, during the operational phase the direct effects on LLCA 7 within 5km of the proposed turbines are considered to be **moderate**, long term, adverse and **significant**. The indirect landscape effects (outside 5km of the proposed turbines) are assessed as being **negligible-minor**, long term, and adverse and not significant. This in part is due to the presence of other wind farms (listed in para 6.7.12 of the LVIA), coupled with significant past industrial use, including numerous former open cast sites, quarries bings and spoil heaps and major transport links, including the M8 and A71 corridors.
- 8.22 The Upper Almond Valley LLCA 6 borders the host LLCA to the southeast and from Greenrigg extends 15km east into West Lothian Council administrative area. Described as having some value with pockets of both low and medium landscape sensitivity, the indirect landscape effects on the LLCA 6 during the operational phase are assessed as being **minor-moderate**, long term, adverse and not significant in certain pockets but **moderate** and **significant** in others pockets of the LLCA that are within 5km of the proposed turbines.
- 8.23 The Polkemmet Moor LLCA 8 borders the host LLCA to the south at Harthill, extending south across Polkemmet Moor to Faulhouse in the West Lothian Council administrative area, 5 km south of the proposed development. It is described as being of low – medium landscape value and low landscape sensitivity overall. The indirect landscape effects on LLCA 8 during the operational phase are assessed as being **minor**, long term, adverse and not significant.
- 8.24 The Armadale & Bathgate Plateau – Lowland Plateaux LLCA 9 borders the host LLCA to the north and extends east towards Armadale in the West Lothian Council administrative area. It is considered to be of low-medium landscape value and low-medium landscape sensitivity overall. The indirect effects on LLCA 9 during the operational phase are assessed as being **minor-moderate**, long term, adverse, **significant** in certain pockets within 2-5km of the proposed turbines and not significant in other pockets.
- 8.25 The Avonbridge to Armadale Plateau Edge – Lowland Plateaux LLCA 11 borders the host LLCA to the north and extends east towards Armadale in the West Lothian Council administrative area. Described as being of low – medium landscape value and low – medium landscape sensitivity. Indirect effects during the operational phase on LLCA 11 are assessed as being **negligible-minor**, long term, adverse and not significant.
- 8.26 The cumulative landscape effects during the operational phase of the proposed development range from minor to moderate within 15km of the proposed turbines. Significant cumulative effects are predicted for Plateau Moorland LLCA 7 (direct effects) and for Upper Almond Valley LLCA 6 within a 5km radius. Cumulative effects are outlined in Appendix 6.5/6E.
- 8.27 Direct effects on the host LLCA during construction would be significant and adverse, including the effect on landscape fabric, but the effects would be largely confined to the site. Direct effects during the operational phase would similarly be significant and adverse. Whilst the detailed findings in respect of the level and significance of effects on the LLCAs are broadly accepted and description of LLCA 7 and its landscape sensitivity to wind farm development are considered to accurately reflect the description and landscape sensitivity outlined in the NLC *Landscape Capacity Study for Wind Turbine Development, Background Report*, the effects on the landscape character of LLCA 7, do not take account of the juxtaposition of the proposed turbines (up to 200m to blade tip as currently proposed) and existing turbines (typically much smaller: <152m to blade tip) that are more characteristic of LLCA 7. Given the proximity and comparative height difference between the proposed turbines and existing turbines, coupled with the relatively flat topography of the Plateau Moorland LLCA 7 and the considerable inter-visibility with adjacent LLCAs which allow medium to long distance views into neighbouring Local Authority areas, it is considered that the indirect effects on the visual and perceptual characteristics of host LLCA and potentially neighbouring LLCAs, arising from the introduction of much taller turbines in the landscape, may be underestimated both in

Section 6 of the LVIA and in Appendix 6D of the LVIA. Whilst it is generally accepted that beyond 5km and with increasing distance, the proposed turbines may be perceived as diminishing elements in a wind farm landscape and effects much reduced, from certain viewpoints at a greater distance, the indirect effect on the visual and perceptual characteristics of intermediate LLCAs may still be significant. An indication of the scale of the turbines at a distance of 22.72km to the nearest turbine from the Tak-Ma-Doon Road, Kilsyth Hills (on a relatively cloudy day) is illustrated in VP 22 (Figure 6.48). With reference to indirect effects on the landscape character of the adjoining LLCAs that lie outside NLC's administrative boundary (i.e. LLCA 6, 8, 9 and 1), West Lothian Council has been consulted and has no objection to the proposed development.

- 8.28 It is noted that the proposed turbines would exert moderate adverse indirect effects and significant adverse direct effects on the landscape character of the Plateau Moorland LLCA. However, it is accepted that consequent changes to landscape character as a result of the wind farm development is to be expected and in this case the change would largely manifest in significant local adverse effects only with effects potentially diminishing with increasing distance beyond 5km of the proposed turbines. In the context of the wider planning balance and overriding benefits that the development would generate, and without consideration of other extraneous factors, the significant adverse effects on the immediate local landscape character, are not in themselves considered to be grounds for refusing the application.

Effects on Landscape Designations (Within 15km Study Area)

- 8.29 Paragraphs 6.4.22 – 6.4.27 of the LVIA describe designations that relate and/or contribute to landscape character within a 15km radius study area, including country parks, Conservation Areas, and Gardens & Designed Landscapes (GDL). It is noted that there are no national or regional landscape designations within or close to the site. The only Conservation Area within the 15km study area is Torphichen (reference Figure 6.13) which is located 10km northeast of the proposed development. Due to the distance from the proposed turbines, together with woodland south of the B8047 road and topography rising to the south of the settlement, no significant effects on the setting of this landscape designation are anticipated. Polkemmet Country Park lies within 1.54km east of the site. Effects on receptors within the park would be significant as there are direct views of the development from the western edge of the park. However, it is not clear from the narrative whether the proposed development would affect the setting of this landscape designation. Two Gardens and Designed Landscapes (para 6.4.2.7 of the LVIA) lie within the 15km study area but have been scoped out of the assessment as they lie outside the ZTV.

Visual Receptors

- 8.30 Subsection c) of Policy 14 Design, Quality and Place subsection of NPF4 provides that development proposals that are poorly designed and detrimental to the amenity of the surrounding area or inconsistent with the six qualities of successful places, will not be supported. Subsection e) i. of Policy 11 Energy of NPF4 advises that development proposals for all forms of renewable, low-carbon and zero emissions technologies will be supported provided that, they are able to demonstrate how impacts on communities and individual dwellings, including, residential amenity, visual impact will be mitigated. This limb of the policy is compatible with Policy PROM ID2 Utilities Improvements of the LDP which requires renewable energy proposals to demonstrate [acceptable] impacts on amenity. Limb c) of Policy 14 is compatible with Policy EDQ1 of the LDP which requires all development to avoid harm to neighbouring amenity. As in subsection e) ii of Policy 11, when considering the above impacts, significant weight will be placed on the contribution of the proposal to renewable energy generation targets and on greenhouse gas emissions reduction target.
- 8.30 Visual effects are concerned wholly with the effect of development on views and general visual amenity and are identified for different receptors (people) who would experience the view at either their place of residence, during recreational activities, or when travelling through the area. Visual effects consider the sensitivity of the receptor against the proposed magnitude of change (evaluated as large, medium, small or negligible) to determine a level of visual effect, (major, moderate, minor or negligible) depending on the sensitivity of the receptor. Effects predicted to be of major or moderate level are considered to be significant in the context of the EIA Regulations. Visual effects have been assessed for all receptors (residential, recreational and road users within 2km of the proposed turbines.

- 8.31 The assessment of effects on visual receptors during the operational phase, includes 22 representative viewpoints (VPs) from key receptors at varying distances and orientations from the site. The various VP locations are shown in Volume 2 Fig 6.2 Blade Tip ZTV of the LVIA. Visualisation (photographs of existing baseline, wirelines and photomontages) of the proposed development from each viewpoint are shown in Viewpoints (VPs) 1 – 18, Figures 6.23 to 6.40.

Visual Effects on Recreational Users and Road Users (Within 2km Study Area)

- 8.32 **Significant** visual effects to a major level would be experienced by recreational users at: National Cycle Route 75 (refer to VP 8, Figure 6.34); Core Path NL/212/1 (refer to VP1, Figure 6.27); Core Path NL/216/1 (refer to VP 12, Figure 6.38) and; Polkemmet Country Park (refer to VP 7, Figure 6.33). No visualisations have been provided for Core Path NL/213/1, Core Path NL/214/1 or Core Path NL/215/1. However, recreational users at each of these routes are also predicted to experience significant visual effects to a major level as confirmed in Table 6.10 of the LVIA. **Significant** visual effects would also be experienced by recreational users of the recreational park/public open space near Baird Terrace, Eastfield (0.59km); a public open space at Dunn Hill, Harthill (0.79km) and; a recreational park at the junction of Harthill Road / Blairmuckhill Road (1.15km). However, no narrative has been provided in the LVIA to explain how the author has arrived at these effects.
- 8.33 In terms of visual effects experienced by the road users, **significant** visual effects are assessed at 8 VPs, including: B7066 Edinburgh Road (0.53km from nearest turbine); Harthill Road at Blairmuckhill Road Junction (1.15km from the nearest turbine); B718 from Harthill to Shotts at Brownhill Farm (2.46 km from nearest turbine); Armadale, western edge of settlement (3.29km from nearest turbine); Greenrigg (0.86km from nearest turbine); Main Street, Blackridge (1.95km from nearest turbine); Hillside Drive, Blackridge (1.96km from the nearest turbine) and; Forrest Road and Benfoot (3.67 km from the nearest turbine). Certain views of the proposed turbines from the M8 motorway would be experienced by road users intermittently at oblique angles to the direction of travel at typical motorway speeds. However, due to the proximity of the proposed turbines to the M8, direct close-range views of the turbines may also be experienced. Whilst it has not been possible to fully assess the effect on road users of the M8 motorway, it has been possible to predict the effects on roads users. Against the existing visual baseline, in which users currently experience only fleeting glimpses of existing turbines, post development road users are likely to experience a medium / large magnitude of change and a moderate / major level of effect which would result in significant visual effects within 2km of the proposed turbines when travelling westbound and eastbound along the M8 corridor. VP 13 provides some indication of the effects taken at an elevated point (at Junction 4A) above the M8 corridor.
- 8.34 The introduction of the proposed turbines would impact views of the skyline from various points along recreational routes and public roads, particularly from residential roads, and despite views being of short duration, the effects would nevertheless be significant and unacceptable given the height and vertical scale of the turbines. The above receptors are also likely to experience **significant** cumulative effects within 3.67 km of the proposed turbines attributed to the relationship of the proposed development with existing turbines (including, Torrance wind farm and wind farm extension, Southrigg turbines to the south, West Benhar wind farm to the southwest and Drumduff (West Lothian) and Burnhead (West Lothian) wind farms to the north). There are also three consented wind farm developments at Southrigg, Forrestfield (West Lothian) and Drumelzie (West Lothian). Significant effects may also extend beyond 3.67km if more sensitive receptors are taken into account at locations such as VP17 Black Loch at 6.31km.
- 8.35 In view of the significant adverse effects experience by certain *recreational and road users*, the development is considered to be contrary to Policies PROM ID2 and EDQ1 of the LDP and to Policies 14 c) and 11e) iii of NPF4.

Visual Effects on Residents (Within a 2km Study Area)

- 8.36 The Landscape Institute's technical guidance note, 'Residential Visual Amenity Assessment (RVAA)' March 2019, advises that RVAA may be required when properties in relatively close proximity to a proposal for [wind farm] development are likely to experience a high magnitude of visual change as a result. The purpose of RVAA is to provide an informed, well-reasoned assessment as to whether the effect of a development on Residential Visual Amenity is of a nature and / or magnitude that it would potentially affect the 'living conditions' or Residential Amenity' of residents. This is referred to in the guidance as the Residential Visual Amenity Threshold, which may be breached in '*situations where*

the effect of development on the outlook / visual amenity of a residential property is so great that it is not generally considered to be in the public interest to permit such conditions to occur where they did not exist before” (paragraph 1.6 of the guidance).

- 8.37 The guidance outlines the 4 steps that are involved in RVAA:
- Step 1- Define study area and Identify properties to be assessed;
 - Step 2 - Evaluate baseline visual amenity of properties;
 - Step 3 - Assess change to visual amenity of properties & Identify properties requiring further assessment;
 - Step 4 - Detailed assessment of individual properties identified in Step 3 as having the greatest magnitude of change such that the Residential Visual Amenity Threshold may be engaged.
- 8.38 Visual effects on views from residential properties and settlements are assessed in paragraphs 6.8.11 - 6.8.17 and Table 6.9 of the LVIA and in the RVAA (Appendix A and Appendix 6.3/6C of the RVAA). A summary of visual effects is also provided in Volume 4 Appendix 6.4/6D. A Residential Visual Amenity Assessment is contained in Volume 4 Appendix 6.3/6C and further commentary on RVAA is contained in Appendix A of the RVAA dated 30 July 2024. Baseline landscape photographs presented with wireline images and photomontages are presented in Volume 3.
- 8.39 Five **settlements** lie within 2km of the proposed turbines, including: Harthill (0.48km to the nearest turbine), Eastfield (0.46km to the nearest turbine), Greenrigg (0.67km to the nearest turbine), Blackridge (1.2km to the nearest turbine) and Whitburn (1km to the nearest turbine). Table 6.9 of the LVIA presents a summary of the predicted visual effects on the above settlements. All are predicted to experience **significant visual effects to a major level**, as a result of the proposed development. Many properties within the settlements are located within a few hundred metres of the nearest turbines and have clear views of one or more turbines. Paragraph 6.8.13 of the LVIA further adds that, “significant visual effects would generally occur within distances of approximately 3.8 km from the nearest turbine where there are clear views of the existing wind farm and the proposed development.”
- 8.40 Paragraph 6.8.13 of the LVIA notes that whilst it was not practical to assess all residential properties within a 3.8km zone of the wider study area, those properties within 2km of the site which are likely to be the most affected by the development have been assessed to give an indication of the greatest visual effects likely to occur. The assessments for Harthill, Eastfield, Blackridge and Greenrigg, presented in the Additional Survey of Settlements’ (Appendix A of the RVAA dated 30 July 2024) and in Table 6.9 of the LVIA, conclude that *‘the significant visual effects could affect the living standards of a limited number of properties’* in the northwestern area of Harthill, northern area of Greenrigg and northern area of Eastfield (as illustrated in VPs 2, 3, 4 and 5). However, properties within these settlements are not individually identified in any of the documentation submitted in support of the application. Further, no statement has been provided to evaluate whether the visual effects of the proposed turbines would affect the living standards at properties in Blackridge, although visualisations (VPs 6 and 9) provide some indication of this.
- 8.41 The Additional Survey of Settlements describes the effects on each of the settlements as follows:
- Harthill** – residential properties in the northwest and northeast areas of the village would experience major and significant visual effects. Due to the proximity of the closest turbines (T2 at 480m from Harthill residential properties) there is the potential for the visual effects to affect the living standards of a limited number of properties in the northwestern area where there are clear and open views north towards the turbines (refer to Viewpoint 4, Dunn Terrace Figure 6.30) and at road junctions / open recreational areas at Paxstone Drive, Netherton Street, Mains Road, Bank Road, Hawthorn Drive, Miller Street, Molliston Avenue, Whyte Street, Viewfield Street, Murdostoun Crescent, and West Main Street. Within these streets there would also be screened views of the turbines due to the built environment. Open views of the turbines from rear second floor views in a small of number flat / apartments in Harthill on Bank Road and Victoria Road are predicted.
- Greenrigg** - was assessed in two zones north and south of the B7066 road. The land rises from the lowest elevation at Polkemmet Drive adjacent to the M8 corridor to East Main Street (B7066). In the northern area of Greenrigg, receptors currently experience direct views towards the operational Torrance Wind Farm and clear and open views north and northwest towards the turbines. Due to proximity of the proposed T2 turbine (720m distance), there is the potential for cumulative visual

effects to affect living standards at a limited number of properties in this area of Greenrigg, including road junctions / open recreational areas at Polkemmet Drive, Stanley Road, Burnbrae Road, Dyke Road, Dyke Brow and Polkemmet Road (refer to Viewpoint 5, Figure 6.31). However, due to the tall mature tree cover along the M8 corridor views to the turbine from properties on Polkemmet Drive and Park Road would be screened / partially screened. To the south of Greenrigg there may be very limited views from bungalow properties in Baillie Avenue. Available views of the proposed development would be above the roof tops of the properties ~1km to the north and northwest. Other residential properties in the south of Greenrigg may experience limited major and significant visual effects on views from the properties, but the visual effects would not affect the living standards of the residents within the properties. However, the majority of available views to the north and northwest within the streetscape would be truncated by the built development.

Eastfield - was visited and assessed as one zone. Eastfield is located on a steep slope which rises from Edinburgh Road (B7066) in the north at 206m AOD to 235m AOD at Baird Terrace on the western edge of Eastfield. The streets of Eastfield follow a west – east 'terrace' pattern to accommodate the steep slopes and are dissected by Breslin Terrace and Church Street which run northwest - southeast. There are direct views towards the operational Torrance Wind Farm, and due to proximity of the proposed T4 Turbine (590m distance) there is the potential for significant visual effects to affect living standards at a limited number of properties in the northern area of Eastfield, where there are clear and open views north and northeast towards the turbines. Effects would be experienced in the northern area of Eastfield at road junctions / open recreational areas at Edinburgh Road, Breslin Terrace, Peden Street, Baird Terrace, Church Street, Almond Terrace, Minthill Place and the north of Old Eastfield Street (refer to Viewpoints 2 & 3, Figures 6.28 and 6.29). To the south of Eastfield there may be very limited views from properties in Orr Terrace, south of Old Eastfield Street and Breslin Terrace to the south.

Blackridge –Viewpoint 8 illustrates views from an elevated viewpoint location to the north of Main Street (A89) and at a lower elevation on Main Street (Viewpoint 9). A third viewpoint on the southern edge of Blackridge is presented in Viewpoint 6 (Figure 6.32) at Harthill Road. Due to the rising topography in the north of the village, north of Main Street, there would be open and uninterrupted views of the proposed turbines for those properties with windows orientated to the south, from the primary elevations and rear elevations of the residential properties. South of Main Street within Blackridge, there are a number of streets / cul-de-sacs which are at a lower elevation, where views of the proposed turbines would be screened, or views of the turbines partially screened due to the established woodland / commercial forestry south of Blackridge. South of the railway line, there are properties adjacent to the B718 (Harthill Road) where there would be oblique views of the turbines, or screened views of the turbines by garden vegetation and other residential properties. Properties at the southern boundary of Blackridge at Northrigg Road would have open views towards the proposed development (as illustrated in Viewpoint 6, Figure 6.32). There would be significant visual effects from elevated locations within the northern area of Blackridge, and at selected locations within Blackridge where there are open views to the south within the village at the boundary of open spaces / residential housing estates. There would be cumulative views where the operational Torrance Wind Farm and West Benhar Wind Farms are visible to the south of Blackridge and Drumduff and Burnhead Moss Wind Farms to the north of Blackridge.

- 8.42 Both Table 6.9 of the LVIA and the Additional Survey of Settlements above (Appendix A of the RVAA) conclude that the predicted significant visual effects would '*not affect the living standards of the villages of Harthill, Eastfield, Greenrigg and Blackridge overall, when judged objectively and in the public interest*'. In terms of current best practice, this statement is misleading and should be reserved for LVIA and not for RVAA ('*The combined effects on a number of residents' ...by means of 'aggregating properties within a settlement' is a matter of LVIA*'), para 3.9 of RVAA guidance). Judgements included in a RVAA should, in accordance with Step 4 of the Landscape Institute's RVAA guidance, be unambiguous and sufficiently concise to enable decision makers to assess whether the predicted effects on visual amenity and views at a single property are such that the Residential Visual Amenity Threshold has been reached. It is at this point that Step 4 of RVAA allows decision makers to establish whether the effects of a development on wider private interests (including effects on a single residential property or a number of residential properties) are so great, that they then become a matter of public interest. However, the submitted RVAA has not identified all individual residential properties that would experience significant adverse visual effects (as noted in paragraph 8.40 of this report) nor does it provide any indication of the number of properties that would be significantly affected by the proposed development. The proximity of the proposed turbines to residential properties in nearby settlements (some being located approx. 480m to the nearest

turbine) and in the surrounding countryside, together with the submitted visualisations and survey of settlements, provide some indication of the predicted effects on residential amenity and allow a judgement to be made as to whether the nature, scale and extent of the effects on private interests are so great that they are considered to be a matter of public interest. In this particular case, it is considered that a large number of residential receptors in the settlements of Harthill, Eastfield, Greenrigg and Blackridge and in the surrounding countryside would experience significant adverse effects to the detriment of their residential amenity contrary to Policies 11 Energy e) i. and 14c) Design, Quality and Place of NPF4 and Policies PROM ID2 Utilities Improvements and EDQ1 Site Appraisal of the LDP.

- 8.43 Visual effects on views from 16 **residential properties** are however reported in paragraphs 6.8.11 - 6.8.17 of the LVIA and in the Appendices A and 6.3/6C of the RVAA. Properties assessed as experiencing significant visual effects to a major level as noted in Appendix 6.3/6.C, include: Hill Farm (Viewpoint 1, Figure 6.27 & Figure 6.56); Loan Farm (Figure 6.57 – wireline drawing only); Netherton Farm (Figure 6.58 – wireline drawing only); Torrance Farm (Figure 6.59 – wireline drawing only); Knowehead Farm (Figure 6.60 -wireline drawing only); Blairmuckhole Farm (Figure 6.62 - wireline drawing only); Bogend Farm (Figure 6.65 – wireline drawing only); Standhill Farm (Figure 6.66 – wireline drawing only); School House (Figure 6.67 wireline drawing only); Northrigg Farm (Figure 6.68 wireline drawing only); Southrigg Farm (Figure 6.69 wireline drawing only); Couch (Figure 6.70 wireline drawing only) and; Property at Edencroft Equestrian Centre (Figure 6.75 wireline drawing only).
- 8.44 Whilst significant visual effects to a major level are predicted for all of the above properties, only three properties have been identified as potentially experiencing effects so significant that their living standards would be affected; these are: Hill Farm, Netherton Farm and Torrance Farm.
- 8.45 On the basis of the information submitted in support of the RVAA (commentary, viewpoints, baseline and wireline drawings and photomontages), including acknowledgement in paragraph 6.5.2 of the LVIA that there is limited opportunity for landscape design related mitigation (to conceal views of the proposed turbines), it is reasonable to conclude that in spite of the existing backdrop of wind turbines throughout the surrounding area, the proposed turbines are of a scale and proximity to individual residential properties and settlements that would result in a significant adverse step-change in visual effects and residential visual amenity for a large number of residents, particularly those residents within 2km of the proposed turbines. It is therefore considered that the proposed development would have an unacceptable and overbearing visual impact, including cumulative visual impact, on the residential amenity of a number of residents living within 2km of the development, including residents in Harthill, Greenrigg, Eastfield and Blackridge, contrary to Policies 11 Energy e) i. and 14c) Design, Quality and Place of NPF4 and Policies PROM ID2 Utilities Improvements and EDQ1 Site Appraisal of the LDP.

Noise Impacts

- 8.46 Project design and mitigation must demonstrate how noise impacts will affect the amenity of noise sensitive receptors in accordance with Policy 11 Energy subsection e) i. of NPF4 and Policy EDQ3 Quality of Development subsection e of the LDP. Volume 1 Chapter 7 of the EIAR evaluates the effects of the development on the acoustic environment of the area, including noise sensitive receptors as a result of noise from construction and traffic, together with operational noise effects and cumulative noise effects. NLC Protective Services has been consulted and has no objection to the proposed development on grounds of noise effects subject to conditions.

Construction Noise Effects

- 8.47 The assessment of construction noise is limited to noise-sensitive receptors within 500m of the construction works including construction of access tracks, DNO Switchgear Building, hardstanding (e.g. turbine laydown areas), wind turbine foundations and the wind turbines themselves. Predicted levels of construction noise are shown to be below the daytime lower threshold of 65 dB(A) at all receptors and as such, are not considered to be significant in the context of the EIA Regulations. Effects would also be limited in duration and mitigated in part by confining operational hours to those specified in North Lanarkshire Council's '*Noise from Construction Sites/Operations*' guidance. This would ensure that any noise from construction would be adequately controlled. In view of the this, the construction noise effects do not raise any conflicts with the requirements of Policy 11 of NPF4 or Policy EDQ3 of the LDP.

Traffic Noise Effects

- 8.48 Predicted noise levels due to increased traffic movements are noted in Table 7.17 of Volume 1, Chapter 7 of the EIAR. The table provides a summary of estimated worst-case increase in traffic flows for each location (including the M8 Motorway, Westercraigs Road and West Main Street). The magnitude of effects, in terms of the predicted change in traffic noise levels on public roads are considered to be negligible (not significant in EIA terms) and are therefore in accordance with Policy 11 of NPF4 and Policy EDQ3 of the LDP.

Operational Noise Effects

- 8.49 The effects of predicted operational noise have been assessed in accordance with ETSU-R-97, IOA Good Practice Guide on Wind Turbine Noise (GPG) and predicted noise levels at each of the receptor locations are set out in Table 7.20 of Chapter 7 of the EIAR. The predicted noise levels, which are based on worst-case conditions, comply with the requirements of ETSU-R-97 at all receptor locations. The effects of operational noise are not therefore significant in EIA terms and subject to conditions are in accordance with Policy 11 of NPF4 and Policy EDQ3 of the LDP.

Cumulative Noise Effects

- 8.50 Table 7.18 of Chapter 7 of the EIAR details the predicted cumulative noise levels, including those from nearby wind energy developments either operational, consented or the subject of a current planning application (and excluding noise due to the proposed development) at each of the assessed receptors. The noise levels presented in Table 7.18 are based on a theoretical worst case and assumption that each receptor is directly downwind of all turbines simultaneously. The effect of cumulative operational noise is not however considered to be significant in EIA terms and accordingly is acceptable in the context of Policy 11 of NPF4 and Policy EDQ3 of the LDP.

Forestry

- 8.51 Policy 6 'Forestry, Woodland and Trees', subsection c) of NPF4 provides that proposals involving woodland removal will only be supported where they will achieve significant and clearly defined additional public benefits in accordance with those benefits listed in 'Scottish Government's policy on control of woodland removal'(CoWRP). This could include proposals that contribute significantly to, inter alia, climate change mitigation and adaptation (page 6 & 7 of CoWRP). Subsection d) of Policy 6 also supports development proposals on sites that include areas of existing woodland where the enhancement and improvement of woodlands and the planting of new trees on the site (in accordance with the Forestry and Woodland Strategy) are integrated into the design. Scottish Forestry was consulted but no response was received. Forestry and Land Scotland confirmed that it did not own the site.
- 8.52 Volume 1 Chapter 8 of the EIAR evaluates the effects of the proposed development on forestry and woodland. The application site incorporates part of Netherton Woodland, a mixed conifer plantation with some areas of nearly-native woodland. Netherton Woodland is a privately owned managed woodland centred around Netherton Farm and extends to some 104.96 ha. It was approved for planting through a Woodland Grant Scheme (WGS 3) in April 2001. A breakdown of species within the woodland is presented in Table 8.1 of Chapter 8 of the EIAR and, in summary, includes 40.95 ha coniferous woodland, 31.42 ha broadleaved woodland and 32.59 ha of open ground. If the development was to proceed there would be a requirement to fell 6.65 ha of woodland of which 5.58 ha consists of coniferous crop and 1.08 ha of native mixture woodland, both planted in 2001, to facilitate construction and operation of the proposed development and to accommodate associated tracks and hardstanding, together with swept paths on bends and a bat stand-off area (in accordance with NatureScot Guidance: Bats and Onshore Wind Turbines). The areas of tree felling are shown on the submitted Felling Plan, Figure 8.2 of Volume 1 Chapter 8 of the EIAR.
- 8.53 The sensitivity of woodland removal and magnitude of the predicted woodland loss are used as a guide to predict the significance of the likely effects. The EIAR reports that the sensitivity of the woodland area within the site is low/negligible due to its largely commercial character which is interspersed with large areas of open ground. The total area of woodland removal that would be lost to the development equates to 6.5% of the total area of Netherton Woodland. Of that loss, 84%

consists of coniferous plantation and 16% consists of native mixed species. The EIAR reports that the magnitude of effects of any loss of woodland below 15 ha, whilst resulting in a slight detectable alteration of the baseline condition of the woodland, would nevertheless be low/negligible and not significant in EIA terms.

- 8.54 CoWRP guidance requires that the felling of woodland may be acceptable where it supports climate change mitigation and adaptation and where compensatory planting is proposed. In order to comply with the requirements of CoWRP and subsection d) of Policy 6 of NPF4, the Applicant has identified two potential sites where compensatory tree planting could be provided; the first is located to the southwest of the application site as shown in Figure 10.5 of the Outline Habitat Management Plan (OHMP) and drawing number 3059-REP-103 (Appendix 10.5, Volume 4 of the EIAR Volume 4, Technical Appendix 10.5) and is equivalent in size to the area of felling. The second site is located south of the M8 (outside the application site boundary), although at the time of writing, a plan showing the alternative site has not yet been provided. No indication of tree species has been provided as part of the compensatory planting proposal. However, tree species together with the precise location of compensatory planting are reserved matters that can be agreed by condition. In view of the limited area of felling, coupled with compensatory planting measures and climate change mitigation benefits of the proposed wind farm, the proposal to fell an area of commercial forestry within the site, is not considered to present a conflict with Policy 6 of NPF4.

Traffic and Transport

- 8.55 Policy 13 Sustainable Transport subsection a) of NPF4 requires development to demonstrate that it will not have an unacceptable impact on the operation and safety of the strategic transport network whilst Policies EDQ1 Site Appraisal and EDQ3 Quality of Development of the LDP contain more detailed provisions to ensure that development proposals provide satisfactory connections to a site and safe, secure, and convenient access both into and through the site, including appropriate visibility splays.
- 8.56 A detailed breakdown of the distribution of vehicle movements during each month and for each element of the works during the twelve-month construction phase, is included in Table 9.20 of Vol 1 Chapter 9 of the EIAR. It is estimated that there will be a total of 43,666 vehicular movements over the 12-month construction period consisting of 6,098 HGV and Abnormal Load Movements (ALVs) and 37,568 Car and Van Movements per annum. This equates to 1,185 HGV and ALVs and 3,150 Car and Van Movements per month, with peak movements occurring during months 2-6 of the construction phase. The Applicant has indicated that once operational, there would be one weekly maintenance visit to the wind farm site. Abnormal load route options are shown in Volume 4 Anormal Load Route Assessment, Appendix B of the EIAR.
- 8.57 The main site entrance will be formed off the B718 Westcraigs Road to the north of Harthill (Grid Ref: NS906651). This entrance will consist of a crossroad junction onto the B718. The west arm of the crossroad will provide access to the main construction compound and three of the four turbines, with the eastern arm providing access to a further single turbine. ALVs will traverse across the crossroad junction under escort. The abnormal load site entrance will be formed within the existing Harthill service station off the M8 (Grid Ref: NS898647). This entrance will be used for the delivery of wind turbine components only and will only be used under escort with deliveries likely to take place at night.
- 8.58 Traffic associated with decommissioning of the development would be less than that experienced during the construction phase as it is proposed that all below ground infrastructure would be left in-situ. The Applicant advises that it was not possible to forecast baseline traffic flow levels at the point of decommissioning some 40 years ahead. For this reason, prior to decommissioning of the proposed development, a traffic assessment would have to be undertaken, and appropriate traffic management procedures agreed with the relevant authorities at that time.
- 8.59 NLC Roads has been consulted on the application and is satisfied that existing traffic flow levels on routes within the vicinity of the proposed development and proposed operational traffic to and from the site would have a minimal impact and subject to conditions outlined in its comments dated 11 November 2024, has no objection to the proposal. The proposed wind farm therefore raises no conflict from a transportation perspective with Policy 13 of NPF4 or Policies EDQ1 and EDQ3 of the LDP.

Ecology

- 8.60 The aim of Policy 4 'Natural Places' of NPF4 is to ensure that proposals that would have an unacceptable impact on the natural environment, by virtue of scale, type or location are not supported. Subsection d) of Policy 4 requires that proposals that would have an impact on a local nature conservation site or designated landscape area in the LDP will only be supported where they will not have significant adverse effects on the integrity of the area or the qualities for which it has been identified. Any significant adverse effects should be clearly outweighed by social, environmental or economic benefits. Development proposals that are likely to have an adverse effect on species protected by legislation will only be supported by subsection f) of Policy 4 where the proposal meets the relevant statutory tests. Similarly, Policy PROT A Natural Environment and Green Network Assets of the LDP seeks to protect statutory protected sites, local sites (LNR, SINC, Core Paths etc) and protected species.
- 8.61 Volume 1 Chapter 10 of the EIAR assesses the potential effects of the development on important ecological features (IEFs), including statutory and non-statutory designations and protected species. Important IEFs include: Barblues Bing SINC; Loan Birch Wood SINC and Ancient Woodland Site (AWS); Torrance Marshes SINC; Habitats onsite; Bats (all species); Badger; Otter; Pine Martens; and Reptiles. It is noted that there are four statutory designated sites that lie within 5km of the site; none are located within or immediately adjacent to the site. In terms of non-statutory designations, approximately half of Barblues Bing SINC lies within the site.
- 8.62 Table 10.9 of Chapter 10 of the EIAR outlines habitat loss as a consequence of the development. An estimated 12.3 ha of habitats would be lost during the construction phase, equating to 11.6 % of the site area. Of this loss, the majority (65%) consists of conifer plantation woodland. A further 7.3% of the site area consisting of unimproved neutral grassland will also be lost. During construction, a small area of vegetation, limited to low-lying grassland habitats of low ecological value, would be removed on land adjacent to Loan Birch Wood SINC and AWS to accommodate a new recreational path for pedestrians and cyclists. The proposed recreational path would connect to the existing core path immediately north of the site, bypassing Loan Birch Wood SINC and the AWS. Direct loss of habitat and/or indirect loss of individual trees within the AWS is not anticipated. Significant effects on Torrance Marshes SINC during the construction, operational and decommissioning phases are not anticipated as there is unlikely to be any hydrological connectivity to wetland habitats within the SINC which are more than 250m away from any deep excavations.
- 8.63 An Outline Habitat Management Plan (OHMP, Volume 4, Figure 10.5 of Technical Appendix 10.5) submitted in support of the application, proposes mitigation of effects and incorporates Barblues Bing SINC and other areas within the site. The OHMP lists measures to increase native woodland coverage (areas of proposed compensatory tree planting are shaded blue and shown on drawing number 3059-REP-103, of Technical Appendix 10.5), noting that in addition to compensatory planting, native woodland would be also be planted along the forest edge, field margins and adjacent to the proposed recreational path within the site with particular attention focussing on habitats associated with Barblues Bing Site SINC in order to enhance its biodiversity. The OHMP also lists measures to minimise collision risk to bats around operational turbines. If planning permission was to be granted, the OHMP would be subject to conditions to ensure that a detailed HMP together with details for the formation of a HMP Group (HMG) were submitted to the Planning Authority for approval before development would commence. The approved HMP would be monitored and submitted to the Planning Authority for review every 12 months over a period of 15-years as indicated in Table 5 of the submitted OHMP.
- 8.64 The ecological effects on Barblues Bing SINC, Loan Birch Wood SINC and AWS site, Torrance Marshes SINC, onsite habitats and protected species, including bats (all species), badger, otter, pine martens and reptiles have been assessed and no significant ecological effects are predicted during the construction, operational and/or decommissioning phases of the development, either alone or cumulatively with other developments. NatureScot has reviewed the proposal and subject to pre-construction checks for all protected species, has raised no objection to it. In view of proposed embedded mitigation and NatureScot's comments and subject to conditions, the proposed development raises no conflict with Policy 3 and 4 of NPF4 and/or Policy PROT A of the LDP in relation to ecological effects.

Ornithology

- 8.65 Proposals that are likely to have a significant effect on an existing or proposed European site

(Special Area of Conservation or Special Protection Areas) are subject to an 'appropriate assessment' of the implications for the conservation objectives of the SAC/SPA in accordance with Policy 4 Natural of NPF4 and Policy PROT A Natural Environment and Green Network Assets of the LDP.

- 8.66 Three statutory sites, two of international importance (with multiple designations) and one of national importance are located within 20km of the site. Listed in Table 11.3 of Chapter 11, Volume 1 of the EIAR, they include: Slamannan Plateau SPA/SSSi located 9.5km northwest of the site and designated for taiga bean goose, the Firth of Forth SPA/Ramsar site and, the Firth of Forth SSSI; both located 16.1km northeast of the site and both providing habitat for large numbers of wintering waders and wildfowl particularly shelduck and pink-footed geese.
- 8.67 Baseline Ornithology surveys were conducted over a one-year period between September 2020 and August 2021, including Flight Activity Surveys (FAS), Breeding Bird Surveys and Breeding Raptor Surveys. An Assessment of Important Ornithological Features (IOF) was conducted thereafter, the results of which are contained in paragraphs 11.6.15 -11.6.48 of Chapter 11, Volume 1 of the EIAR. The assessment of IOFs concludes that in relation to the Firth of Forth SPA/Ramsar and the Firth of Forth SSSI (specifically, pink-footed goose), construction and operational phase effects on species, would be of low magnitude and not significant in EIA terms. Since connectivity between the Slamannan Plateau SPA/SSSi and the application site is remote, no effects are predicted. In relation to Peregrine, Curlew and Barn Owl, the effects on those species during the construction and operational phases would also be negligible/ of low magnitude and not significant in EIA terms. Cumulative effects, including barrier effects and collision risk, were also assessed as negligible/not significant in EIA terms.
- 8.68 NatureScot was consulted on the application and has advised that the proposed wind farm poses little risk of significant effects on any birds and, on that basis, has no objection to the proposal subject to preconstruction checks and relocation of the southern wader scrape due to its proximity to trees. In the absence of any likelihood of significant effects on the above statutory designations and IOFs, an appropriate assessment under Regulation 48 of The Conservation (Natural Habitats, &c) Regulations 1994 is not considered to be necessary in this instance. In view of the above, the proposed development is not considered to raise any conflicts with the conservation (of birds) objectives of Policy 4 of NPF4 or Policy PROT A of the LDP.

Cultural Heritage

- 8.69 When considering future development affecting categories of historic environment assets and their settings the Council will, in accordance with Policy PROT B Historic Environment Assets of the LDP, seek guidance where appropriate from Historic Environment Scotland.
- 8.70 The application is accompanied by an assessment of cultural heritage (Volume 1, Chapter 12 of the EIAR, including Appendix 12.1 Archaeology and Appendix 12.2 Setting on Designated Assets) which identifies the likely visual or physical impact of the development on historic assets and/or historic places, including cumulative effects and the significance of those effects, as required by Policy 7 Historic Assets and Places of NPF4. Non-designated historic environment assets, places and their setting should also be protected and preserved in situ wherever feasible, in accordance with limb o) of Policy 7 of NPF4.
- 8.71 Appendix 12.1 (Archaeology), Volume 1, Chapter 12 of the EIAR considers the potentially effects on archaeology and cultural heritage within two focused study areas. The study areas include: a Core Study Area (CSA) defined as the area in which direct effects on archaeological assets are most likely to occur and, a second study area that covers a 1km radius of the site and includes the CSA. There are no designated archaeological assets within the CSA or within the 1 km radius study area. Whilst, the CSA has low potential to contain assets pre-dating the medieval period there is potential, during the construction phase, to encounter post-medieval assets relating to agriculture and mineral extraction within sections of the CSA not heavily disturbed by mining or quarrying. Therefore, in accordance with NLC's archaeologist's comments and Policy 7o) of NPF4, if planning permission is approved, a condition is recommended to ensure that the developer has secured the implementation of a programme of archaeological work in accordance with a Written Scheme of Investigation.
- 8.72 Appendices 12.2 and 12.4 (Setting on Designated Assets) of Chapter 12 of the EIAR assess changes to the setting of selected heritage assets within a 5-15 km study area, including 158

designated heritage assets consisting of two World Heritage Sites, one Battlefield Site, one GDL, 33 Scheduled Monuments, 118 Listed Buildings (six Category A, 55 Category B, and 58 Category C), and three regionally designated Conservation Areas (Table 12.4.1).

- 8.73 Significant effects are limited to the Category B Listed Building LB14553, located 1.2 km north of the proposed development, in the centre of Blackridge, known locally as the Craig Inn. The asset consists of a three-storey former Georgian coaching inn, with single storey stables to the rear. The asset is currently in use as the Blackridge Community Museum and its setting is defined by its prominent position adjacent to the crossroads in the town centre. Key views are to the south, with the principal elevation of the building facing south towards the proposed wind farm with additional peripheral views to the east and west along the A89. Views south also encompass the original Torrance wind farm and wind farm extension (as shown in the photomontage for LVIA VP 9 – Fig 6.35). The proposed wind farm would introduce turbines of a greater height which would represent an appreciable change in the wider landscape, which could alter the appreciation or experience of this asset. Mindful of the proposed socio-economic and climate change mitigation benefits in the planning balance, potential significant effects on this asset alone would not be sufficient reason to warrant refusal of the application.
- 8.74 Visualisations have also been provided to support the assessment of impacts on the setting of the Cairnpapple Hill prehistoric ceremonial complex scheduled monument (SM90053) and the Frontiers of the Roman Empire: Antonine Wall World Heritage Site. The significance of effect on each asset (determined by the sensitivity of the asset against the magnitude of the expected change) as detailed in Table 12.4.1 of the Appendix, ranges from no effect to minor effects. Historic Environment Scotland (HeS) has been consulted on the application and has indicated that it is satisfied that the proposed development would not have significant adverse effects on any asset or setting of any asset within HeS's remit. Consequently, HeS has no objection to the proposed wind farm and on that basis and in consideration of the wider climate change mitigation and socio-economic benefits, it is considered that the development raises no issues that would significantly depart from the cultural heritage objectives of Policy PROT B of the LDP or Policy 7 of NPF4.

Geology and Peat

- 8.75 Policy PROM ID2 Utilities Improvements of the LDP requires proposals for wind farm development to take account of soils, areas of carbon and peatland classes 1 and 2 as defined on the National Carbon and Peatland Map produced by NatureScot. Policy 5 Soils of NPF4 supports development that avoids and /or minimises the amount of disturbance to soils on undeveloped land and protects soil from damage including from compaction and erosion, and that minimises soil sealing.
- 8.76 Volume 1 Chapter 12 (Geology, Soils and Peat) of the EIAR concludes that, following phase 1 peat probing, no significant carbon-rich soils or deep deposits of peat were recorded on the site. Whilst no peat disturbance will take place during the construction and decommissioning phases of the development, should peat be encountered, good practice measures are proposed in Appendix 14.1: Outline Water Construction Environmental Management Plan of Chapter 14 Hydrology and Hydrogeology, to ensure that any potential impacts on peat and peaty soils were mitigated. In view of the findings noted in Chapter 12 of the EIAR, the proposed development is in accordance with the objectives, relative to soil and peat, of Policy PROM ID2 of the LDP and Policy 5 of NPF4.

Hydrology/Hydrogeology

- 8.77 Impacts associated with flood risk and the holistic water environment are assessed for their compliance with Policies EDQ1 Site Appraisal and EDQ2 Specific Features for Consideration of the LDP together with Policy 22 Flood Risk and Water Management of NPF4 which seeks to ensure that development does not increase the risk of surface water flooding to others, or itself be at risk.
- 8.78 The likely significance of effects of the proposed development on hydrological receptors are addressed in Volume 1, Chapter 14 of the EIAR. The key issues for the assessment of potential hydrological effects include short-term construction effects and longer-term operation and decommissioning effects which are addressed in further detail in Section 14.3 of Chapter 14 of the EIAR.
- 8.79 The site area is characterised by undulating topography rising from 175m above ordnance datum (AOD) at the south-eastern boundary to 220m AOD at the north-western boundary (at Blairmuckhill

Farm). Watercourses within the site primarily consist of artificial drainage ditches. Water flows south-east through a grassland field and into the How Burn (sub-catchment of the River Almond catchment) which flows under a bridge culvert continuing south under the M8 for approximately 1.9 km before discharging into the River Almond. All turbine infrastructure associated with the development is located within the sub catchment of How Burn and lies outside any areas identified with medium to high risk of flooding (all sources). A small area of the site is located within the River Avon catchment to the north of the proposed development where the recreational footpath is proposed. However, the proposed footpath would be located outside the 50m watercourse buffer and with good practice mitigation would ensure there would be no perceptible change to the hydrological environment as a result. Table 2.1 of Appendix 14.1, Volume 4 of the EIA provides a schedule of mitigation, including, inter alia, site drainage measures and sustainable drainage systems (SuDS) to prevent any increase in the volume of run-off and potential flood risk as a result of increased hardstanding.

- 8.80 The potential effects on hydrology and hydrogeology would be of negligible to minor significance and any effects would be managed through good practice and mitigation. As a result, this element of the proposed development does not give rise to any conflict with Policies EDQ1 and EDQ2 of the LDP or Policy 22 of NPF4.

Shadow Flicker

- 8.81 Policy EDQ1 Site Appraisal of the LDP requires development to avoid harm to neighbouring amenity. The policy provides a non-exhaustive list of matters that development should take account of to ensure protection of neighbouring amenity. The assessment of effects of shadow flicker (from wind turbines) on communities and individual dwellings is an explicit requirement of Policy 11 Energy of NPF4 and is referenced in subsection e) of the policy. Further guidance on shadow flicker is provided in 'Scottish Government's Onshore wind turbines: planning advice note, 2014', which advises that, "*where separation is provided between wind turbines and nearby dwellings (as a general rule 10 rotor diameters), 'shadow flicker' should not be a problem*".
- 8.82 Shadow flicker is addressed in Volume 1, Chapter 17 of the EIAR. The study area for shadow flicker focuses on a maximum distance of 1,700 metres (ten times the rotor diameter of the candidate wind turbine, in this instance the Siemens Gamesa SG170). Due to the proximity of the proposed development to the residential areas of Eastfield, Harthill, and Greenrigg (each located south of the proposed turbines), and Blackridge (to the north), a large number of potential shadow flicker receptors (2,041 in total) are located within a distance of ten times the rotor diameter of the turbines. A full list of receptors is detailed in Volume 4, Technical Appendix 17.1 of the EIAR.
- 8.83 There are no relevant UK guidelines to quantify acceptable exposure levels to shadow flicker. The EIAR therefore references the thresholds suggested in the Northern Irish guidance document PPS18 which advises a maximum of 30 minutes / 0.5 hours per day and 30 hours per year exposure to shadow flicker. The predicted levels of shadow flicker at the most-affected receptor, Hill of Harthill Farm, are 133 hours per year with a maximum of 2.9 hours per day which exceeds the levels advised in PPS18. At the next most-affected receptor, Netherton Farm, predicted levels of shadow flicker are lower at 42.8 hours per year with a maximum of 1.7 hours per day, which also exceeds the limits provided in PPS18. A number of other receptors are predicted to experience levels of shadow flicker above the PPS18 threshold of 30 minutes (0.5 hours) per day and 30 hours per year. However, it is noted that the predicted levels are the theoretical maximum number of shadow flicker hours per year only and it is important to note that they do not take account of weather conditions (i.e. no sun or partial cover), local visual obstructions (such as trees, hedges or other structures), turbine orientation and turbine operation.
- 8.84 Whilst the predicted shadow flicker effects are considered to be significant, they can be mitigated to reduce the level of exposure to acceptable levels through conditions attached to any grant of planning permission. This would ensure the necessary shutting down of turbines using turbine control systems during periods when shadow flicker is likely to occur. Subject to conditions to address the effects of shadow flicker, the proposed development would not conflict with the amenity objectives - relative to shadow flicker - of Policy EDQ1 of the LDP or Policy 11 of NPF4 on grounds of shadow flicker.

Ice throw

- 8.85 Under certain conditions there is a risk of ice accumulation on turbine blades, nacelles and towers. The wind turbines would be fitted with vibration sensors to detect any imbalance which might be caused by icing of the blades. The sensors communicate with the Supervisory Control and Data Acquisition (SCADA) system of the turbines, to stop the turbines in icy conditions, thereby eliminating the risk of ice throw.

Aviation

- 8.86 Policy 11 Energy of NPF4 supports all forms of renewable where it can be demonstrated that impacts on aviation and defence interests would be mitigated. Similarly, Policy PROM ID2 Utilities Improvement of the LDP provides that renewable energy development must have regard to constraints set out in national policy, including aviation, radar and telecommunications.
- 8.87 Aviation and Radar is considered in Volume 1, Chapter 17 of the EIAR. The following parties have been consulted and, subject to conditions to ensure appropriate mitigation, have raised no objection to the proposed development: Edinburgh Airport, Glasgow Airport, NATs and, MoD. Mitigation through conditions would include the following:
- Radar Mitigation Scheme to be agreed with the Planning Authority in consultation with the operator of Edinburgh Airport.
 - Aviation lighting scheme for the approval of the Planning Authority in consultation with the Civil Aviation Authority and the Ministry of Defence.
 - Notification in writing to the Ministry of Defence at least 14 days prior to the commencement of the works of the following information:
 - a) the date of the commencement of the erection of wind turbine generators;
 - b) the maximum height of any construction equipment to be used in the erection of the wind turbines;
 - c) the date any wind turbine generators are brought into use;
 - d) the latitude and longitude and maximum heights of each wind turbine generator, and any anemometer mast(s).
 - e) any changes to information submitted relative to the above requirements including the completion of the construction of the development.
- 8.88 Subject to conditions to mitigate impacts on aviation and radar, the proposed development presents no conflict from an aviation perspective with Policy 11 of NPF4 or Policy PROM ID2 of the LDP.

Coal Mining Legacy

- 8.89 Policy EDQ2 Specific Features for Consideration of the LDP provides that where a ground stability or contamination appraisal identifies the need for any necessary mitigation measures, including treatment or remediation, development will only be permitted where those mitigation measures can be secured.
- 8.90 The site is situated in a Coal Authority defined Development High Risk Area. The application is accompanied by a Geology, Mining and Geotechnical Desktop Study Report which concludes that there is a potential risk posed to the development by past coal mining activity. The report authors recommend that abandonment plans for the site are reviewed and that intrusive investigations are carried out to confirm the shallow mining situation beneath the site. The Coal Authority has raised no objection to the proposal subject to the submission of a scheme of intrusive site investigations and remediation strategy where necessary to address land instability arising from coal mining legacy. Subject to conditions to this effect, the development raises no conflict with Policy EDQ2 of the LDP in respect to coal mining legacy.

Telecommunications and Utilities

- 8.91 Policy 11 Energy of NPF4 requires proposals for wind energy development to incorporate measures to mitigate adverse impacts on telecommunications and broadcasting installations. Similarly, Policy PROM ID2 Utilities Improvement of the LDP provides that renewable energy development must have regard to constraints set out in national policy, including those relating to telecommunications subsection e) v. of Policy 11 of NPF4.

- 8.92 Volume 1 Chapter 17 of the EIAR advises that the extent of the search area for existing utilities, telecommunication, television and microwave links undertaken by the Applicant was within an approximate 1km radius of the site boundary. The Applicant consulted all relevant operators whose telecommunications and broadcasting installations may be affected by the proposed development prior to submitting the current application. Virgin Media 02; BT, Atkins, Arqiva and JRC were consulted and raised no objection to the proposed wind farm. Airwave initially objected to the proposed wind farm but withdrew its objection following revised micro-siting of Turbine 4. However, following consultation between the developer and two other operators, namely, Mobile Broadband Network Limited (MBNL) and Vodafone, objections from both operators are still outstanding at the time of writing pending agreement between with the developer and each operator to ensure appropriate mitigation.
- 8.93 Where a wind farm development materially affects the operation of telecommunication links through degradation of signal quality to the extent that it warrants an objection from the link operator, the effect is considered significant in EIA terms unless measures are incorporated to ensure satisfactory mitigation of the effects. Whilst it is recognised that discussions are currently ongoing between the Applicant, MBNL and Vodafone, there is an expectation that mitigation concerns are resolved prior to submitting a planning application and/or prior to the determination of an application. Given the outstanding objections from two operators, the proposed development conflicts with subsection e) v. of Policy 11 of NPF4.

Human Health and Safety

- 8.94 Policy 23 Health and Safety seeks to address health and safety matters including noise (subsection e of the policy) and major accidents and hazards etc (subsection g) of the policy.
- 8.95 With the exception of increased high wind speed and potential flood risk, the climate change trends identified in Chapter 16 of the EIAR are not anticipated to affect the development. However, in terms of increased wind speed, the proposed wind turbines would be designed to withstand extreme weather conditions. Brake mechanisms installed on the turbines would allow them to be operated under specific wind speeds and where severe wind speeds are experienced, the turbines would be shut down. Flooding is the most probable natural disaster that could affect the proposed development. The proposed development has been designed to minimise the impact of flooding by incorporating a 50m buffer zone between watercourses and infrastructure. Wildfires within forests in Scotland are uncommon, therefore the risk of a forest fire as a result of the proposed development is low. In the rare event that one did occur, standard operating procedures for emergency operations at wind turbine sites would be followed.
- 8.96 The EIAR sufficiently addresses human health and safety issues and potential mitigation in the event of a health and safety risk. The proposed development is not anticipated to generate any significant effects in respect to human health and safety and for this reason does not conflict with this element of Policy 23 of NPF4.

9. Conclusions

- 9.1 It is recognised that the renewable energy, carbon emission reduction and climate change mitigation benefits that would derive from the development are significant. Over the 40-year operational life of proposed development, approximately 61,377 megawatt hours (MWh) of electricity annually would be generated and approximately 1,060,600 tonnes of fossil fuel mix generation equivalent CO₂ emissions would be displaced.
- 9.2 The significant socio-economic benefits, including direct benefits (60 jobs during the 12-month construction period), indirect benefits (supply chain) and induced benefits (local economy) are also recognised. Whilst not material considerations, other benefits in the form of a potential community shared ownership scheme and community contributions to the sum of approximately £5.28 million over the 40-year operation life of the development, would also be generated by the proposed wind farm.
- 9.3 However, when the benefits derived from the proposed development are weighed in the overall planning balance, they do not offset the significant adverse visual effects that would be experienced by residents in nearby properties and neighbouring communities or by recreational and road users. Due to the scale and proximity of the proposed turbines to the above sensitive receptors, it is noted that these effects could not be mitigated.

- 9.4 At the time of writing objections from Mobile Broadband Network Limited (MBNL) and Vodafone are outstanding pending agreement between with the developer and the operators of satisfactory solution to ensure appropriate mitigation. Whilst it is very likely that this matter could be resolved with each of the link operators in due course, at the present time no evidence has been submitted to show that the potential adverse effects on signal quality can be mitigated.
- 9.5 For the reasons set out above, it is considered that the proposed development does not accord with the provisions of the Development Plan, specifically with Policy 11 Energy e) i and iii of NPF4, Policy 14c) Design, Quality and Place of NPF4, Policy PROM ID2 Utilities Improvements of the LDP and Policy EDQ1 Site Appraisal of the LDP and there are no material considerations that would otherwise justify granting planning permission. It is therefore recommended that planning permission be refused.

Application No:

24/00810/FUL

Proposed Development:

Construction of Battery Energy Storage System (BESS)

Site Address:Land East Of
Biggar Road
Cleland

Date Registered:

20th August 2024

Applicant:Starlight Energy SPV 5 Limited
5th Floor North Side
7/10 Chandos Street
Cavendish Square
London
W1G 9DQ**Agent:**Starlight Energy
100 Brand Street
Glasgow
G51 1DG**Application Level:**

Major Application

Contrary to Development Plan:

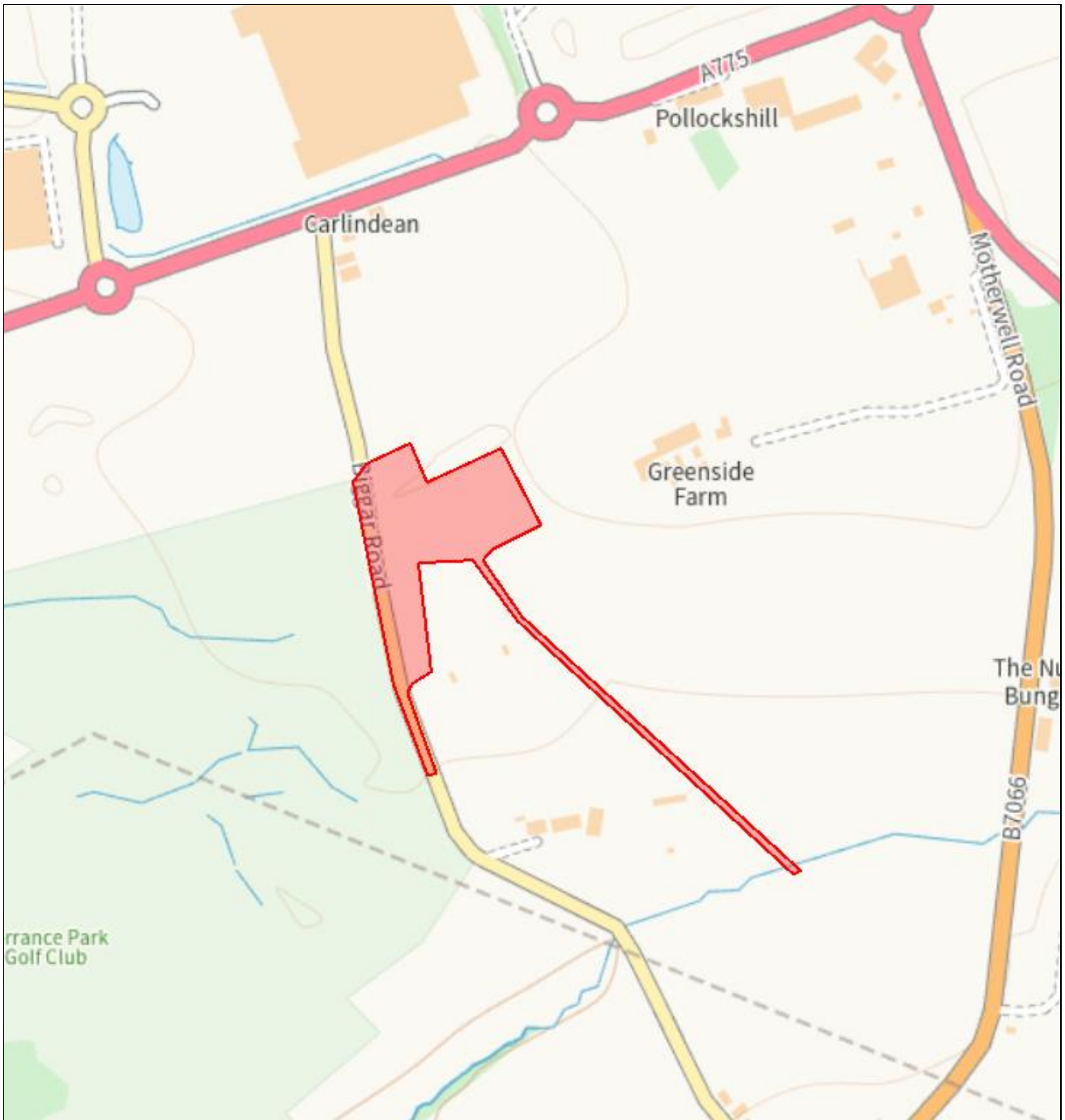
No

Ward:16 Mossend And Holytown
Frank McNally, Jim Reddin, Beth Baudo, Helena
Gray,**Representations:**

0 letter(s) of representation received.

Recommendation:**Approve Subject to Conditions****Reasoned Justification:**

The proposed development is considered acceptable in terms of the development plan and meets the criteria set out in the relevant policies of National Planning Framework 4 and the North Lanarkshire Local Development Plan. The proposal is an acceptable Green Belt use and can be accommodated at this location without detriment to the surrounding area.



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Planning Application: 24/00810/FUL
Name (of applicant): Starlight Energy SPV 5 Limited
Site Address: Land East Of Biggar Road Cleland
Development: Construction of Battery Energy Storage System (BESS)



Proposed Conditions:-

1. That the development hereby permitted shall be carried out strictly in accordance with the approved details submitted as part of the application and no change to these details shall be made without prior written approval of the Planning Authority. For the avoidance of doubt drawings approved are:
 - 002 Aerial Location Plan
 - 003 Plain View, Front And Side Elevation
 - 004 Front And Rear Elevation And Plain View
 - 005 Existing Plain View, Front And Side Elevation
 - Site Plan Revision P3
 - 007 Site Layout
 - 008 Signage Location Plan
 - 009 Swept Path Analysis
 - 010 Ground Level Plan
 - 011 Fence Detail
 - 012 Proposed Plain View, Front, Rear And Side Elevation
 - 013 CCTV Pole Plan
 - 014 Container Plain View, Front And Rear Elevation

Reason: To clarify the drawings and information on which this approval of planning permission is founded.

2. That notwithstanding the terms of condition 1 above, before the development hereby permitted starts confirmation of the colour of all containers and buildings shall be submitted to and be approved in writing by the Planning Authority. Thereafter the development shall be implemented in accordance with these details. For the avoidance of doubt the containers and buildings shall be a shade of moss green.

Reason: To define the permission in the interests of visual amenity.

3. That PRIOR to any works of any description being commenced on the application site, a comprehensive site investigation report incorporating mineral stability issues shall be submitted to and approved in writing by the Planning Authority. The investigation must be carried out in accordance with current best practice, such as BS 10175: The Investigation of Potentially Contaminated Sites, or CLR 11. The report must include a site-specific risk assessment of all relevant pollution linkages and a conceptual site model. Depending on the results of the investigation, a detailed Remediation Strategy may be required as part of the above report.

Reason: To establish whether or not site decontamination is required in the interests of the amenity and wellbeing of future users of the site.

4. Should the intrusive site investigation report, referred to in Condition 3 above, identify the need for remediation works to be carried out, a detailed Remediation Strategy shall be prepared and submitted to the Planning Authority for its written approval. Before the site is energised, a certificate (signed by a chartered Environmental Engineer) shall be submitted to the Planning Authority confirming that all required remediation works have been carried out in accordance with the terms of the approved Remediation Strategy.

Reason: To ensure that the site is free of contamination and stable in the interests of the amenity and wellbeing of future users of the site.

5. That prior to energisation of the site, the acoustic barrier shall be confirmed in writing as being completed (2.5m high close boarded timber fence) and positioned on the northern boundary as shown in Figure section 2.2 of the 'Noise Impact Assessment Report Proposed Battery Energy Storage Site, Biggar

Road, Newhouse', Dated 31st October 2024, by Xi Engineering Consultants (NIA). For the avoidance of doubt barrier details based on the agreed noise mitigation measures detailed in the NIA shall be submitted first and approved in writing by the Council before the acoustic fence is erected.

Reason: To ensure the implementation and positioning of the acoustic barrier in the interest of amenity

6. That before the development hereby permitted commences details of the protection measures set out in appendix 10 of the preliminary ecological appraisal undertaken by wild surveys limited 15th June 2023 shall be confirmed in writing by the applicant / the applicant's ecological advisor as implemented.

Reason: In the interests of protecting nature conservation interests.

7. That before construction of the development hereby permitted commences details for the creation of new habitat on the site, protection and enhancement of connectivity and the protection and enhancement of existing species, set out in appendix 10 of the preliminary ecological appraisal undertaken by wild surveys limited 15th June 2023 shall be confirmed in writing by a chartered ecologist, as compliant with the biodiversity enhancement strategy. For the avoidance of doubt details showing areas of new habitat replacement planting offsetting habitat loss and proposed mitigation enhancement measures proposed shall include the measures shown on the Concept Masterplan. A detailed Landscape and Ecological Management Plan (LEMP) shall be submitted confirming no net loss of biodiversity shall occur. Thereafter the approved details shall be implemented to the satisfaction of the Council.

Reason: In the interests of protecting nature conservation interests.

8. That should development not commence within 2 years of this decision, an updated Protected Species Survey (including Great Crested Newts) shall be submitted to and approved in writing by the Planning Authority. Following written approval by the Planning Authority, the requirements of those reports in respect to habitat and protected species protection shall be complied with in full, including securing any licences from Nature Scotland.

Reason: In the interests of protecting nature conservation interests.

9. That BEFORE the development hereby permitted starts, a scheme of landscaping shall be submitted to, and approved in writing by the Planning Authority, and it shall include:-

- (a) details of any earth moulding and hard landscaping, boundary treatment, grass seeding and turfing;
- (b) a scheme of tree and shrub planting, incorporating details of the location, number, variety and size of trees and shrubs to be planted;
- (c) an indication of all existing trees and hedgerows, plus details of those to be retained, and measures for their protection in the course of development;
- (d) a detailed timetable for all landscaping works which shall provide for these works being carried out contemporaneously with the development of the site.

Reason: To ensure the implementation and maintenance of the landscaping scheme in the interest of amenity.

10. That all works included in the scheme of landscaping and planting, approved under the terms of condition 9 above, shall be completed in accordance with the approved timetable, and any trees, shrubs, or areas of grass which die, are removed, damaged, or become diseased, within two years of the operation of the development hereby permitted, shall be replaced by the end of the next planting season at the latest with others of a similar size and species.

Reason: To ensure the implementation and maintenance of the landscaping scheme in the interest of amenity.

11. That before the development hereby permitted starts, unless otherwise agreed in writing with the Planning Authority; full details of the proposed surface water drainage scheme shall be submitted to the said Authority and shall be certified by a chartered civil engineer experienced in drainage works as complying with the most recent SEPA SUDS guidance.

Reason: To ensure that the drainage scheme complies with best SUDS practice to protect adjacent watercourses and groundwater and in the interests of the amenity and wellbeing of existing and future occupants adjacent to and within the development site.

12. That the SUDS compliant surface water drainage scheme approved in terms of Condition 11; shall be implemented contemporaneously with the development in so far as is reasonably practical. Within three months of the construction of the SUDS, a certificate (signed by a Chartered Civil Engineer experienced in drainage works) shall be submitted to the Planning Authority confirming that the SUDS has been constructed in accordance with the relevant CIRIA Manual and the approved plans.

Reason: To safeguard adjacent watercourses and groundwater from pollution.

13. That before the development hereby permitted starts a Construction Traffic Management Plan (CTMP) has submitted to and approved by the Planning Authority in consultation with Roads. The CTMP must include the following:

- a. Updated information on programme and tasks, vehicle types and trip generation;
- b. Details of measures to minimise the number of construction vehicles;
- c. Drawings showing details of the proposed site access;
- d. Details of traffic management measures on local roads including temporary signage for construction traffic and diversions routes;
- e. Details of temporary signage in the vicinity of the site warning of construction traffic;
- f. Details of the management of construction traffic to ensure the safety of pedestrians, cyclists, equestrians and motorised road users;
- g. Detailed swept path assessments of large component delivery routes and drawings detailing any associated off-site mitigation works;
- h. Details of and controls for access routes to and from the site for large components (including abnormal loads) and day-to-day deliveries/removals associated with the construction of the development.
- i. Frequencies and times of deliveries and arrangements for the removal of materials/plant from the site;
- j. Arrangements for road maintenance (including provision for restoration of any damage to the public road) and cleaning;
- k. Details of wheel washing facilities which must be provided and maintained in working order during the period of construction and/or decommissioning of the site. All vehicles must use the wheel washing facilities to prevent deleterious materials being carried onto the public road on vehicle wheels; and; thereafter the approved details shall be implemented to the satisfaction of the Council.

Reason: In the interests of safe access and egress from the public road network.

14. That before any development works start on the application site an intrusive site investigation shall be undertaken to establish the extent of coal mining legacy on site. For avoidance of doubt this shall include the submission of a scheme of intrusive site investigations for mine entry and shallow coal workings,

including a layout plan which identifies appropriate zones of influence for the mine entries on site, and the definition of suitable 'no-build' zones. The findings of the intrusive site investigation shall be submitted to the Planning Authority in the form of a detailed report for written approval in consultation with the Mining Remediation Authority. The remediation works identified for the treatment of mine entries and shallow coal workings identified by the site investigation deemed necessary to implement this development shall be outlined in this report.

Reason: To ensure that matters relating to coal mining risk are adequately addressed.

15. That before any development works start on the application site the remediation works identified for the treatment of mine entries and shallow coal workings identified by the intrusive site investigation required in terms of Condition 14; above, shall be carried out to the satisfaction of the Planning Authority in consultation with the Mining Remediation Authority. A certificate (signed by a Chartered Engineer experienced in mining works) shall be submitted to the Planning Authority confirming that the remediation works have been implemented in accordance with the relevant Mining Remediation Authority Guidance.

Reason: To ensure that matters relating to coal mining risk are adequately addressed.

16. That a visibility splay of 4.5 metres by 120 metres, measured from the road channel, shall be provided on both sides of the vehicular access and before the development hereby permitted is commenced, everything exceeding 1.05 metres in height above the road channel level shall be removed from the sight line areas and, thereafter, nothing exceeding 1.05 metres in height above road channel level shall be planted, placed, erected, or allowed to grow, within these sight line areas.

Reason: In the interests of traffic safety.

17. The development is hereby approved for a temporary period of 40 years from the date on which the containerised electricity storage facility will be energised. The developer shall, within 3 months of the date of this permission, provide the Planning Authority with written confirmation of the date on which the containerised electricity storage facility will be energised. For the avoidance of doubt the energisation date is the date on which the containerised electricity storage facility achieves all of the following: becomes fully operational, has a grid connection, and starts charging /discharging to the grid. The developer shall also provide the Planning Authority with written confirmation of any amendments to the energisation date as soon as practicable. Thereafter the output capacity of the containerised electricity storage facility shall not exceed 49.9MW.

Reason: To define the consent in the interests of setting a timeline for the approval of details relating to the decommissioning of the development and associated financial guarantee.

18. Prior to the energisation date, an outline decommissioning, restoration, and aftercare strategy shall be submitted to and approved in writing by the Planning Authority. The strategy shall detail measures for the decommissioning of the development, restoration and aftercare of the site and will include, without limitation, proposals for the removal of all elements of the development, the treatment of ground surfaces, the management and timing of the works, and environmental management provision for the site's reinstatement.

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

19. No later than 3 years prior to decommissioning of the development or the expiration of this consent (whichever is the earlier) a detailed decommissioning, restoration, and aftercare plan, based upon the principles of the approved outline decommissioning, restoration, and aftercare strategy, shall be submitted to the Planning Authority for written approval.

The detailed decommissioning, restoration and aftercare plan shall include (but not be limited to) provisions in respect of the following matters.

- Decommissioning and removal of the battery energy storage system units including treatment of liquid bearing components
- Removal of any in-situ foundations including removal to a depth of at least 1m underground
- Removal of above ground infrastructure extending to battery units, substations, inverters/ inverter containers, fencing, lighting masts, internal tracks, equipment and hard standings
- Cable removal
- Provision of Decommissioning Environmental Management Plan (DEMP),
- A Traffic Management Plan (TMP) related to activities for decommissioning, demolition, and removal of infrastructure
- Locations of temporary stockpiles for decommissioned materials and equipment
- Treatment of disturbed ground surfaces resulting from decommissioning of infrastructure including cable removal and any sub-surface elements to restore the land to its pre-construction status or such condition as agreed in writing with the Planning Authority,
- Restoration proposals including ecological and biodiversity enhancement works such as (but not limited to) provision of bird boxes, insect refuge and use of native seed mixes to deliver biodiversity gains and measures to safeguard all retained landscaping on the site
- An aftercare plan to monitor success of restoration measures with scope for interventions if required
- A Decommissioning Timetable

The development shall be decommissioned, site restored and aftercare thereafter undertaken in accordance with the approved plan and timetable, unless otherwise agreed in writing in advance with the Planning Authority.

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

20. There shall be no Commencement of the Development until the final details of access and water supply (in line with relevant guidance at the time) for emergency services, have been submitted to and approved in writing by the Planning Authority. Thereafter, the Development shall be installed and maintained in accordance with the approved details, unless otherwise agreed in writing by the Planning Authority.

Reason: In the interests of protecting the environment and visual amenity.

21. There shall be no Commencement of Development unless the final technical detail of the Lighting columns and CCTV cameras to be located within the site area are provided. For the avoidance of doubt the final locations and specifications of all such features will be agreed in writing with the Planning Authority.

Reason: To consider this aspect in detail and to safeguard the amenity of the area.

22. No later than 12 weeks before the energisation date, a financial guarantee to cover the costs of decommissioning, site restoration and aftercare, as required by conditions 18 and 19 of this consent, shall be submitted for the written approval of the Planning Authority. The acceptability of such financial guarantee shall be at the sole discretion of the Planning Authority. The financial guarantee must:

A) be granted in favour of the Planning Authority and shall be maintained in favour of the Planning Authority throughout the duration of this consent and until the completion of all decommissioning, site restoration and aftercare obligations as required by conditions 18 and 19 of this consent.

B) must be provided by an independent financial body with at least an A - rating who will be capable of fulfilling the obligations set out within the financial guarantee.

- C) be for an amount which covers the value of all decommissioning, site restoration and aftercare liabilities, such amount to be determined by the Planning Authority prior to energisation of the development.
- D) be subject to a review every five years from the date of this consent, or other such intervals as agreed by the Planning Authority. Each review shall be undertaken by a suitably qualified independent professional who has relevant experience in such matters, the identity of whom has been agreed in writing by the Planning Authority prior to the review of the financial guarantee commencing. The review of the financial guarantee shall be submitted no later than three months prior to the expiry of the existing financial guarantee, for the written approval of the Planning Authority. Thereafter and at least 28 days prior to the expiry of the existing financial guarantee, the replacement financial guarantee in favour of and in terms acceptable to the Planning Authority and for the value advised by the review noted above, shall be submitted for the written approval of the Planning Authority.
- E) come into effect on or before the energisation date, and expire no earlier than 24 months after the end of the aftercare period. The development shall not be energised until both: - written approval of the Planning Authority has been given to the terms of such financial guarantee and; - the validly executed guarantee has been delivered to the Planning Authority.

Reason: In the interests of amenity and in order to retain effective planning control.

- 23 In the event that the financial guarantee becomes invalid, has expired, or is terminated for any reason following the commencement of operations at the site, all operations at the site shall cease no later than three months from the date the financial guarantee became invalid, expired or terminated. If a replacement financial guarantee, which meets the requirements of condition 22, is approved by the Planning authority and duly executed before the end of the three-month period, the operations may continue. If the operations have ceased due to this clause, they may recommence only upon the approval and execution of a replacement financial guarantee.

Reason: In the interests of amenity and in order to retain effective planning control.

Background Papers:

Consultation Responses:

Traffic & Transportation memorandum 23rd September 2024, 17th December 2024 and 9th January 2025.
Scottish Water letter 27th August 2024
Archaeology Service letter 21st August 2024
Environmental Health (including Pollution Control) memorandum 17th October 2024 and 21st November 2024
The Coal Authority 2nd September 2024

Contact Information:

Any person wishing to inspect these documents should contact esplanning@northlan.gov.uk

Report Date:

11th February 2025

REPORT

1. **Site Description**

1.1 The application site is 2.2 hectares in area and is currently agricultural fields (sheep), which have a gently sloping topography. The boundary is formed by partial hedgerows and a line of small trees and scrub inside the Site. There are two existing access points to the north and south of the site from Biggar Road. There is a substation along Legbrannock Road approximately 700 metres to the west of the site boundary and several overhead power lines and pylons on and around the Site. While the Site has a rural location it is largely residual with Newarthill industrial estate approx. 250 m to the North beyond the A775, and the settlement of Newarthill to the south. The eastern boundary is characterised by agricultural fields, where there are several scattered farm dwellings.

2. **Proposed Development**

2.1 The battery storage compound would principally comprise 20no metal finished shipping containers, to be used for battery storage. The containers would all be placed and evenly spaced on concrete plinths and bounded by new palisade metal fencing. CCTV equipment, an internal access track and parking spaces would complete the development. The following arrangement is proposed within the secure compound:

- Security Fence Detail 2150mm (H) Suitable for 4-6m (W) individual sections.
- 20 Battery Containers for Housing batteries 2438mm (W) x 6058mm (L) x 2896mm (H)
- CCTV Pole Max 3000mm (H), Material: Metal Pole for on-Site security
- DNO Substation 12715mm (L) x 4032mm (W) x 3685mm (H) Substation building for the connection to the underground cable connecting to the grid.
- Storage Container/LV Substation Housing 4874mm (W) x 3656mm (H) x 5774mm (L) Storage of tools etc
- Substation building Switchgear Housing 12715mm (L) x 4032mm (W) x 3685mm (H) Containing switchgear and control room.
- Spare Parts Container/Site Office 12192 (L) x 2438 (W) x 2896 (H) for the storage of spare parts and tools etc and use as a site office during operation.
- 4 Twin Inverter and Transformer Sled Inverter: 2000mm (W) x 3000mm (L) x 2270mm (H)
- Transformer: 2240mm (W) x 4100mm (L) x 2040mm (H) for housing the inverter and transformer unit used to supply low voltage

A construction compound would be used within the site, although this aspect is not included in the application, as it would represent permitted development should this facility be granted permission. It would only be in place during the construction period.

2.2 This is an energy provision proposal and part of the contribution to climate change actions. The background is changing delivery of energy nationally, including improved and new technology in energy storage (as proposed here) and new ways to make the electricity grid more effective, particularly during times of fluctuations in demand. The capacity of the facility would not exceed 49.9MW and the applicant has advised it would have an operational life of 40 years.

3. **Applicant's Supporting Information**

3.1 The applicant has submitted a range of supporting information with their application.

- Site plans
- Preliminary Ecological Appraisal (including suggested biodiversity enhancements)

- Landscape and Visual Impact Assessment (including Concept Landscape Masterplan)
- Photomontages
- Noise Impact Assessment
- Coal Mining Risk Assessment
- Land Capability Classification Assessment
- Flood Risk Assessment and Drainage Strategy
- Heritage Impact Assessment
- Indicative Traffic Management Plan (speed surveys results); and
- Pre-Application Consultation Report.

4. **Site History**

4.1. There is no significant recent site history.

5. **Development Plan**

5.1 The Development Plan consists of National Planning Framework 4 (NPF 4) and the North Lanarkshire Local Development Plan. Upon its adoption on the 13th February 2023, National Planning Framework 4 (NPF4) became part of the statutory 'Development Plan'. On 8th February 2023, the Chief Planner for Scotland published Transitional Arrangements Guidance which set out further details regarding how NPF4 should be applied. This confirmed that adopted Local Development Plans will continue to be part of the development plan. In circumstances such as North Lanarkshire's, where the Local Development Plan has been adopted prior to publication of NPF4, legislation states that in the event of any incompatibility between a provision of NPF4 and a provision of a LDP, whichever of them is the later in date is to prevail. Accordingly, the proposed development requires to be assessed against the provisions and policies of both NPF4 and the North Lanarkshire Local Development Plan.

5.2 Policies that are of particular relevance for the proposed development are:

NPF4 Policy 1 – Tackling the climate and nature crises

NPF4 Policy 2 – Climate mitigation and adaption.

NPF4 Policy 3: Biodiversity

NPF Policy 4: Natural places

NPF4 Policy 8: Greenbelt

NPF4 Energy Policy 11: Energy

NPF4 Policy 14: Design, quality and place

NPF4 Policy 22: Flood risk and water management

NPF4 Policy 23: Health and Safety

5.3 The following policies are relevant within the North Lanarkshire Local Development Plan:

- PP4 Greenbelt
- AD4 Amount of Development
- PROM ID2 POLICY Utilities Improvements
- PROT A POLICY Natural Environment and Green Network Assets (Category A5 Protected Species)
- EDQ 1, 2, 3 Environmental and Design Qualities

6. Consultations

- 6.1 The following consultation responses have been received.
- 6.2 **Traffic & Transportation** initially recommended that the application be deferred pending clarification on the access arrangements relating to visibility. The applicant subsequently issued drawings indicating that the desired visibility splay was achievable, and the objection was subsequently withdrawn. NLC Roads also made recommendations relating to the existence of a small bridge to the south of the site. The Bridge Engineering Team were consulted to assess the potential impact of the increase in use through proposed construction traffic volume / load proposed with this application. A condition relating to the submission of details of the route of abnormal load vehicles prior to the commencement of the development was recommended. A condition has been attached to control this matter.
- 6.3 **Archaeology Service** reviewed the Heritage Impact Assessment and commented that there is no known archaeological monument or any scheduled monuments in the immediate environs so no setting impact. In addition, there are only limited indications of previously unknown archaeological remains. Given this the service have neither comments nor objections to make on the application.
- 6.4 **Scottish Water** has no objection to the application but suggest that the applicant completes a Pre-Development Enquiry (PDE) Form and submits it directly to Scottish Water via their Customer Portal. Their records indicate that there is live infrastructure in the proximity to the proposed development site that may impact on Scottish Water assets (15" trunk water main). The applicant should identify any potential conflicts with Scottish Water assets and contact their Asset Impact Team for an appraisal of the proposals. The applicant should be aware that any conflict with assets identified will be subject to restrictions on proximity of construction. The applicant will be advised of this.
- 6.5 **NLC Protective Services** has no objection to the proposal subject to planning conditions relating to ground conditions and potential remediation. Comments were also provided on the applicants' noise impact assessment recommending that an acoustic barrier be conditioned as mitigation. Comments were also provided on potential plant noise, dust, burning of materials, light pollution and hours of operation during the construction phase. Conditions have been attached to control noise, dust and lighting.
- 6.6 **The Coal Authority** note that a Coal Mining Risk Assessment Report was submitted with the application. The report authors concur with Coal Authority records and consider that currently the site is considered a high risk of ground instability. Accordingly, recommendations have been made that intrusive site investigations are required in order to confirm the exact location and condition of the on-site mine entry and the depth and condition of any coal seams / workings within influencing distance of the surface. The findings should inform the extent of any remedial and / or mitigation measures that may be required. This is recommended as a subject for planning conditions. Consequentially the Coal Authority has no objection to the proposed development subject to the imposition of the conditions. Conditions have been attached to control this matter.
- 6.7 No comments were made by the following consultees:
- Scottish Fire and Rescue
 - NLC Green Space Development.

7. Representations

- 7.1 Following neighbour notification and press advert no representations was received.

8. Planning Assessment

- 8.1 In accordance with Section 25 of the Town and Country Planning (Scotland) Act 1997, planning decisions must be made in accordance with the development plan unless material considerations indicate otherwise. Subject to suitable restrictions on the extent and nature of the development, it is considered that the proposal raises no issues of a strategic nature. The Development Plan comprises the North Lanarkshire Local Development Plan (NLLDP) and the National Planning Framework 4 (NPF 4) with NPF prevailing over any NLLDP policies that are incompatible with its aims and objectives.

National Planning Framework 4 (NPF4):

- 8.2 The introduction of NPF4 in February 2023 requires that these policies be taken into account in assessing all developments. The most appropriate of these listed above are discussed below.

NPF4 Policy 1: Tackling the climate and nature crises and NPF4 Policy 2: Climate mitigation and adaptation

NPF4 Policy 1 prioritises addressing the climate and nature crises in all decisions, emphasising the approval of developments that support NPF4's fundamental aims of achieving Net Zero by 2045 and ensuring the protection and enhancement of biodiversity. Similarly, NPF4 Policy 2 encourages development that minimises emissions and adapts to the current and future impacts of climate change. By facilitating the connection of infrastructure to the national grid, the Proposed Development supports the expansion of renewable energy sources, directly aligning with the goal of achieving net-zero carbon energy. This initiative not only addresses climate change but also reduces emissions, fulfilling the core objectives of both Policy 1 and Policy 2.

- 8.3 The Proposed Development will incorporate measures for biodiversity enhancement (as discussed under NPF4 Policy 3 below). This demonstrates a proactive approach to protecting and enhancing biodiversity, in line with Policy 1's emphasis on nature conservation. In summary, the Proposed Development's positive contribution to both the climate and biodiversity crises aligns with the priorities of NPF4 Policy 1 and Policy 2. By actively addressing these critical challenges, the Proposed Development complies with these policies.

- 8.4 NPF4 Policy 3: Biodiversity

The Proposed Development complies with NPF4 Policy 3 by ensuring positive effects for biodiversity and safeguarding natural heritage assets. A preliminary ecology assessment was conducted to understand the Site's existing ecological characteristics and context. The Site is not designated for ecological sensitivity. To offset resultant loss of biodiversity, the application submission is proposing to enhance an area immediately around the site and restore the site post operation, achieving no significant net loss of biodiversity. The Proposed Development will therefore be subject to planning condition on maintaining and enhancing biodiversity and limiting significant impact.

- 8.5 NPF4 Policy 4: Natural places

The Proposed Development complies with NPF4 Policy 4 by avoiding impacts on nationally, regionally, or locally important designated areas. This alignment ensures protection, restoration and enhancement of natural assets, making best use of nature-based solutions without unacceptable environmental impact.

- 8.6 NPF4 Policy 8: Greenbelt

Policy 8 requires development in the green belt to meet certain criteria and the type of development needs to be acceptable principle. The types of development acceptable include essential infrastructure and renewable energy. It is therefore reasonable to determine that the introduction of this facility is accepted in principle.

- 8.7 In terms of meeting the detailed requirements the applicant recognises that it is anticipated that whilst the Proposals will result in some loss of openness in the Green Belt, this impact would not be significant as a result of site design and the potential for landscape screening which can be controlled by condition. It is also noted that there is a specific location requirement for the proposal. The Site requires a viable site due to grid connection constraints.
- 8.8 A Land Capability Classification for Agriculture (LCCA) has been carried out concluding the Site was in rough grassland, with no significant topographical issues which would limit the LCCA classification. It has been determined that the Land Capability Classification for Agriculture is Class 4.2, which is not Prime Agricultural Land.
- 8.9 A detailed LVIA also accompanies the application which considers the potential direct and indirect effects of the Proposals upon landscape resources, views and visual amenity receptors within the existing landscape and visual baseline across a 5km study zone.
- 8.10 This report advises that given the nature, scale and setting of the proposed development, the change in character of this location will not be significant over long distances throughout the wider study area in accessible views. In terms of visual effects, the majority of residential dwellings in the immediate environs are located mainly to the south of the Site in the form urban edge of Newarthill.
- 8.11 The magnitude of visual effects on local residents, path and road users with views of the site within approximately 1km are considered to range from Medium to Low depending on the openness of views and intervening screening by vegetation. The magnitude of visual effects on local residents, path and road users with views of the Proposals within approximately 1km to 5km are considered to be Negligible due to views being mostly screened intervening built elements, landform and vegetation. The Proposals will add a new developed feature to the view, however in time, introduced mitigation screen planting will reduce views towards the Proposals.
- 8.12 It is considered that the landscape and visual impacts are acceptable when balanced against the substantial benefits of the final development.
- 8.13 The planning register indicates that cumulative effects are not significant given that visibility is limited by intervening established vegetation and landform.
- 8.14 It should be noted that the proposals have a limited time span and are fully reversible. Most of the components (the batteries themselves and the metals in the structure) are recyclable. The infrastructure can be removed, and the Site restored to its current condition and use (agriculture) should they cease to be required. It is considered that the proposed development is acceptable in terms on Policy 8 Green Belt.
- 8.15 NPF4 Policy 11: Energy
Policy 11 advises that,
- a) Development proposals for all forms of renewable, low-carbon and zero emissions technologies will be supported. These include:
 - iii. energy storage, such as battery storage , and
 - c) Development proposals will only be supported where they maximise net economic impact, including local and community socio-economic benefits such as employment, associated business and supply chain opportunities.
- 8.16 In terms of subsection (c) the applicant comments that the main advantage of the proposal lies in their contribution to addressing climate change through the storage of energy. On a local level, climate change imposes economic burdens through property damage, business interruptions, and increased

development and maintenance costs, particularly in low-lying areas prone to flooding. By storing renewable energy, the Proposals not only mitigate these economic impacts but also strengthen the local grid network and enhance its resilience. The applicant has advised they would put in place a community benefit fund designed to deliver tangible benefits to the local area once the site is operational and that Community benefit funding has been offered to Newarthill Community Council irrespective of their support or otherwise for the Proposals. No details have been provided of what this would entail.

8.17 The Scottish Government encourages developers to offer community benefits and shared ownership opportunities as standard practice for all new renewable energy projects. This would however be a matter to be realised by the applicant with the community and does not influence this planning assessment as it is not a material planning consideration.

8.18 Subsection d) of Policy 11 requires development proposals that impact on international or national designations to be assessed in relation to NPF4 Policy 4. As detailed above the proposed development is considered to comply with Policy 4.

8.19 Subsection e) of Policy 11 requires project design and mitigation to demonstrate how the following impacts are

addressed:

i. impacts on communities and individual dwellings, including, residential amenity, visual impact, noise and shadow flicker;

These impacts have been considered following consultation under the design policies set out below.

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

Landscape and visual impacts have been assessed in paragraphs 8.8 to 8.14 above.

iii. public access, including impact on long distance walking and cycling routes and scenic routes;

A Core Path runs from Edinburgh Rd (A775) and Biggar Road to the west side of the Site and turns to the west on the middle of Biggar Road connecting towards Legbrannock Road through Torrance Park Golf Course. The site has no significant impact on public access walking, cycling and scenic routes. Site management should ensure that core path users are safely prioritised.

iv. impacts on aviation and defence interests including seismological recording;

The site has no impact on aviation safety.

v. impacts on telecommunications and broadcasting installations, particularly ensuring that transmission links are not compromised.

The site has no impact on telemetry interests.

vi. impacts on road traffic and on adjacent trunk roads, including during construction

These are set out in the supporting interim traffic management report which is the subject of planning condition for final agreement with NLC Roads;

vii. impacts on historic environment.

There are no archaeological designated heritage assets within the Site or the 1km study area. Meanwhile, there are no known non-designated heritage assets within the Site noted recorded in the Heritage Impact Assessment which accompanies the application.

viii. effects on hydrology, the water environment and flood risk;

Overall, all forms of flood risk have been considered to be low and safe and dry access and egress for both vehicles and pedestrians will be afforded to the Site. Hydraulic calculations for the proposed surface water network show no flooding up to and including the 1 in 1000 year return period plus 41% allowance for climate change.

ix. biodiversity including impacts on birds;

A Preliminary Ecological Appraisal (PEA) accompanies the application and should be referred to for the full and detailed assessment of ecology and biodiversity issues associated with the Proposals. That said, no further surveys are required prior to the determination of the application, although a range of pre-construction surveys (depending on the timing of works) are recommended. These can be secured by use of planning condition requiring compliance with the recommendations of the PEA.

In terms of biodiversity the review of the Proposals took into account the pre-development biodiversity value, noting no publicly available records of protected species within or adjacent to the site boundary (within 100m) and no statutory designated sites within 2 km of the site.

The proposed PEA includes recommendations for biodiversity enhancement include the installation of soft landscaping (new hedges and infill hedging) as well as an area of wildflower planting. The design of the Proposals facilitated the retention of the row of small trees inside the Site. The enhancement measures are shown on the Concept Masterplan and a detailed Landscape and Ecological Management Plan (LEMP) can be secured by condition, building on the potential enhancement options set out in Appendix 10 of the PEA.

Overall, the Proposals are not expected to result in significant adverse effects on ecology or biodiversity and substantial biodiversity enhancements are proposed.

x. impacts on trees, woods and forests;

These are limited to the hedge line which will be replaced within the site as part of the biodiversity arrangements.

xi. proposals for the decommissioning of developments, including ancillary infrastructure, and site restoration

These are the subject of recommended planning conditions;

xii. the quality of site restoration plans including the measures in place to safeguard or guarantee availability of finances to effectively implement those plans

These are the subject of recommended planning conditions.

xiii. There are no cumulative impacts.

The site lies to the east of a recently approved Scottish Government BESS development (on the 4th February 2025) for the construction of an electricity generating station comprising of a battery storage system. In considering cumulative visual impact given and the height of the containers housing the BESS apparatus it is noted that the wider area is currently characterised by utility infrastructure, sporadic commercial development and high hedge lines between both sites which are 1.2 km apart. As such, no significant adverse cumulative impact is anticipated.

8.20 The Proposed Development complies with NPF4 Policy 11 by facilitating additional capacity and connections to accommodate existing infrastructure, supporting renewable energy generation targets. Although it doesn't generate renewable energy itself, it is essential for the network and grid security.

8.21 NPF4 Policy 14: Design, Quality and Place.

The Proposed Development complies with NPF4 Policy 14 by contributing to good quality, well-designed places and supporting renewable energy infrastructure. The industrial-style infrastructure has been considered against local landscape character, design, scale, and materials. The minimal land take and careful design minimise environmental impact and preserve the area's amenity.

Although the Proposed Development's nature limits the scope to add to the six qualities of place, it integrates well with the surrounding landscape and reduces required infrastructure. The proposed development aligns with ensuring minimal disruption and generally maintaining visual and environmental quality.

- 8.22 NPF4 Policy 22: Flood risk and water management
NPF4 Policy 22 prioritises flood risk resilience by promoting avoidance and reducing vulnerability in development. The Site, located in a low flood risk area, does not increase flood risk elsewhere, ensuring compliance with Policy 22. Drainage will connect into the existing drainage system/existing arrangement at the Site. All forms of flood risk have been considered to be low. Given all forms of flood risk have been assessed as low, safe and dry access and egress for both vehicles and pedestrians will be afforded to the Site. Hydraulic calculations for the proposed surface water network show no flooding up to and including the 1 in 1000 year return period plus 41% allowance for climate change.
- 8.23 NPF4 Policy 23: Health and Safety aims to safeguard against environmental harm and mitigate safety hazards. Given the sites restricted access and the Proposed Development's limited access solely to authorised personnel, public exposure is minimised. Furthermore, the Proposed Development ensures no negative impact on air quality or disturbance to nearby noise-sensitive areas, demonstrating compliance with Policy 23. The applicant has provided the following comments on fire safety. The primary component of the Proposals comprises a BESS of up to 49.9MW installed capacity within a series of battery units, each within a battery storage container. The containers are organized in rows alongside inverter and transformer units and are located alongside other BESS infrastructure within the "BESS compound".
- 8.24 Each battery storage container typically includes air conditioning, fire suppression, and electrical monitoring infrastructure.
- 8.25 BESS processes can be controlled on-site and/or remotely, and the final arrangement depends upon the final technology choice. On-site controls will be located within a main control house also accommodating site office, welfare, and communications infrastructure. A separate container (or containers) will house switchgear, spare parts, tools, and other maintenance equipment. Also within the BESS area are the access track, informal tracks for maintenance purposes, car parking, and associated hardstanding.
- 8.26 The Site is remotely monitored 24/7. The BESS area will be secured by security gates at the southwestern and northwestern sides. Lighting columns and CCTV cameras will be located within the BESS area. The final locations and specifications of all such features will be agreed upon with the Council pursuant to planning conditions.
- 8.27 The recent 2024 version of the Grid Scale Energy Storage System Planning Guidance published by the National Fire Chiefs Council (NFCC) is currently at the consultation stage for the use of Fire and Rescue Services (FRSs). This guidance relates to Battery Energy Storage Systems (BESS) which are deployed in open-air environments with an energy capacity of 1 megawatt (MWh) or greater using lithium variant batteries. The Proposals have considered the guidance including specific battery technical, Site access, spacing between containers, battery container design, water supplies, suppression mitigation, detection, and motoring. The applicant has also considered fire safety at all stages of the development - construction, operation and decommissioning and that safety and fire risk are inherent in the overall design. The applicant has advised they will develop a Fire Risk Management Plan (FRMP), supported by appropriate evidence, to identify hazards and risks specific to the facility, and to develop, implement, maintain, and review control measures. A planning condition is also attached to ensure there is appropriate access and provision for emergency services.
- 8.28 It is considered that fire, safety and health issues have been carefully considered and the proposed development complies with Policy 23. The applicant's FRMP will be a matter for approval of the Fire Service.

North Lanarkshire Local Development Plan (LDP):

8.29 PP4 Greenbelt and AD4 Amount of Development

These policies set out that the council seeks to support developments for agriculture, forestry, recreation, or developments that need a non-urban location. The purpose of the Green Belt is to protect the setting of communities, support regeneration by directing growth to urban areas, protect natural assets and provide a high-quality environment. Policy AD4 supports battery storage energy facilities under the general heading of renewable energy as a Green Belt appropriate use.

8.30 The development under consideration requires a specific locational need i.e. close to existing electricity infrastructure however it should be recognised that should this proposal be developed, it will remove part of the greenbelt which helps maintain a degree of separation for this part of Newarthill, albeit for a temporary 40 year period. It is however considered overall that the proposed development complies with the principle of Policy PP4 and AD4.

8.31 PROM ID2 POLICY Utilities Improvements

The applicant submitted appropriate supporting information to assess the impact on location and land use character as required by the PROT and EDQ Policies of this Plan. The Council supports where appropriate, alternative technologies and associated infrastructure, subject to assessment against relevant legislation and all other Policies in the Plan. The application was assessed as suitable for this location and Land Use Character Area. In terms of specific protection and environmental qualities, PROT and EDQ Policies of Plan are considered below.

8.32 PROT PROTECTING ASSETS

PROT A POLICY Natural Environment and Green Network Assets - North Lanarkshire Council will protect natural and resilient sustainable places by safeguarding natural heritage assets. Category A5 Protected Species – requires these to be protected.

As set out under NPF4 Policy 11 (ix) above the Proposals are not expected to result in significant adverse effects on ecology or biodiversity and substantial biodiversity enhancements are proposed.

8.33 Environmental and Design Quality Policies

The following policies also require to be assessed,

- EDQ 1 – Site Appraisal
- EDQ 2 – Specific Features for Consideration
- EDQ 3 – Quality of Development

8.34 These three policies look for proposed developments to create a successful place or enhance existing places by integrating successfully into the local area and avoiding harm to neighbouring amenity. To do this a range of criteria is listed within these policies which includes amongst other things aspects of design, massing, materials, topography and aspects to protect the existing urban area and its specific characteristics, assets and attributes. They consider hazardous zones, utilities infrastructure and management areas and look to promote biodiversity and the environment whilst meeting the challenges of the climate change via suitable and safe access for all users to promote sustainable public travel or for example the provision of electrical charge points where the car is still a requirement.

- a. Establishing a clear vision for the site with design principles which lead to the creation of a distinct, successful place.

The application under consideration has provided supporting information on design and landscape setting and is considered acceptable at this location.

- b. Providing a safe, pleasant, inclusive, convenient and welcoming development.

In referring to NLC Roads comments above it should be noted that a recommendation of no objection on the access and junction arrangements has been received subject to changes in visibility at the access junction the development is considered acceptable on road safety grounds. Directional signage on the wider road network proposed can also be controlled through submission of a revised traffic management plan. Planning conditions have been attached to control these matters.

- c. Moving towards a low-carbon economy, addressing, resource efficiency, Mitigation of and Adaptation for the effects of Climate Change energy and waste issues in order to create a sustainable development with a low ecological footprint.

As stated under policy 11 of NPF4 above the aim of the proposal is the contribution to addressing climate change through the storage of energy. In storing renewable energy, the proposals not only mitigate economic impacts but also strengthen the local grid network and enhance its resilience.

- d. Mitigating any likely air quality, noise, or pollution impacts particularly in or adjacent to Air Quality or Noise Management Areas.

The proposal is in support of a low carbon economy contributing to an overall reduction in air pollution. In terms of noise NLC Protective Services has no objection on noise impact subject to the mitigation proposed which can be controlled by condition.

- e. Ensuring that water body status is protected.

The proposed site is located near to a watercourse (Legbrannock Burn). Conditions are attached to control sustainable urban drainage in accordance with current SEPA guidance.

- f. Existing features of Green Network or Historic Environmental interest or Resources, protected under the terms of the Protect Assets Policies.

There are no historic features identified (e.g. traditional stone buildings/structures) through the site appraisal required by Policy EDQ 1, the site will be safeguarded through restoration conditions and enhanced by additional biodiversity measures if minded to approve.

8.35 As listed in the above policy analysis, the Proposals are considered to be appropriate for the Site due to the scale, nature, and character of the development. The design is simple and utilitarian in design, largely consisting of battery containers similar to standard containers, and as such industrial in appearance and will not have any significant impacts on the setting. On balance the application complies with the provisions of development quality policies above.

8.36 Policy EDQ3 (Quality of Development) is also relevant and sets out that proposed developments should integrate successfully into the local area, avoid harm to neighbouring amenity by relating well to the existing context, and avoiding adverse impact on existing or proposed properties through overlooking, loss of privacy, amenity, overshadowing or disturbance.

8.37 The applicant has submitted a noise impact assessment report in accordance with BS4142:2014. NLC Protective Services, on reviewing this information in detail, agree with the conclusions that the level of impact is anticipated to be low at all noise sensitive receptors during both daytime and nighttime periods but have proposed mitigation to the north of the site consisting of an acoustic barrier. This can be controlled by planning condition.

8.38 Access to the site would be taken from a new access point on Biggar Road (with alterations and the hedge line further back from the public road). The applicant advises there would be provision for the

parking of vehicles within the site. Traffic and Transportation has reviewed the plans, and advice provided has resulted in a revised access arrangement taking cognisance of their comments.

9. Conclusions

- 9.1 The proposed battery storage facility is considered acceptable in terms of the development plan and meets the criteria set out in the relevant policies of National Planning Framework 4 and the North Lanarkshire Local Development Plan 2022. The proposal is an acceptable Green Belt use and can be accommodated without detriment to the surrounding area. It is therefore recommended that planning permission be approved, subject to conditions.

North Lanarkshire Council Report

Planning Committee

Does this report require to be approved? Yes No

Ref Date 27/02/25

Supplementary Planning Guidance: Education Contributions.

From Pamela Humphries, Chief Officer (Place)

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Executive Summary

The purpose of this report is to update the Planning Committee on the outcome of the public consultation on the Supplementary Guidance: Education Contributions. The report outlines a summary of the representations received in relation to the draft Supplementary Guidance and our assessment and response to the points raised by contributors (detailed responses included within Appendix 1) and our recommendations in relation to changes to the finalised Supplementary Planning Guidance. The report seeks Committee approval for the amendment to the Pupil Product Ratio (PPR) for secondary schools from 0.24 to 0.18 and amendments to the associated figures within the guidance, further clarity on the indexation period confirming that it covers the period from the grant of planning permission up until such time as the contract and associated costs for the required education infrastructure are finalised and 'locked in'. In addition, further guidance is included on the content of a Development Viability report within appendix 4. If Committee agree the amendments the Supplementary Planning Guidance (SPG) on Education Contributions the SPG will thereafter be adopted as Supplementary Planning Guidance by the Council.

Recommendations

It is recommended that the Committee:

- 1) Agree the finalised Supplementary Planning Guidance on Education Contributions, attached at Appendix 2, for adoption as council Supplementary Planning Guidance.

The Plan for North Lanarkshire

Priority	Improve economic opportunities and outcomes
Ambition statement	(1) Ensure a housing mix that supports social inclusion and economic growth
Programme of Work	Transforming Places

1. Background

- 1.1 The North Lanarkshire Local Development Plan (NLLDP) was Adopted in July 2022. As recommended by the Examination Reporter, this Supplementary Planning Guidance (SPG) relates to Policy CI 1 Category Education Contributions set out on page 71 of the NLLDP Policy Document.
- 1.2 The main purpose of this guidance is to provide guidance for developers and landowners on the circumstances in which residential development proposals are required to be assessed in terms of their impact on the capacity of the education estate and the ability to accommodate the pupils generated by the development in the local schools.
- 1.3 For all qualifying residential developments of 5 or more units the council will seek to secure contributions towards education infrastructure in Primary and Secondary catchment areas where required. These will be requested where capacity issues are identified through the cumulative impact of all emerging housing developments identified through the Housing Land Audit and Local Development Plan.
- 1.4 The developer contributions will be required to contribute towards providing additional capacity through the provision of a new build school, permanent additional classrooms (extensions or modular accommodation) and adaptations to existing schools.
- 1.5 The Supplementary Planning Guidance is intended to secure best value for the Council and ensure that the required education facilities and infrastructure are provided where necessary. The guidance promotes good practice on pupil yield evidence and engagement with developers to deliver any necessary expansion or new build schools as a direct result of the impact on the school estate from new housing developments.

Public Consultation

- 1.6 A six-week public consultation was undertaken between the w/c 16th October and w/c 20th November 2023 on the Supplementary Guidance: Education Contributions. The Supplementary Guidance document was available to view at the Civic Centre and all public libraries within North Lanarkshire, the consultation was advertised in all the local newspapers, publicised on the Council's social media platforms and response surveys were accessible via the Council's live consultations page via the Council website.

2. Report

Public Consultation Representations

- 2.1 A total of 10 parties submitted representations in relation to the proposed Education Contributions Supplementary Guidance and a full copy of the detailed comments raised and council responses are contained within Annex 1 of this report. A summary of the key matters raised in the public consultation and the Council responses are outlined as follows:
- 2.2 **Cumulative vs. Cohort Progression:** Some of the commentators argue that the council's "cumulative approach" to assessing the impact of new housing on school capacity overestimates the need for contributions. They advocate for a "cohort progression method," which considers the gradual influx of pupils from new housing over time, as used by councils like East Lothian and West Lothian.

Response: While the draft guidance does not explicitly mention using a "cohort progression method," we confirm that we have adopted this model for our roll projections. This means that the council does consider the phased entry of pupils over time, allowing for the reuse of spaces by subsequent cohorts of students. The council effectively identifies developments that will impact educational infrastructure and is necessary for ensuring development acceptability. The council emphasises that the guidance is a signpost for developers and that the actual impact will be calculated at the time of planning application submission.

- 2.3 **Accuracy of Pupil Product Ratios (PPRs):** Concerns are raised about the evidence supporting the council's chosen PPRs, particularly for secondary schooling. It is argued that the proposed PPRs are too high, especially for flats compared to houses.

Response: We acknowledge that the PPR for secondary schools needs updating and have revised it from 0.24 to 0.18 in the finalised SPG. The council commits to further analysis over a 3-5 year period to ensure this rate's accuracy.

- 2.4 **Use of 90% Capacity Threshold:** The council's use of a 90% school capacity threshold as a trigger for developer contributions is deemed arbitrary. Commentors argue that schools can effectively operate above this threshold and that the actual school roll, rather than an artificially reduced figure, should be used in impact assessments.

Response: We consider that the 90% capacity threshold is reasonable, citing operational challenges experienced in schools exceeding 80% capacity. The council emphasises that using a 90% benchmark ensures adequate provision in most years, acknowledging that pupil numbers don't always align perfectly with stage capacities.

- 2.5 **Lack of Defined Mitigation Solutions:** The guidance is criticised for failing to define specific mitigation solutions for each school facing capacity pressures. This lack of clarity raises concerns about the proportionality and reasonableness of the proposed contributions, as developers are left uncertain about what the funds will be used for.

Response: We have clarified that the SPG aims to inform developers about areas likely requiring contributions, rather than outlining every specific scenario. It is noted that the specific solution and its associated costs will be determined through discussions with planning and education services during the planning application process.

- 2.6 **Use of "Real-Life" Build Costs vs. SFT Metrics:** The commentors advocate for using standardised cost data from the Scottish Futures Trust (SFT) given the lack of transparency and verification possibilities with the council's method.

Response: The council considers that our approach of utilising the "real-life" build costs from previous projects to calculate developer contributions and based on dividing past project costs by pupil capacities is more reflective of the actual costs incurred by the council in delivering solutions. The council considers the Scottish Futures Trust (SFT) metric unsuitable as it does not accurately reflect our actual build costs.

- 2.7 **Proportionality and Transparency of Charges:** The commentors call for greater transparency in how contributions are calculated, including providing a breakdown of costs, identifying the number of contributing sites, and demonstrating that contributions are proportionate to the impact of individual developments.

Response: It is made clear that the contributions requested are directly related to the anticipated pupil yield from a specific development and the associated costs of

providing spaces for those pupils. The council also states that it does not pass on costs related to smaller developments (fewer than five units) or exempt developments to larger developments. Furthermore, it is acknowledged that the initial guidance is a starting point and commits to enhancing transparency by potentially adding more information, such as details on how contributions are spent, in future iterations.

- 2.8 **Application of Indexation:** Concerns are raised about the proposed application of indexation to contributions, arguing that it should only apply until the actual cost of the mitigation is determined and not to generic charging rates.

Response: It is agreed that indexation should only apply until the contract and final costs for a mitigation solution are known. The council commits to revising the guidance wording to better reflect this practice.

- 2.9 **Exemptions and Viability:** While the principle of exemptions based on viability is welcomed, concerns exist regarding the transparency of the process and the potential for costs to be passed on to other developments. It is argued that the council should bear the responsibility for funding shortfalls resulting from exemptions.

Response: It is noted that any reductions in contributions due to viability assessments will not impact other developments or agreements. The council reiterates that contributions are only sought in direct relation to a specific development's impact.

- 2.10 **Publication of School Roll Projections and Methodologies:** Some commentators call for the council to publish its latest school roll projections and the methodologies used to calculate them. This increased transparency would allow developers to better understand the basis for contributions and ensure compliance with planning policies.

Response: While acknowledging the value of publishing school roll projections, the council highlights the dynamic nature of these projections and the challenges of keeping published information up to date. The council is open to evaluating the benefits and risks of including such information in future publications, considering the practices of other local authorities.

- 2.11 **Provision of More Detailed Information:** The sources suggest that the guidance should provide more detailed information, such as the percentage of school capacity currently used, the breakdown of denominational and non-denominational school splits, and examples of how contributions have been spent on school infrastructure.

Response: We acknowledge the suggestions to provide more detailed information in the guidance. For instance, the council will consider including existing pupil capacity figures in future iterations, though it notes that this information is already publicly available through Scottish Government reports.

- 2.12 **Impact of Small and Windfall Developments:** Concerns are raised about the exemption of developments with fewer than five homes from contributions and the potential for larger developments to bear a disproportionate share of the costs. The guidance is also urged to account for the impact of windfall development on school capacity.

Response: We acknowledge the difficulty in tracking and evidencing the impact of small developments, which is why developments with fewer than five units are currently exempt from contributions. The council believes these developments are less likely to significantly impact the school estate, as they represent a small percentage of the total

sites in the current housing land audit. Regarding windfall sites, it is clarified that they are incorporated into the housing land audit and subsequent school roll projections.

- 2.13 **Compliance with Circular 2/2012 and NPF4 Policy 18:** Commentors argue that the draft Supplementary Planning Guidance lacks the necessary detail to demonstrate a clear link between proposed contributions and specific mitigation solutions.

Response: The various responses provided outline why the guidance is considered to comply with the requirements of the Circular and NPF Policy 18 and that the draft guidance serves as an initial signpost for developers, highlighting areas likely to require contributions. The specific mitigation solution and associated costs will be determined during the planning application process.

- 2.14 The guidance has been amended to include the following changes:

- The example PPR for secondary schools has been updated from 0.24 to 0.18
- The indexation period has been clarified that it covers the period from the grant of planning permission up until such time as the contract and associated costs for the required education infrastructure are finalised and 'locked in'.
- The figures and costs contained within Appendix 1 have been updated to reflect the new example PPR of 0.18 for secondary schools.
- The addition of Appendix 4 with additional guidance on the content of a Development Viability Report.

- 2.15 The council seeks to encourage and promote the development of brownfield sites and sites that are designated for residential development within the LDP. This supports the NPF4 policy objectives on climate change and mitigation, local living, sustainable transport and improving health outcomes. However, it is recognised that the financial viability of the development of some sites can be affected by challenging site conditions related to, or as a result of, historic uses. Without the ability to consider viability it is possible that there will be more applications for un-allocated greenbelt developments as developers will claim that the sites we currently have allocated for housing are unviable (partly due to requirement for education contributions). In order to address these concerns the option of a viability assessment is included within the proposed Supplementary Planning Guidance, which offers the potential for the council to waive an education contribution.

- 2.16 In considering development viability the council will not waive education contributions on unallocated sites outwith the urban area and in the greenbelt or countryside as defined in the LDP. This is to recognise that some unallocated sites within the urban area (windfall sites) which the council considers are appropriate for development may also have challenging site conditions related to or as a result of historic uses and to differentiate between these types of sites may not be practical. In recognition of the timescales involved in fully developing some larger sites and that financial circumstances may change within this period any exemption from making a contribution will be time limited to a maximum of five years from the granting of consent at which point an updated viability assessment would need to be submitted and considered by the council.

- 2.18 Each case will be determined by the Council on its own merits. The outcome of the Viability Assessment independent review will not be binding on the Council. If the exercise establishes there are viability issues with the development as a result of the Education contribution requirement, the council will then have to determine if the

shortfall in the education requirements can be borne by the Council and planned for accordingly.

- 2.19 If approved by the Planning Committee the SPG will thereafter be adopted as Supplementary Planning Guidance by the Council.

3. Measures of success

3.1 The measures of success would include:

- Clearer guidelines for developers/applicants/landowners to help ensure that the requirement for education contributions is appropriately considered at an early stage.
- Encourage and support development on brownfield sites that are allocated in the LDP.
- Will help developers/applicants/landowners determine development viability and allow them to factor in the likely cost of education contributions if required.
- Aligns with Government Policy on contributions to infrastructure which is an important consideration under NPF4.
- It offers the Council a more robust framework to support the Council's decisions in relation to any appeals referencing education contribution requirements.
- Can help to increase the efficiency of processing planning applications in terms of setting the terms for associated legal agreements early that require to be signed prior to planning consent being issued.

4. Supporting documentation

Appendix 1 Detailed Consultation Comments and Responses

Appendix 2 - Supplementary Planning Guidance Note – Education Contributions (November 2024)



Pamela Humphries
Chief Officer (Place)

5. Impacts

<p>5.1 Public Sector Equality Duty and Fairer Scotland Duty Does the report contain information that has an impact as a result of the Public Sector Equality Duty and/or Fairer Scotland Duty? Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes, please provide a brief summary of the impact?</p> <p>If Yes, has an assessment been carried out and published on the council's website? https://www.northlanarkshire.gov.uk/your-community/equalities/equality-and-fairer-scotland-duty-impact-assessments Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>
<p>5.2 Financial impact Does the report contain any financial impacts? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If Yes, have all relevant financial impacts been discussed and agreed with Finance? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If Yes, please provide a brief summary of the impact?</p> <p>The proposals in the report set out the proposed future arrangements for securing developer contributions towards the cost of making changes/ additions to the education estate due to the impact of residential development. It also proposes that there may be circumstances where the education contribution may be waived in order to support the development of a particular site. In these circumstances the cost of any impact on the school estate would have to be met by the council, although this would need to be considered against the other positive economic and regeneration benefits of the new development, including increased council tax revenue.</p>
<p>5.3 HR policy impact Does the report contain any HR policy or procedure impacts? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If Yes, have all relevant HR impacts been discussed and agreed with People Resources? Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes, please provide a brief summary of the impact?</p>
<p>5.4 Legal impact Does the report contain any legal impacts (such as general legal matters, statutory considerations (including employment law considerations), or new legislation)? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If Yes, have all relevant legal impacts been discussed and agreed with Legal and Democratic? Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes, please provide a brief summary of the impact?</p>
<p>5.5 Data protection impact Does the report / project / practice contain or involve the processing of personal data? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If Yes, is the processing of this personal data likely to result in a high risk to the data subject? Yes <input type="checkbox"/> No <input type="checkbox"/></p>

<p>If Yes, has a Data Protection Impact Assessment (DPIA) been carried out and e-mailed to dataprotection@northlan.gov.uk</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>
<p>5.6 Technology / Digital impact</p> <p>Does the report contain information that has an impact on either technology, digital transformation, service redesign / business change processes, data management, or connectivity / broadband / Wi-Fi?</p> <p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>If Yes, please provide a brief summary of the impact?</p> <p>Where the impact identifies a requirement for significant technology change, has an assessment been carried out (or is scheduled to be carried out) by the Enterprise Architecture Governance Group (EAGG)?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>
<p>5.7 Environmental / Carbon impact</p> <p>Does the report / project / practice contain information that has an impact on any environmental or carbon matters?</p> <p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>If Yes, please provide a brief summary of the impact?</p>
<p>5.8 Communications impact</p> <p>Does the report contain any information that has an impact on the council's communications activities?</p> <p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>If Yes, please provide a brief summary of the impact?</p>
<p>5.9 Risk impact</p> <p>Is there a risk impact?</p> <p>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>If Yes, please provide a brief summary of the key risks and potential impacts, highlighting where the risk(s) are assessed and recorded (e.g. Corporate or Service or Project Risk Registers), and how they are managed?</p> <p>The development of the Supplementary Planning Guidance for Education Contributions which will be subject to consultation and submitted to Scottish Government for approval will clearly set out how education contributions will be calculated and will provide greater certainty to developers to assist with their forward planning and negotiations with land owners. This should minimise the risk of legal challenge/ Appeals from developers against the council's proposed S75 contributions, and/or minimise risk of such challenge being successful.</p>
<p>5.10 Armed Forces Covenant Duty</p> <p>Does the report require to take due regard of the Armed Forces Covenant Duty (i.e. does it relate to healthcare, housing, or education services for in-Service or ex-Service personnel, or their families, or widow(er)s)?</p> <p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>If Yes, please provide a brief summary of the provision which has been made to ensure there has been appropriate consideration of the particular needs of the Armed Forces community to make sure that they do not face disadvantage compared to other citizens in the provision of public services.</p>
<p>5.11 Children's rights and wellbeing impact</p>

Does the report contain any information regarding any council activity, service delivery, policy, or plan that has an impact on children and young people up to the age of 18, or on a specific group of these?

Yes No

If Yes, please provide a brief summary of the impact and the provision that has been made to ensure there has been appropriate consideration of the relevant Articles from the United Nations Convention on the Rights of the Child (UNCRC).

The proposals seek to enable the Council to provide the resources needed to ensure that the children of NLC have the best educational resource available to them. As such it is considered that the guidance is compliant with the overall aims of the UNCRC and in particular Articles:

Article 3 Best interests of the Child to be a top priority at all times.

Article 28 Right to Education ensuring Primary education is free.

Article 29 Goals of Education to develop every child's personality, talents and abilities to their fullest potential.

If Yes, has a Children's Rights and Wellbeing Impact Assessment (CRWIA) been carried out?

Yes No

However based on the CRWIA questions below we have carried out a brief screening of the guidance proposals

1. Brief summary of policy/measure?

The guidance seeks to secure best value for the Council and ensure that the required education facilities and infrastructure are provided where necessary. The guidance promotes good practice on pupil yield evidence and engagement with developers to deliver any necessary expansion or new build schools as a direct result of the impact on the school estate from new housing developments.

2. What aspects of the policy/measure will affect children and young people up to age 18?

The Guidance seeks to ensure all primary and secondary age children have the required educational infrastructure to ensure that they receive the best education possible within the NLC area.

3. What likely impact, direct or indirect, will the policy/measure have on children and young people?

It is envisaged that the guidance will have a positive impact on children both directly and indirectly given that it seeks to secure best value for the Council and ensure that the required education facilities and infrastructure are provided where necessary. The guidance promotes good practice on pupil yield evidence and engagement with developers to deliver any necessary expansion or new build schools as a direct result of the impact on the school estate from new housing developments.

4. Which groups of children and young people will be affected?

The groups affected by this guidance are 5 to 18 year olds.

Appendix 1 – Detailed Consultation Comments and Responses

Ryden on behalf of Ravenscraig Ltd

- NPF4 recognises the importance of Ravenscraig. Despite the fact that Ravenscraig was identified as a national development in the original National Planning Framework and, more recently, in NPF3, it is no longer identified as such within NPF4. However, Ravenscraig does appear within Annex C ‘Spatial Planning Priorities’ as a key project in delivering the renewed emphasis on the productive reuse of brownfield land, describing the project as, ‘...a longstanding post-industrial site where new development, including improved transport connectivity, can bring new models of low carbon living at scale’. As such, Ravenscraig is a legacy project of NPF3 (as well as the original National Planning Framework) and has support as an exemplar brownfield redevelopment project in Annex C of NPF4

It is apparent that there is both a need and desire to regenerate the Ravenscraig Site, however due to economic changes and other site constraints the nature and type of development has evolved over time. This has heightened the extensive costs associated with infrastructure delivery and the challenging ground conditions.

Against this background, Ravenscraig Ltd asserts that there is justification for a bespoke approach to the project with regard to taking developer contributions. It is noted that there is a process set out within the SG to review a site’s viability and ultimately its ability to carry additional costs. However, Ravenscraig (and other nationally significant brownfield/regeneration projects) should be considered for exemption from education contributions due to the high cost of infrastructure and ground remediation associated with this particular project. This is critical to assist in the ongoing and successful regeneration of Ravenscraig.

Response: The creation of school spaces, whether through new build, extensions, or internal adaptations to provide additional spaces for pupils has financial implications for the council. The majority of these costs are shouldered by the council and where required; a contribution is requested from a developer – which is the focus of this draft SG. In essence, if not for the development(s) impacting on the school which serves the catchment area within which the houses are being built, there would be no need for additional infrastructure.

Where it is argued that the developer should not provide a contribution, the consequence is that the council would require to pick up these costs. There is no budget within the council’s current strategic capital investment programme to cover such proposals. Such a consideration would also require a mechanism to record and monitor where such a transaction has occurred, and this would require to be presented to council to ensure transparency over the use of council funds.

Each case would require to be agreed and budgeted for within the council before any such approach could be considered.

The guidance reflects the current situation (no local or national budget to fund such bespoke approaches). The default position, as outlined within the draft SG is that a developer is expected to contribute a proportion of costs (incurred by the council to create the spaces), to mitigate the impact of the development on the learning and teaching estate.

- The Draft SG must satisfy the tests of NPF4 Policy 18 - Infrastructure first as highlighted in Planning Circular 3/2012 Planning Obligations and Good Neighbour Agreements (revised November 2020). Those five tests which all planning obligations are:
 - Necessary to make the proposed development acceptable in planning terms;
 - Serve a planning purpose and, where it is possible to identify provision requirements in advance, should relate to development plans;
 - Relate to the development, either as a direct consequence of the development or arising from the cumulative impact of the development in the area;
 - Fairly and reasonable relate in scale and kind to the proposed development; and
 - Be Reasonable in all other aspects.

Specifically, in terms of the 'proposed development test', both NPF4 and the Circular emphasise the need to establish a clear link between the development and any mitigation required. That should be related to the direct impacts arising from the proposal or the cumulative impact of development within the area, defined as the school's catchment area. Moreover, the obligation should specify clearly, the purpose for which any contribution is required, including the infrastructure to be provided.

In order to demonstrate compliance with Circular 3/2012 and NPF4 an impact assessment should be carried out to assess the impact of the approved LDP development strategy on the capacity of the available education infrastructure to determine expected impacts of pupils from planned housing development. This should take into account cumulative development within the defined area, usually the school catchments areas.

The methodology adopted by the Council to assess impacts simply calculates the number of pupils by multiplying the number of homes expected in the school's catchment area by its PPRs. It has regard for 90% of the available capacity in the catchment schools and if the pupils from new housing development is greater than 90% of the school's capacity, then mitigation is required. There is no direct relationship between the financial contribution derived by this method and a development's impact on the catchment school. Accordingly, it is deemed to fail the relationship to proposed development test and also the scale and kind test.

In essence, this calculation is not an impact assessment as the Council has not identified the mitigation required at each school based on its approved LDP development strategy and without this mitigation being identified, it has not defined its planning obligation and assessed a reasonable budget cost.

Response: The council does not agree with the premise outlined in the statement put forward.

The Guidance sets out the circumstances where there is the potential for additional education infrastructure requirements detailed in Appendix 2. It is also made clear that the calculation on the potential solution is only carried out at the time of submission of a planning application. This allows the Council to agree a solution if required that relates to the proposed development either as a direct consequence of the development arising or from the cumulative impact of the development within the catchment area.

The guidance sets out that contributions are proportionate to the proposed development in terms of the education infrastructure requirements generated. The

costs are based on previous projects and previous costs and as such reflect the real-life costs incurred by North Lanarkshire Council to deliver the solution. If a new build is the required solution, the associated 'real-life build costs' of the previous contracts are divided by the capacities of the schools, thus presenting a cost per pupil. With regard to extensions, the information is translated into cost per square metre, again based on real-life costs the council has incurred in previous projects. A cost per sqm is a familiar metric for these types of projects. These costs illustrate the real-life financial costs on which the developer contribution is based. Furthermore in cases where there are concerns in relation to development viability the Council has included the ability of developers to explore the potential for the waiving of part or all of the contribution in exceptional circumstances as set out in Appendix 3 of the guidance.

The assessment of each school is based on current and forecasted demand for spaces against available spaces. Only where the demand is anticipated to reach or exceed 90% at any given school, are education contributions required.

As such, each school is being assessed individually – linking the financial requirements to the increased infrastructure required at a specific school. The contribution a developer will pay, will be directly related to the proposed solution (new build, extension, internal adaptation). Costs are associated with each option and applied to the unique solution to the unique school. Whilst any given unique solution is not outlined in the draft SG, it does not follow that it will not occur.

- In terms of roll projections across North Lanarkshire information taken from Pupil Projections for Scotland and Local Authorities 2022-2027 as produced by Scottish Government, primary pupil numbers are expected to fall across this period with secondary pupil numbers increasing in the short-term and then falling away in the latter years of this assessment period.

New housing is undoubtedly attractive to families with young children, but it is not necessarily the case that all children moving into new homes represent a net addition to a school roll. This is partly as a result of an ageing population, declining household sizes and a desire for additional rooms to provide work or guest space. This has become particularly prevalent post-Covid with home working becoming the norm for most.

More significantly it is important to note that the Motherwell housing market has a high degree of self-containment. According to the Glasgow and Clyde Valley Housing Need and Demand Assessment (HNDA) 2015, circa 70% of home buyers within the Motherwell Housing Market Area (HMA) originated from within that market area. This is evidenced in Table 8.1 2007-2012 House Sales Data - All Sales (new and second hand) by HMA. Essentially, the majority of home buyers already live in the council area with a further minority living within the catchment area of the school related to their prospective new home.

In essence, it is crucial that the nature of the housing market and school rolls/projects are fully understood and clarified within the context of this draft guidance. Of particular relevance is the high proportion of moves within the authority and individual catchment areas.

The Council proposes PPRs of 0.3 for primary schooling and 0.24 for secondary schooling. No evidence has been provided to validate these assumptions. It is also noted that the

Council does not provide PPRs to model flats as well as houses. There is a significant difference in PPRs for flats compared to houses which should be considered by the Council.

Notwithstanding the above issue, it is essential for absolute clarity and transparency that the PPRs which are to be applied in practice are actually included within the consultation document.

Moreover and against the background of our earlier summary regarding the self-contained nature of the Motherwell HMA and the current market dynamic of buyers purchasing family housing to allow flexibility for home working, there is the potential for PPRs to overestimate the net impact on school rolls created by new development.

It would be appropriate for the Council to consider this issue further and at the very least provide the background calculations associated with the production of the PPRs, which it proposes will be used to determine the extent of education contributions.

Response: Background calculations are conducted to substantiate the PPR. However, it is not appropriate for the council to disclose information that reveals where pupils are presenting from, as this is what the background calculations identify. Consideration will be given to how this information can be presented in a way that explains how the background calculations for the PPRs are developed, allowing for the inclusion of such calculations in future versions of the guidance, without releasing sensitive information.

- It is important to understand the cumulative number of homes that cause an impact in order to define proportionate payments due from respective developments within a school's catchment area. The Draft SG does not provide this information to help define proportionality of payments to be applied. Indeed, the Council's approach to financial contributions is simply a charging mechanism which is not underpinned by an impact assessment to guide the assessment of planning obligations.

The costings provided by the Council are not possible to verify as no breakdown of the associated rates has been provided. There is an alternative (and more commonly used) source of cost data on new schools from Scottish Futures Trust (SFT) which can be used to guide budget costs for school extensions as well. This SFT data set is consistently applied across Scotland and is periodically updated by SFT to reflect updates to technical specifications. Importantly, it has been prepared to encourage acceptable benchmarking for standards and size of schools across Scotland and their budget costs. This is recommended as an alternative cost system for the Council to adopt.

Response: North Lanarkshire Council does not consider the SFT metric to be an accurate reflection of costs the council incurs and therefore considers it an unsatisfactory metric to use. In our view, SFT data is a metric used by councils to benchmark high level costs for schools and understand potential funding from Scottish Government for the school estate through the Learning Estate Investment Programme (LEIP). It is not an accurate reflection of costs North Lanarkshire Council incur in relation to new build schools.

Within North Lanarkshire, and as presented within the draft SG, a developer is being asked to pay a contribution which is in direct relation to the potential cost. As outlined within the draft SG, the presented cost does not fully cover all abnormal

costs and other full costs, which are borne by the council. As such, the SFT metric is not an appropriate calculation on which costs could be evaluated.

The council uses the costs of previous builds and looks to index these to current costs. This provides a clearer picture of the costs to build the solution, which the pupils from the proposed development will benefit from.

Even with this approach, evaluation shows that the sums/contributions being requested are consistently behind the sum/costs incurred. Construction costs have been rising, not falling. It is assessed that at no time is a developer paying the full cost of the impact their development has on the school estate – it is always a contribution.

- In accordance with NPF4 and Circular 3/2012, the Draft SG is required to define the infrastructure mitigation required to calculate an associated budget cost. These mitigation measures are the planning obligations which can then be included in a legal agreement. This cost can then be attributed to all committed housing development within the catchment area of a school to determine a development's proportionate share to the delivery of this mitigation solution. This can provide the basis for the proposed rates of financial contributions in this Draft SG.

The Draft SG does not define any mitigation solutions required to address existing or projected capacity pressures at any of the schools within the Council area. Appendix 2 – Developer Contribution List (as at September 2023) simply lists all schools within the authority area, with a column identifying whether or not a contribution will be requested towards each school. This should be supported by an impact assessment for each school.

A planning obligation should specify clearly the purpose for which any contribution is required, including the infrastructure to be provided. In failing to demonstrate what mitigation the financial contributions are used to fund, the Draft SG is not compliant with NPF4 and Circular 3/2012 as it fails the scale and kind test and the reasonableness test. The reasonableness test confirms:

“In the case of financial payments, will these contribute to the cost of providing the necessary facilities required as a consequence of or in connection with the development in the near future.”

Response: The draft SG aims to inform developers, at an early stage, whether or not a developer contribution is likely to be required, based on the cumulative impact of known developments within a school catchment area. It is not intended at this stage to provide a detailed explanation of every scenario associated with each development within each catchment area.

There would be further discussion, with planning and education services within North Lanarkshire Council to determine the planning obligation sum. North Lanarkshire Council will continue to look to develop the draft SG where possible to give more details within future versions of the guidance, where it can be automated and reported in each set of updates published.

- The Draft SG sets out a methodology used to establish the cost per pupil and cost per home for the delivery of undefined mitigation solutions. This is not based on the impact of the proposal or a defined infrastructure action but unjustified build costs (set out in Appendix 1 Developer Contribution of the Draft SG) which are either for new build schools

or extensions of existing schools and applied these to provide an average of the pupil capacity of these schools.

This methodology is unrelated to an impact assessment to define mitigation and then the planning obligation sought and as such, cannot define the proportionate financial contributions that follow. It is, in effect, a generic charging mechanism not based on an infrastructure action, defined in terms of type, scale, timing and cost.

NPF4 and Circular 3/2012 are clear that seeking to extract excessive contributions towards the costs of infrastructure or to obtain extraneous benefits are unacceptable. By not defining what the financial contributions will be used to deliver, the Draft SG has not demonstrated that these costs relate (in scale and kind) to any future mitigation solution that will be delivered by the Council.

In addition, the Draft SG does not identify the number of contributing sites and their homes that will be used to fund the undefined mitigation. Circular 3/2012 is clear that a developer obligation must always be related and proportionate in scale and kind to the development in question.

By failing to define either a mitigation solution or associated budget cost, the Draft SG fails to demonstrate that a developer will only pay its proportionate share of mitigation costs in accord with NPF4 and Circular 3/2012.

Response: North Lanarkshire Council does not agree that the information in the draft SG is based on 'unjustified build costs'. The costs are based on previous projects and previous costs and as such reflect the real-life costs incurred by North Lanarkshire Council to deliver the solution.

If a new build is the required solution, the associated 'real-life build costs' of the previous contracts are divided by the capacities of the schools, thus presenting a cost per pupil.

With regard to extensions, the information is translated into cost per square metre, again based on real-life costs the council has incurred in previous projects. A cost per sqm is a familiar metric for these types of projects.

The proposed solution will be dependent on the known information at the time of the planning application – and this could include windfall and other developments which may not have been known at the time of publication of the draft guidance. Such additions (windfall developments), if significant, may have changed the required solution to offset the impact of the cumulative developments within the given catchment area.

As outlined in the draft SG, this would be discussed at time of the planning application. The draft SG is outlining the start of the process and indicating which schools are anticipated to experience demand pressures, based on known information at that time. As information changes, solutions to the issue may change – these would be part of the discussion during the planning application process.

- It is assumed that the proposed SG would be applied to pupils generated by affordable housing. Affordable housing is generally exempt from making contributions by most local authorities unless there is a critical (and demonstrable) capacity constraint. The

application of contribution rates to affordable provision impacts the viability of providing this type of housing placing a greater financial burden on market housing. Indeed, the provision of affordable housing is in itself a planning obligation.

Response: As outlined in our responses above, there is a cost associated with creating additional spaces within a school - irrespective of where the budget to offset the cost comes from. To remove the requirement for a contribution for affordable housing would require a policy and associated budget to mitigate the introduction and adoption of such a policy within North Lanarkshire. Until such time as this was agreed and approved by the council, exempting affordable housing developments is not a realistic expectation in relation to the current draft SG as outlined.

2.3 Persimmon Homes

- Page 5 of the Draft SG details categories of development that are exempt from contributions towards education infrastructure. These are appropriate in principle, however the Council should recognise that developments of less than 5 homes will also contribute to a cumulative infrastructure impact. Over a larger area (such as high school catchment area) the cumulative impact of small developments can add-up.

If the Council wishes to exempt smaller proposals from planning obligations, then the Council must also take responsibility for mitigating the direct and cumulative impact on infrastructure from these sites. The costs to mitigate the impact of these sites must not be passed on to larger scale developments. It should also be made clear in the draft guidance that the costs for developments of 5 units or more have not been over inflated to cover an allowance for developments of less than 5 units.

Therefore, the impact of the smaller, windfall sites still need to be identified and separated from the calculation of cumulative impacts in order to ensure that the tests in NPF4 Policy 18 and Circular 3/2012 Planning Obligations and Good Neighbour Agreements (Circular 3/2012) (updated November 2020) are met, in particular the relationship and scale and kind tests.

Response: The contributions requested for a specific development are directly related to the anticipated pupil yield from that development and the associated costs of providing spaces for those pupils. The draft SG does not present any evidence or suggest that a developer of a large-scale development would be required to offset costs related to other developments.

- The Scottish Futures Trust (SFT) Learning Estate Investment Programme also detailed the sqm per pupil based on varying school capacities. Developers require certainty when making development decisions and utilising an index linked contribution based on a sliding scale linked to the size of the school rather than a set figure that is revised annually is favourable.

The Draft SPG states that “Costs are based on previous NLC contracted work for new builds and extensions in North Lanarkshire schools.” To assist development viability and prevent the need for annual review the figures quoted in Appendix 1 should be based on The SFT Learning Estate Investment Programme from January 2021. This sets out a recognised index linked cost metric per sqm contribution depending on the school type. The cost per sqm in a primary school is 20% more expensive than in a secondary school. For consistency it is appropriate to apply this figure which can be varied annually based

on indexation rather than rely on variable 'build costs' from completed projects in North Lanarkshire. The latter may vary depending on when the contract was let, labour supply or site specific challenges. The SFT figures have been tested at appeal and having a recognised per sqm figure will give developers more confidence and also be less likely to be challenged reducing abortive costs and delays.

SFT Metrics do not provide indicative costs for reconfigurations. A reconfiguration cost will depend on the number of pupils requiring accommodation and the scale of work required to accommodate these pupils. The scale of work is highly dependent on the layout of the school and will be different in each instance. It is not therefore reasonable for the council to estimate in Appendix 1 a generic per-unit rate for a reconfiguration especially when the costs will also vary between owned buildings and those covered by public and private partnerships.

Applying a figure based on historic contracts is not in accord with the tests of NPF4 Policy 18 and Circular 3/2012. This approach fails to demonstrate the link between the financial contribution, the scale of impact and the mitigation required. This is not in accordance with the relationship and scale and kind tests. Ideally, costs should be derived from a feasibility study for the mitigation required.

Response: North Lanarkshire Council does not consider the SFT metric to be an accurate reflection of costs the council incurs and therefore considers it an unsatisfactory metric to use. SFT metric is used by councils to understand potential funding from Scottish Government for the school estate through the Learning Estate Investment Programme (LEIP). It is not an accurate reflection of costs North Lanarkshire Council incur in relation to new build schools.

The costs are based on previous projects and previous costs and as such reflect the real-life costs incurred by North Lanarkshire Council to deliver the solution.

If a new build is the required solution, the associated 'real-life build costs' of the previous contracts are divided by the capacities of the schools, thus presenting a cost per pupil.

With regard to extensions, the information is translated into cost per square metre, again based on real-life costs the council has incurred in previous projects. A cost per sqm is a familiar metric for these types of projects.

These costs illustrate the real-life financial costs on which the developer contribution is based, and as such are considered to meet the tests outlined within Policy 18 and Circular 3/2012.

- Appendix 2 – Developer Contribution School List and Denominational/Non-Denominational split will be updated annually. It is suggested that the table in Appendix 2 also includes the percentage of school capacity taken up by existing pupils to create greater transparency and allow developers to understand where contributions may be required in the future. A table detailing Non-Denominational schools and the Denominational/Non-Denominational split for their catchment should also be publishing annually. Greater transparency by publishing school roll forecasts, the methodology and the underpinning assumptions will demonstrate that financial contributions sought are in accordance with NPF4 Policy 18 and Circular 3/2012.

Response: The capacity taken up by existing pupils in any given year is reported to and published by Scottish Government. As such it is already in the public domain

and available for the developer should they wish to review this information. The council will consider inclusion of this information within future iterations of this guidance. However, as it is already within the public domain and available to all developers and general public, there is no anticipated urgency to include the figures within the current SG.

2.4 Homes for Scotland

- An important consideration in finalising and approving this Supplementary Guidance is that unlike the Council's previous supplementary guidance, this requires to accord with the approved development plan which now includes the tests in NPF4 Policy 18 – Infrastructure first which are the tests referred to in Circular 3/2012. Compliance with these tests is now a policy matter and not a material consideration. The content of this Draft SG requires to demonstrate how it fully complies with these five tests to accord with the approved development plan.

It should be noted that the impact assessment methodology proposed by the Council within the Draft SG is known as the cumulative approach. The City of Edinburgh Council is another council which adopts the cumulative approach. Scottish Ministers directed in January 2020 that the City of Edinburgh Council should not adopt its Supplementary Guidance on Developer Contributions as statutory supplementary guidance as it did not meet the following tests of Circular 3/2012:

- it has not (on the evidence presented) been demonstrated that the contributions sought through the Supplementary Guidance, in particular levels of education and road transport contributions:
 - fairly and reasonably relate in scale and kind to the proposed development.]=
 - reflect the actual impacts of, and be proportionate to, the proposed development.

Unfortunately, this Council has embedded the same and significant issues in its Draft SG for it to comply with the approved development plan.

Policy 18 of NPF4 and Planning Circular 3/2012 establishes five tests which all planning obligations are required to meet. These are:

- Necessary to make the proposed development acceptable in planning terms;
- Serve a planning purpose and, where it is possible to identify provision requirements in advance, should relate to development plans;
- Relate to the development, either as a direct consequence of the development or arising from the cumulative impact of the development in the area;
- Fairly and reasonable relate in scale and kind to the proposed development; and
- Be Reasonable in all other aspects.

Specifically, in terms of the relationship to proposed development test, both NPF4 and the Circular emphasise the need to establish a clear link between the development and any mitigation required. The mitigation needs to be related to the direct impacts arising from the proposal or the cumulative impact of development within the area, defined as the school's catchment area.

The Circular explains that a planning obligation should specify ...clearly the purpose for which any contribution is required, including the infrastructure to be provided.

In order to demonstrate compliance with Circular 3/2012 and NPF4, the following steps should have been carried out by the Council when preparing the Draft SG to determine financial contributions for education:

1. An impact assessment should be carried out to assess the impact of its approved LDP development strategy on the capacity of the available education infrastructure to determine expected impacts of pupils from planned housing development. This should take into account cumulative development within the defined area, usually the school catchments areas. To replicate this type of impact, an impact assessment is more accurately undertaken by adopting a cohort progression method with assumptions on the number of pupils expected from new homes or flats. It is noted that the Council adopts Pupil Product Ratios (PPRs) of 0.30 for primary schooling and 0.24 for secondary schooling. This needs to be justified (especially for secondary schooling) by reference to a Council database and calculation. These PPRs are to be split between non-denominational and denominational sectors to allow the impact on all schools to be assessed which is reasonable.
2. Based on the outcome of this impact assessment, the Council needs to define the infrastructure mitigation required for the schools to alleviate accommodation pressures (e.g. an extension to existing school or a requirement to build new school). This then derives the proposed mitigation necessary to enable the approved development strategy to be delivered on a school by school basis.
3. The next step is to define these identified mitigation measures as planning obligations which will then form part of the LDP Action Programme. This normally includes budget costs for each obligation (normally calculated using Scottish Futures Trust metrics) and the timing when this mitigation is required to be delivered, taking into account future house building rates within each school catchment area (normally provided through the housing land audit process).
4. The final step is to assess the means by which financial contributions are to be calculated based on the budget cost of identified mitigation solutions and the total number of completions from cumulative development giving rise to the mitigation.
5. The Council needs to follow these steps to assess the impact of development and identify the proposed mitigation to define a proportionate share of the budget cost of this mitigation solution (i.e. financial contribution) from all development allocated in the adopted LDP.

East Lothian Council and West Lothian Council follow this approach and both adopt the cohort progression method of impact assessment across all of its school estate.

Response: The council considers that the SPG is compliant with the requirements of NPF4 Policy 18 Infrastructure First and Circular 3/2012 tests in relation to planning obligations.

Necessity

The guidance sets out the basis of identifying developments that will have an impact on the education infrastructure of the Council and thus be necessary to make the proposed development acceptable in terms of its impact in planning terms.

Planning Purpose

The guidance sets out clearly the thresholds for a contribution with the cumulative impact assessment of any emerging housing and identifies those schools where it is anticipated that the pupils generated by housing allocations (programmed up by the current Housing Land Audit and Local Development Plan), will increase school capacity beyond 90%. It is also made clear that the guidance is just a signpost for developers and that only when an application is received will the impact of the development be calculated utilising the Pupil Product Ratio against the number of houses planned within the catchment area of each school. Therefore, identifying the potential for infrastructure provision requirements in advance and relating to the requirements of the development plan policy CI Contributions to Infrastructure.

Relationship to proposed Development

The Guidance sets out the circumstances where there is the potential for additional education infrastructure requirements detailed in Appendix 2. It is also made clear that the calculation on the potential solution is only carried out at the time of submission of a planning application. This allows the Council to agree a solution if required that relates to the proposed development either as a direct consequence of the development arising or from the cumulative impact of the development within the catchment area.

Scale and Kind

The guidance sets out that contributions are proportionate to the proposed development in terms of the education infrastructure requirements generated. The costs are based on previous projects and previous costs and as such reflect the real-life costs incurred by North Lanarkshire Council to deliver the solution. If a new build is the required solution, the associated 'real-life build costs' of the previous contracts are divided by the capacities of the schools, thus presenting a cost per pupil. With regard to extensions, the information is translated into cost per square metre, again based on real-life costs the council has incurred in previous projects. A cost per sqm is a familiar metric for these types of projects. These costs illustrate the real-life financial costs on which the developer contribution is based. Furthermore in cases where there are concerns in relation to development viability the Council has included the ability of developers to explore the potential for the waiving of part or all of the contribution in exceptional circumstances as set out in Annex 3 of the guidance.

Reasonableness

The guidance sets out the requirements for contributions towards mitigating the impact on the education infrastructure and the Council is only seeking to recover costs associated with the actual costs and associated impact of development. Furthermore the Council does not include any abnormal costs, land purchase or design fees within its calculations further reducing the burden on developers.

Impact Assessment

The council already use the above process and provide detail of the mitigation once the planning application is received. The cohort model has been adopted in NLC for our roll projections. This allows for the spaces to be reused by pupils from additional housing scheduled after the 7 years school cycle. The house building rates are set in the Housing Land Audit by the developers and the roll projections

are calculated on this basis to determine the required mitigation. The costs are calculated based on the average costs of the last 5 projects for the required mitigation which provide an average of real life costs to the council.

- The methodology adopted by the Council to assess impacts is known as the cumulative approach.

It simply calculates the number of pupils by multiplying the number of homes expected in the school's catchment area by its PPRs. It has regard for 90% of the available capacity in the catchment schools and if the pupils from new housing development is greater than 90% of the school's capacity, then mitigation is required. The cost rate to apply is assessed by reference to Appendix 1. There is no direct relationship between the financial contribution derived by this method and a development's impact on the catchment school. Accordingly, it fails the relationship to proposed development test and the scale and kind test.

This calculation is not an impact assessment as the Council has not identified the mitigation required at each school based on its approved LDP development strategy and without this mitigation being identified, it has not defined its planning obligation and assessed a reasonable budget cost.

This approach creates a significant overestimate of impacts as it assumes that all pupils from new housing require to be accommodated in a school at the beginning of the development period being assessed. This does not model the reality of how pupils from new housing impact on school rolls (on a year by year basis) and fundamentally, this is why it fails the tests of relationship to proposed development test and the scale and kind test.

Fundamentally, the modelling approach does not model the reality of how the impacts arise and its outcomes are inaccurate. It is not fit for purpose.

Pupils only need to be accommodated in schools once new homes are occupied and the future impact is wholly influenced by the annual rate of cumulative housebuilding within the school's catchment area. For example, if more homes are built per annum, then this will result in higher impacts.

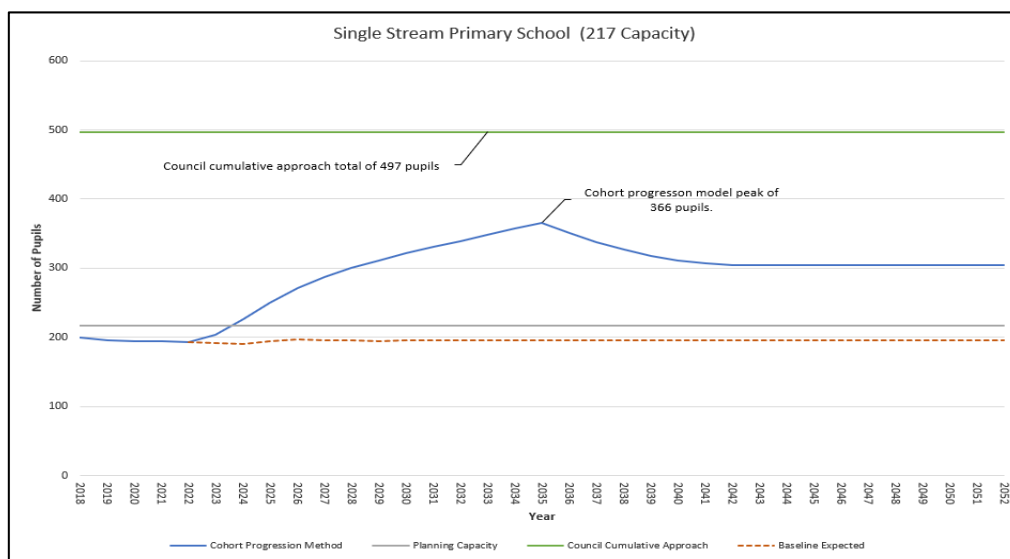
Relating annual house building build rates in school impact assessments is typically measured by a modelling approach known as the cohort progression. This adds the number of pupils expected to enter a school from new housing by each year group (cohort) such as P1 to P7 or S1 to S6 and then using other assumptions, progresses all pupils through the school year by year. It predicts the peak school roll from cumulative development which sets the mitigation required. This peak is explained by the fact that the PPR for new homes is typically twice that expected from existing housing and as families mature in their new homes, the number of pupils requiring accommodation in school will decline over time.

In order to demonstrate the issues with the Council's reliance on the cumulative method, HfS has carried out a simple exercise which compares the difference between the impacts predicted by the cumulative and cohort progression methods.

This exercise applies the two methods to the development of 1,000 new homes within a primary school's catchment area, based on a build out rate of 80 homes per annum over a 13 year period, adopting the Council's PPR of 0.3. This assumes a total of 300 pupils will be generated from the 1,000 new homes.

For the purposes of this exercise, it is also assumed that the baseline school roll (i.e. if no new housebuilding were to occur) is 197 pupils for a single stream school (7 classes) with a planning capacity of 217 pupils. This is equivalent to around 90% occupancy.

The Council's approach would suggest that 300 pupils will originate from 1,000 new homes and will need accommodation in a primary school with 197 pupils and only capacity for 20 pupils. However, as shown in the flowing diagram, the Council assumes that all 497 pupils (300 plus 197pupils) require accommodation at the beginning of the development period. This shown by the green line.



This compares with the cohort progression model which projects a peak school roll of only 366 pupils, before falling to around 300 pupils as the new housing stock matures. This difference equates to 131 pupils at the peak compared to the Council's 497 pupils. The mitigation should be based on the peak roll of 366 pupils. If the rate of housing was higher annually then the peak roll would increase marginally.

This modelling comparison exercise demonstrates that the cumulative approach adopted by the Council significantly overestimates the projected peak impact of new housing development on a school roll by a difference of 131 pupils. This is an overestimate of around 35% (497 pupils / 366 pupils = 135%).

The appropriateness of the use of either the cumulative or cohort progression approaches was considered by Reporter Craggs in the determination of an Appeal (Appeal Ref: PPA-150-2010) for a 1,000 home development in Sauchie, Clackmannanshire. In reaching her decision, Reporter Craggs noted that the cumulative approach adopted by Clackmannanshire assumed that ...almost all of the pupils generated from the development would still be at the primary school in 2031. Reporter Craggs concluded that this ...cannot be the case, those who started at primary school between 2021-2024 would have transitioned to secondary school by 2031.

The conclusion reached is that the Council's method is not appropriate for its purpose for modelling impacts and accordingly fails the relationship to proposed development test and scale and kind test.

HfS is also aware of other councils adopt the use of the cohort progression model to ensure that projected impacts on future school rolls are as accurate as possible. This includes both West Lothian and East Lothian councils who follow the same methodology promoted by HfS in this Representation.

Response: The methodology of the cohort progression model has been adopted in NLC to our roll projections. Pupils are phased to drop off the school rolls after P7. This allows for the spaces to be reused by pupils from additional housing scheduled after the 7 years school cycle.

- The Council is proposing PPRs of 0.3 for primary schooling and 0.24 for secondary schooling. No evidence has been provided to validate these assumptions. Evidence for this PPR for secondary schooling is required and is known to be exceptionally high and 0.18 is more generally expected.

Response: The PPR rate for secondary is updating to 0.18. The figure shown in the SPG was an example figure for calculation purposes. We will carry out further analysis over a 3/5 year period to determine if this is an outlier or if the staying on rates have reduced. The figures within the draft SPG have been updated to reflect this change.

- It is also noted that the Council does not provide PPRs to model flats as well as houses. There is a significant difference in PPRs for flats compared to houses which should be considered by the Council. In addition, most councils now discount 1 bed flats from an impact assessment as not accommodating children.

The Draft SG also does not provide a split between its PPRs for non-denominational and denominational schooling. The Draft SG states that this is calculated as follows: *“Using the existing primary school population over the last five years, the education authority calculates the Non-Denominational / Denominational solute which is used to determine the percentage of pupils from new housing who are anticipated to attend either school.”*

HfS does not consider this approach to be in accord with the tests in Circular 3/2012 or the approach adopted by other councils which publish separate PPRs for both non-denominational and denominational schooling. HfS considers that the Draft SG should be amended to provide separate PGRs, but these PGRs should not be updated on an annual basis based on the methodology proposed in the draft SG to provide consistency of approach throughout the duration of the finalised Supplementary Guidance.

Response: The “Implementation” section on page 7 of the draft SG outlines that 1 bed dwellings are excluded from any developer contribution assessment – this would include 1 bed flats.

The assessment of pupils at catchment area for split between non-denominational and denominational schooling is calculated as described in the statement above. This is argued to be more accurate and “in scale and kind” than publishing separate PPRs for both non-denominational and denominational sectors.

In some catchment areas within North Lanarkshire, over 90% of pupils have been shown to attend one school serving the area. As such, the assessment at

catchment level reflects the behaviours of the historic population (over the last five years) within the catchment areas.

This approach better models where the pupils from the new housing in this area are likely to seek schooling, within this local area. This is therefore representative of the ND/D split within specific catchment areas, rather than a generic split at a council level which may not accurately reflect or represent the impact of a development on any of the schools it may impact on.

- The application of the 90% capacity threshold as a trigger for a school's occupancy requiring mitigation is unnecessary. It is understood that in the 2021/22 School Year, around 33 schools in North Lanarkshire were operating at over 90% occupancy. A further 11 schools were also operating between 85% - 90% occupancy in the same school year. This suggests that schools can operate above this arbitrary 90% capacity threshold adopted by the Council within the draft SG.

The actual school roll should be used in an impact assessment and not an artificially reduced roll by 90%. In addition, Scottish Government has published guidance on assessing the capacity of primary schools in 2014 (Determining Primary School Capacity). This advocates the use of planning capacity and not working capacity in impact assessments. The Council's approach of applying 90% to the available capacity is akin to apply working capacity instead of planning capacity.

There is no equivalent guidance for secondary schools.

The Draft SG simply states that, in determining the impact of future development on its school estate, the number of pupils expected to be generated from all housing development has been ...added to the current number of children in each school to calculate the overall percentage capacity. The Draft SG states that if this exercise identifies that a school may be at over 90% capacity (assuming all housing development comes forward at the beginning of the development period), then the Council will seek a financial contribution from a development.

Response: Bearing in mind that pupils do not present for schooling in numbers which match stage capacities perfectly (i.e. 25 at P1, 30 at P2 and P3, 33 at P4-P7), experience shows that in any given year a school can have operational issues making class sets where a school is over 80% capacity. As such a benchmark of 90% is deemed reasonable.

It is not accepted that because a school is over 90%, and has managed to operate, that it will be able to do so in any given year. Compromises may need to be made – such as to use rooms, which are not designated for class teaching, for a specific year.

The purpose of forward planning for school admissions is to ensure there is suitable, adequate provision for the school, in the majority of years, and experience has shown that 90% is a suitable benchmark on which planning capacity can be assessed and ensure that in the majority of years there is adequate provision.

It is reiterated that pupils will not present in numbers which perfectly match stages, and as such it cannot be expected that all spaces in all stages will be used in each given year, which is the number that the 'capacity of a school' is recording.

- It is important that the cumulative number of homes causing the impact is known as this is essential to define the proportionate payments due from respective developments within a school's catchment area. The Draft SG does not provide this essential information to help define proportionality and therefore determine the financial contributions to be applied.

Response: This is the first draft of the guidance. It is fully expected that information within the guidance will be added to over time. The schools highlighted within the draft guidance, are those that, due to the cumulative impact of developments in the area, are being outlined to prospective developers to provide initial information on potential developer contribution for a development brought forward within that catchment area.

- The Council's approach to financial contributions is simply a charging mechanism which is not rooted in an impact assessment to guide the assessment of planning obligations.

Response: This statement is not accepted by the council. The draft guidance outlines the costs which have been incurred, and the schools which may require a contribution. Each school has been assessed, to understand the impact of developments within its catchment area, the anticipated number of pupils expected to impact on the school population, and the outcome of this impact assessment is outlined within the table at Appendix 2.

- The costings provided by the Council are not possible to verify as no breakdown has been provided to help verify the rates adopted. It is noted that these cost rates will change on an annual basis. This means that there is no certainty about the costs required in the future which is a major consideration in preparing Draft SG.

As the Council is aware, there is an alternative source of cost data on new schools from Scottish Futures Trust (SFT) which can be used to guide budget costs for school extensions as well.

SFT has set up a comprehensive set of metrics on the accommodation requirements per pupil (split by primary and secondary), depending on the size of school and the cost rate to apply (split by primary and secondary). This SFT data set is consistently applied across Scotland and is periodically updated by SFT to reflect updates to technical specifications. Importantly, it has been prepared to encourage acceptable benchmarking for standards and size of schools across Scotland and their budget costs. This is recommended as an alternative cost system for the Council to adopt and to prevent the need for the figures quoted in Appendix 1 to be reviewed annually.

Overall, the Council's methodology for carrying out its impact assessment fails to comply with the relationship to proposed development test and scale and kind test. It is therefore not in accord with NPF 4 Policy 18 – Infrastructure first and is contrary to the approved development plan.

Response: North Lanarkshire Council does not consider the SFT metric to be an accurate reflection of costs the council incurs and therefore considers it an unsatisfactory metric to use. SFT metric is used by councils to understand potential funding from Scottish Government for the school estate through the Learning

Estate Investment Programme (LEIP). It is not an accurate reflection of costs North Lanarkshire Council incur in relation to new build schools.

The costs are based on previous projects and previous costs and as such reflect the real-life costs incurred by North Lanarkshire Council to deliver the solution.

If a new build is the required solution, the associated 'real-life build costs' of the previous contracts are divided by the capacities of the schools, thus presenting a cost per pupil.

With regard to extensions, the information is translated into cost per square metre, again based on real-life costs the council has incurred in previous projects. A cost per sqm is a familiar metric for these types of projects.

These costs illustrate the real-life financial costs on which the developer contribution is based, and as such meet the tests outlined within Policy 18 and Circular 3/2012.

- Overall, the Council's methodology for carrying out its impact assessment fails to comply with the relationship to proposed development test and scale and kind test. It is therefore not in accord with NPF 4 Policy 18 – Infrastructure first and is contrary to the approved development plan.

Paragraph 21 of the Circular is clear that ...Where the need to improve, upgrade or replace that infrastructure does not arise directly from the proposed development then planning authorities should not seek to address this through a planning obligation.

In order to demonstrate compliance with the tests in Policy 18 of NPF4 and Circular 3/2012, the Council must revise the Draft SG to include an impact assessment which clearly demonstrates that it has fully considered the impact of future housing development from its approved development strategy on its existing school estate. This should correlate with its future school roll projections / forecasts for each school to demonstrate the impact of future housing development on the existing school estate. Only in this way can the Council demonstrate that its methodology complies with the approved development plan.

Response: The guidance sets out that contributions are proportionate to the proposed development in terms of the education infrastructure requirements generated. The costs are based on previous projects and previous costs and as such reflect the real-life costs incurred by North Lanarkshire Council to deliver the solution. If a new build is the required solution, the associated 'real-life build costs' of the previous contracts are divided by the capacities of the schools, thus presenting a cost per pupil. With regard to extensions, the information is translated into cost per square metre, again based on real-life costs the council has incurred in previous projects. A cost per sqm is a familiar metric for these types of projects. These costs illustrate the real-life financial costs on which the developer contribution is based. Furthermore in cases where there are concerns in relation to development viability the Council has included the ability of developers to explore the potential for the waiving of part or all of the contribution in exceptional circumstances as set out in Annex 3 of the guidance.

The guidance sets out the requirements for contributions towards mitigating the impact on the education infrastructure and the Council is only seeking to recover

costs associated with the actual costs and associated impact of development. Furthermore the Council does not include any abnormal costs, land purchase or design fees within its calculations further reducing the burden on developers.

The council already use the above process and provide detail of the mitigation once the planning application is received. The cohort model has been adopted in NLC for our roll projections. This allows for the spaces to be reused by pupils from additional housing scheduled after the 7 years school cycle. The house building rates are set in the Housing Land Audit by the developers and the roll projections are calculated on this basis to determine the required mitigation. The costs are calculated based on the average costs of the last 5 projects for the required mitigation which provide an average of real life costs to the council.

- HfS considers that the Draft SG should be revised to include the Council's latest projections / school roll forecasts for each of the schools within the Council area. These projections / forecasts should be updated on an annual basis and published by the Council. This is in accord with the best practice approach adopted by many other councils including The Highland Council, Aberdeen City Council, West Lothian Council and City of Edinburgh Council.

Circular 3/2012 is clear that ...Planning obligations should not be used to resolve existing deficiencies in infrastructure provision. Any projections / forecasts published by the Council should therefore identify the projected school rolls with and without the impact of committed housing development.

By publishing its latest school roll forecasts / projections, this Council will be able to demonstrate (in accord with the Relationship to proposed development test of Circular 3/2012) that a development will *"create a direct need for particular facilities... or ...place additional requirements on infrastructure"*.

Response: The draft SG is the first iteration of the document, to provide developers with an initial overview of the anticipated impact developments will have on the school estate in the coming years. It is expected that the document will evolve over time.

The school roll projections use various information sources, which are produced and provided at different points in the year, and in each instance, the information is updated. As such the school roll projections are dynamic and change within the year.

The council will consider the statement presented and discuss with counterparts in other authorities how they include this information, and how they mitigate the risks of the information changing between publications, with a view to evaluating the benefits and risks of including this information within a future North Lanarkshire publication.

- In accord with NPF 4 and Circular 3/2012, the Draft SG is required to define the infrastructure mitigation required to calculate an associated budget cost. These mitigation measures are the planning obligations which can then be included in a legal agreement. This budget cost can then be attributed to all committed housing development within the catchment area of a school to determine a development's proportionate share to the delivery of this mitigation solution. This can provide the basis for the proposed rates of financial contributions in this Draft SG.

The Draft SG does not define any mitigation solutions required to address existing or projected capacity pressures at any of the schools within the Council area. Appendix 2 – Developer Contribution List (as at September 2023) simply lists all schools within the authority area, with a column identifying whether or not a contribution will be requested towards each school. This should be supported by an impact assessment for each school.

Response: Each school has been assessed, to understand the impact of developments within its catchment area, the anticipated number of pupils expected to impact on the school population, and the outcome of this impact assessment is outlined within the table at Appendix 2. Further discussions would be held with the applicant before any legal agreement is drafted. The information provided within Appendix 2 at this stage, is to make potential developers aware that this discussion will likely take place, and it is at this point the proposed solution and evidence to support said solution and associated costs would also be discussed.

- Appendix 1 of the Draft SG sets out different costs per home that will be sought from developers towards either new build schools or extensions to existing schools. In the case of contributions to primary education, these generic costs range from £3,238.60 per home for an extension to an existing primary school to £10,500 per home towards a new build primary school. This is a significant difference in cost of around £7,000 per home.

Response: There is a significant difference in the cost to add an extension to a school or to create a purpose built new school. Hence the significant cost difference.

- Circular 3/2012 is clear that developers should be ...aware when undertaking development appraisals and in designing their proposals of ...the ...likely financial requirements of that planning obligation. In failing to identify the actual mitigation solution required at each school, the Draft SG fails to accord with the Planning Purpose test of Circular 3/2012.

The Draft SG is also based on an assumption that any mitigation solutions will relate to either the delivery of a new school or an extension to an existing school. The Draft SG fails to consider whether it is possible to provide additional capacity at an existing school via an internal reconfiguration or through the use of temporary classrooms.

Other councils set out a hierarchy of approaches to resolving any education infrastructure constraint and the following priorities generally apply:

- A. Consider whether the mitigation required is only temporary and an interim solution over a short period (3 to 5 years) is possible.
- B. Consider whether an extension to the existing catchment schools is feasible.
- C. Consider whether it is possible to undertake a catchment review to realise available capacity in a nearby school subject to statutory consultation on this procedure.
- D. Only if these steps are not achievable then consideration will be given to mitigation through a new school.

It is the view of HfS that provision of temporary classrooms should be the first consideration for this Council followed by the next option as the internal reconfiguration of an existing school or a school catchment review. The costs for the delivery of such

mitigation would be calculated on a case-by-case basis once the actual level of mitigation is defined. This is in accord with the tests of Circular 3/2012.

With regards to the relationship to proposed development test, NPF 4 Policy 18 through further explanation in Circular 3/2012 is clear that a planning obligation ...should demonstrate that this test is met by specifying clearly the purpose for which any contribution is required, including the infrastructure to be provided. This obligation can be incorporated into subsequent legal agreements.

In failing to demonstrate what mitigation the financial contributions are used to fund, the Draft SG is not compliant with NPF 4 and Circular 3/2012 as it fails the scale and kind test and the reasonableness test. The reasonableness test confirms:

- In the case of financial payments, will these contribute to the cost of providing the necessary facilities required as a consequence of or in connection with the development in the near future.

Appendix 2 of the Draft SG therefore requires to be amended to define whether contributions sought towards each school will be towards either:

- The provision of temporary classroom(s);
- An internal reconfiguration of an existing school;
- An extension to an existing school;
- Potential to utilise capacity at a nearby school through a school catchment area review, or
- A contribution towards the delivery of a new build school.

Response: The statement reads from a position that the final financial contribution will be known once the contents of the draft SG are read. This is not the case. The draft SG, at this point, is the first stage in the process, simply informing developers in which areas it is expected that a developer contribution discussion will take place – and it is through this process that the solution, the rationale behind the solution, and the associated costs – in line with the costs and calculations outlined in the draft SG will be advised.

To reiterate, each school has been assessed, to understand the impact of developments within its catchment area, the anticipated number of pupils expected to impact on the school population, and the outcome of this impact assessment is outlined within the table at Appendix 2. Further discussions would be held with the applicant before any legal agreement is constructed. The information provided within Appendix 2 at this stage, is to make potential developers aware that this discussion will likely take place, and it is at this point the proposed solution and evidence to support said solution and associated costs would also be discussed.

- The Draft SG sets the Council's methodology used to establish the cost per pupil and cost per home for the delivery of undefined mitigation solutions.

The Council's methodology is not based on the impact of this proposal or a defined infrastructure action. Rather, the Council's methodology has used unjustified build costs (set out in Appendix 1 Developer Contribution of the Draft SG) which are either for new build schools or extensions of existing schools and applied these to provide an average of the pupil capacity of these schools. The outcome of this exercise has then been used to establish the cost per pupil and cost per home to be sought by the Council.

This is simply a charging mechanism which cannot comply with NPF4 and Circular 3/2012. Paragraph 33 of Circular 3/2012 is clear that ...Where standard charges and formulae are applied to individual developments, they should reflect the actual impacts of, and be proportionate to, the development and should comply with the general tests set out in this circular.

The Council's methodology is unrelated to an impact assessment to define mitigation and then the planning obligation sought, and then cannot define the proportionate financial contributions that follow. The Council's methodology is simply a generic charging mechanism, which is not based on an infrastructure action, defined in terms of type, scale, timing and cost.

The approach adopted within the Draft SG by the Council was criticised by Reporter Shiel in the determination of a Section 75B Appeal (Appeal Ref: POA-320-2003) for a housing development of around 330 homes in Newmains, North Lanarkshire. The fundamental issue in the determination of this Appeal was the appropriateness of the financial contributions set out in the existing Section 75 Agreement towards undefined primary education infrastructure. This was based on charges set out in the Council's SG.

It was the view of the Council that a contribution of £7,800 per home (indexed linked) was required based on the similar methodology set out in this Draft SG. The Council's justification for this contribution included reference to unjustified build costs from new build schools which had then been used to establish the cost per pupil and cost per home, as now set out in the Council's Draft SG.

It was the Appellant's position, however, that any financial contribution must be calculated (in accord with the tests of NPF 4 and Circular 3/2012) based on a defined mitigation solution. The Appellant therefore presented Reporter Shiel with an impact assessment which identified mitigation which was a designed and costed solution that would provide sufficient capacity to mitigate the cumulative impact of all committed housing development (based on the latest available Housing Land Audit) within the catchment area of the relevant schools. This position presented by the Appellant was based on the use of a cohort progression model to undertake the impact assessment.

In reaching his decision, Reporter Shiel supported the arguments presented by the Appellant for its impact assessment and concluded that the Council's methodology is in effect a ...tariff... which ...does not seem to relate to the specific impact of any individual development on the educational infrastructure of the area in which it is situated. Reporter Shiel therefore concluded that the Council's approach was not in accord with the tests of Circular 3/2012 (and now NPF 4)

Despite the conclusions of Reporter Shiel, the Council is continuing to promote the use of a tariff based approach within its Draft SG. HfS welcomes clarification from the Council on why it has chosen to ignore the conclusions of two Scottish Government reporter's by continuing to adopt both the cumulative approach and use of tariff based financial contributions.

NPF4 and Circular 3/2012 is clear that ...Attempts to extract excessive contributions towards the costs of infrastructure or to obtain extraneous benefits are unacceptable. By not defining what the financial contributions will be used to deliver, the Draft SG has not

demonstrated that these costs relate (in scale and kind) to any future mitigation solution that will be delivered by the Council.

In addition to failing to set out the budget cost for mitigation solutions, the Draft SG also fails to identify the number of contributing sites and their homes that will be used to fund the undefined mitigation. Circular 3/2012 is clear that a developer obligation ...must always be related and proportionate in scale and kind to the development in question.

By failing to define either a mitigation solution or associated budget cost, the Draft SG fails to demonstrate that a developer will only pay its proportionate share of mitigation costs in accord with NPF 4 and Circular 3/2012.

Response: The council consider that the decision by the reporter in the Newmains appeal case (POA-320-2003) is much more nuanced than expressed in the statement above. On reflection of that decision, the council has amended its approach and process to ensure that a similar situation arising in the future should be determined differently.

As outlined in response to a previous statement, the draft SG, at this point, is the first stage in the process, simply informing developers in which areas it is expected that a developer contribution discussion will take place – and it is through this process that the solution, the rationale behind the solution, and the associated costs – in line with the costs and calculations outlined in the draft SG will be advised.

To reiterate, each school has been assessed, to understand the impact of developments within its catchment area, the anticipated number of pupils expected to impact on the school population, and the outcome of this impact assessment is outlined within the table at Appendix 2. Further discussions would be held with the applicant before any legal agreement is constructed. The information provided within Appendix 2 at this stage, is to make potential developers aware that this discussion will likely take place, and it is at this point the proposed solution and evidence to support said solution and associated costs would also be discussed.

- The Draft SG also advises that the proposed contributions sought...will be index linked to inflation from the point of the Council being minded to grant planning permission... and will then ...be used to evaluate and calculate costs for any given year up until the full contribution has been received.

HfS does not consider this to be an appropriate application of indexation. Indexation is only required to ensure the budget cost of a defined mitigation solution remains in line with inflation until it is built. Once the mitigation measure is built by the Council, then its fixed cost is known, with the Council only required to recover the fixed cost of its spend on infrastructure works. Indexation should not apply after the mitigation is built.

HfS also does not consider it to be appropriate for indexation to be applied to a generic charging rate (which itself is not based on a defined mitigation solution) until such time as a financial contribution has been assessed. The application of indexation in this instance (as set out in the Draft SG) is not justified by the Council and could result in landowners or developers making payments ...which are not directly related to the proposed development.

The Draft SG states that any Section75 Agreement will ...include the education authority retaining any payment for a period of 10 years or otherwise agreed with the Council. The Draft SG states that after this period or following the completion of the final dwelling within a development, any unspent or uncommitted payments (by the Council) will be returned to a developer following a written request.

HfS considers that the Draft SG should be amended to clearly state that any unspent developer contributions will be returned by the Council along with any interest accrued over the defined period.

Response: It is accepted that indexation should only be applied until such times as the contract and associated costs for the adaptation/extension/new build is known and 'locked in'. Indeed, this is how it works in practice. The council is only ever looking to recover costs associated with the actual costs and associated impact. The council will look to reword the draft SG guidance accordingly, to better reflect that this is the case.

- The Draft SG states that the Council may ...consider a reduction or give an exemption from the requirement for an education contribution. HfS welcomes the principle of this approach as it will assist in bringing sites forward which may have significant viability issues due to ground conditions or other matters.

However, in accord with Circular 3/2012, the Draft SG must be clear that, in determining any sites as being exempt from making a developer contribution, the associated costs are not passed on to other development sites. Circular 3/2012 is clear that ...Planning obligations must be related in scale and kind to the proposed development. In accord with Circular 3/2012 ...contributions should always be proportionate to the scale of the proposed development.

In accord with Circular 3/2012, the Draft SG must be clear that the Council will take on the responsibility of funding any shortfall in the cost of the delivery of mitigation, where it has allowed for exemptions from development. In accord with the Scale and kind test of Circular 3/2012, it cannot be the responsibility of other developments to fund any shortfall caused by the Council allowing a development to be exempt from making a financial contribution towards education infrastructure.

Response: All calculations are based on a specific development, and the number of pupils that the development is expected to generate. As such, contributions are only ever sought in direct relation to any given development. As such it is confirmed that any reduction in contribution as a result of the 'viability' assessment would have no impact on any other development or any other agreement.

- Appendix 3 – Development Viability sets out the information that the Council will require from a developer who is seeking either a reduction or exemption from a financial contribution towards education infrastructure.

HfS notes that some of the requested information assumes that a developer will have undertaken a detailed design exercise for a site, including market valuations of each proposed home, cost of construction and build specification. These costs will then be verified by the District Valuer prior to the Council agreeing to any exemptions or reduction in contributions. The Draft SG therefore appears to assume that all sites will be at detailed cost stage when submitting a planning application.

The Council will be aware that Section 75 Agreements are often agreed on applications for Planning Permission in Principle (PPP), where this level of detail remains unknown. For example, at PPP stage there is no requirement to provide information on site layouts, number of homes proposed or construction details. No allowance is made within the Draft SG for this. It is therefore unclear how the Council expects a developer to provide the level of information required to demonstrate that a reduction / exemption should be applied.

Clarity on how the Council will address this matter is therefore welcomed.

Response: Whilst the concerns are noted it is envisaged that as with most PPP applications the developer will already have an indicative layout showing the proposed numbers for the site. Should there be concerns regarding the viability of the proposals it is for the developer to provide the required information for Development Viability as set out in Appendix 3. As specified within the SPG only in very exceptional circumstances where there are excessive, abnormal costs on sites that are designated for housing or within the urban area boundary in the North Lanarkshire local Development Plan 2022, it is likely that the Council will consider a reduction or give an exemption from the requirement for an education contribution. In such circumstances it is for the Developer/Applicant to make a case that development viability is compromised by the requirement for an education contribution. In order for the Council to be able to make a comprehensive assessment in such cases it is for the Developer/Applicant to source the information required to undertake a full viability appraisal at the outset of their development which considers all likely costs including any other developer obligations. Whilst it is acknowledged that this may be problematic for some PPP applications all submissions are required to provide the same level of information in order to ensure fairness in their assessment.

- The Draft SG states that developer contributions will towards education infrastructure will be sought from all dwellings unless it falls within one of the proposed exemptions. HfS firstly considers that the Draft SG should be amended to confirm that ...all dwellings... refers to both private and affordable homes (i.e. all housing tenures).

One of the stated exemptions from education contributions is developments of fewer than five homes. No evidence is provided within the Draft SG as to why the Council considers that developments of less than five homes should be exempt from making developer contributions.

All housing development (including those of less than five homes) that can be occupied by children of school age will be expected to have an impact on existing education infrastructure. In seeking to exclude proposals of less than five homes, the Council is expecting larger developments to bear an unfair share of the cost of the planning obligation. It therefore fails to consider the cumulative impact of all housing development in accord with Circular 3/2012.

If it is the Council's intention to exempt proposals of five homes or less from making financial contributions towards education infrastructure, then it must take responsibility for funding the mitigation of the direct and cumulative impact of these developments.

Response: The council agrees with the statement in principle. However, it is much harder to track and evidence the impact on small scale developments. As such the

council accepts that it would be very difficult to demonstrate impact on such developments. As outlined in a response to a previous statement, all calculations are based on a specific development, and the number of pupils that particular development is expected to generate. As such, contributions are only ever sought in direct relation to any given development.

In the current housing land audit – 8.9% of the total number of sites are for sites which are less than five units. As such, these types of development are much less likely to have a significant impact on the school estate.

- The Draft SG also makes no allowance for the impact of windfall sites on education infrastructure. HfS considers that the Draft SG should be revised to make an allowance for the impact of windfall development on future school rolls, taking the windfall allowance used in either in the Housing Land Audit or the Council's housing land This allowance would also apply to the Council's school roll projections.

Response: The current SG does take account of windfall sites as they are added to the Housing Land Audit (HLA) in the subsequent year and therefore included within the updated roll projections which include all HLA housing.

- HfS respectfully advises the Council to prepare a revised Draft SG which demonstrates that it is compliant with the tests in Policy 18 of NPF4 and Circular 3/2012. As highlighted above, the education impact assessment approach undertaken by either East Lothian or West Lothian Councils are good examples to follow and the Council is encouraged to liaise with these councils to prepare a comprehensive revision to its Draft SG.

Response: The council has outlined its position in the responses above and has outlined why it believes that the current guidance is compliant with the requirements of NPF Policy 18 and Circular 3/2012.

Additional Public Consultation Responses

- Calculations - part of the formula is that classroom occupancy is based on 25 pupils. There seems to be no provision within the formulas presented for ASN impact. If an extension or new build will make provision for ASN pupils e.g. classroom occupancy is 10 pupils not 25 pupils. ASN would require 2.5 classrooms.

Response: The draft SG only concentrates on contributions linked to mainstream primary and secondary education. Contributions linked to early years or ASN provision are not covered within this guidance document.

- Planning and policy - This supplementary guidance leaves NLC open to legal challenges. NPF4 has been challenged in court, developers want this guidance only to apply to LDPs passed after the guidance was adopted. Some of the policy is local policy and guidance. If a development site does not fit a developer's financial model due to the education contribution under this guidance, developers may choose to challenge, the formula, the overall guidance legally. This comment is based on developer's previous history in resorting to legal challenges both at local and national level.

Response: The comment is noted.

- I would like to refer to National Planning Framework 4 and to know more about the difference/improvements this will make to policy/guidance. I would also like to know more about Policy 18 Infrastructure First of NPF4 which most closely aligns with the requirements

of Policy CI Contributions to Infrastructure of the NLLDP 2022 and the difference/improvements this will make to policy/guidance.

Response: The comments are noted but do not directly relate to the comments sought on the draft SG being considered.

- I have compared NL Planning's Developer Contribution School List (as at September 2023) to that of West Lothian Council's Supplementary Guidance (Planning and Education). I would suggest that NL could provide much fuller information.

NLC's indicates only Cluster, PPP or Non PPP School, Contribution while West Lothian's Supplementary Guidance, Planning and Education Table 1 offers much more detail e.g. contribution table by catchment area e.g. sector, project description, indicative project cost, project contribution, contributing housing units, overall cost, what is being planned e.g. extensions, additions classrooms, new build.

Response: The comments and suggestions are noted. The proposed draft SG is the first iteration of this guidance document. It is expected that the guidance will be further developed over time, and where appropriate additional information added to the guidance document.

- Also absent from NL's document is an illustration of how the contributions/monies collected were spent directly on the schools impacted by housing developments.

Response: The document and draft SG presented is not intended to include this information.

- I don't believe that the housing industry can sustain more indirect taxation from local government. Housing building costs are rising as are consequentially house prices. It's time to reconsider this inequitable taxation.

Response: The comment is noted.

- Could you please advise if a mapping exercise has been carried out taking account of existing capacity from all providers, inc local PVI partners for 2-5yr old children.

Response: This draft SG only relates to Primary and Secondary mainstream schooling. Early years provision is not covered by the guidance presented.

- I think the 90% rate for having to make contributions should be considered. If the development is large, school roll could change quickly and perhaps in large developments 85% school roll should be considered. If we really want good education in NL then smaller class sizes have to be the aim. Also future governments might reduce the 30+ class sizes that SNP has allowed. If this is the case lots of current schools will not have capacity.

Response: North Lanarkshire Council can only base guidance on known information and policy. If a policy and/or legislation was introduced to reduce class sizes, impact of developments on the school estate would be reevaluated and adjusted accordingly.

- In our local area elderly accommodation is planned in the free land next to the school. It will not impact school capacity. However our school is at capacity, needs a new building, but there will be no space to build a new school. This will impact cost and options when time

comes for new school to be build. Any private development should be making contributions to the local community if they are taking away community land.

Response: This is outwith the scope of policy and therefore cannot be considered as part of the draft SG.

- The excessive costs clause should be written to ensure it is not an excuse for Ravenscraig builders to not pay. The excessive cost to fix the contaminated land is well know. But this also means excessive costs to build new schools. This areas development is huge, seems to be where the council wish all Motherwell facilities to be and is already impacting significantly on capacity of local school. As someone with a child in a class of 32, it is ridiculous that no Ravenscraig schools have been built yet.

Response: Any request submitted in relation to the excessive costs clause will be evaluated on a case by case basis.

- Contributions should be for facilities beyond schools. Hub schools don't allow facilities for people who can't be in busy areas, don't wish to be near children or are not allowed. Council has no consideration of this is school hub plans.

Response: This draft SG is specifically focused on the education estate, the impact of house building on the school estate, and how the council will work with developers to ensure a contribution towards the impact their development will have on the school estate.

- Can you please advise if a traffic assessment has, or will be carried out relating to the increased traffic at the junction of Johnston Road and Lochend Road as the increased traffic will have a safety impact on families entering and exiting Lochview Nursery car park.

Response: This is not within the scope of the information published in relation to the draft SG.

- Although I am glad that the new schools have been built and the plan is in place to extend the high school in Chryston. I am concerned that there is not enough care or thought for the elderly population of both Chryston and Muirhead. With an ever growing population and of course catchment area effects, we have come to a standstill with existing housing. Yes we have had numerous housing built over the past few years which has contributed to an ever diminishing green belt. However, there has never been an inclusion in any plans to accommodate elderly residents to downsize and move into smaller accommodation, in particular homes with a social hub. This in turn is not allowing existing homes to be freed up for younger families to move into. There is a dire need for NLC to look at the interests of its elderly generation who would still like to live in the village but in smaller more sociable accommodation. It's time to look after village residents who have contributed to village life for over 50 years. Perhaps take a note from East Dunbartonshire's council who support their elderly residents in a fantastic manner. I would also like to add that the accommodation would be best served as publicly available to purchase or rent and advertised as such. Too many times there are underhanded allocations of properties to the lucky few in the know. I hope this feedback is helpful and I also hope that someone listens because this situation needs to be rectified.

Response: This draft SG is specifically focused on the education estate, the impact of house building on the school estate, and how the council will work with developers to ensure a contribution towards the impact their development will have on the school estate.

Supplementary Planning Guidance

November 2024

Education Contributions



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1. Introduction

This publication provides statutory Supplementary Planning Guidance (SPG) from North Lanarkshire Council on developer contributions for education infrastructure. The guidance promotes good practice on pupil yield evidence and engagement with developers and planning authorities in order to deliver any necessary expansion or new build schools as a direct result of the impact on the school estate from new housing developments.

North Lanarkshire Council is committed to providing the highest quality of education within its establishments and developer contributions for education are required to help mitigate the impact of developments on the education estate. This will allow the correct infrastructure to be put in place to support the additional pupil product from new developments and their impact on the educational estate.

The introduction of any new development can have a significant impact on a wide variety of existing infrastructure, facilities, services and amenities and in such circumstances where it can be justified the Council will seek developer contributions to offset such impacts.

Residential housing developments can place additional requirements and result in capacity constraints on the education services of the Council. This guidance outlines the circumstances in which residential development proposals are required to be assessed in terms of their impact on the capacity of the education estate and the ability to accommodate the pupils generated by the development in the local schools. All qualifying residential developments of 5 or more units will be assessed with regards to their impact on the education estate.

2. Education Establishments

North Lanarkshire Council currently provides an education service across the authority through secondary schools, primary schools and pre-five establishments.

The council will seek to secure contributions for areas of education infrastructure in Primary and Secondary areas where required. These will be requested where capacity issues are identified through the cumulative impact of all emerging housing developments identified through the Housing Land Audit and Local Development Plan.

The developer contributions will be required to contribute towards providing additional capacity through the provision of a new build school, permanent additional classrooms (extensions or modular accommodation) and adaptations to existing schools.

3. What are Contributions

In order for developer contributions to be secured, North Lanarkshire Council require developers to enter into a contract to offset adverse impacts of their project.

In Scotland, they are most commonly (though not exclusively) made under Section 75 of the Town and Country Planning (Scotland) Act 1997. Section 75 agreements are used where conditions attached to the planning permission itself are not appropriate. While planning conditions control how a project is built and used, Section 75 agreements tend to provide for financial contributions and any requirements affecting land outside the area to which the planning permission relates, such as education infrastructure.

4. Planning Policy

This Supplementary Planning Guidance has been prepared within the context of the following:

- National Planning Framework 4 (NPF4);
- Circular 3/2012: Planning Obligations and Good Neighbour Agreements (Revised 2020); and
- North Lanarkshire Local Development Plan (NLLDP) 2022

National Planning Framework 4

NPF4 was adopted on the 13th February 2023 and forms part of the statutory Development Plan (alongside the Local Development Plan) and is required to be considered when determining planning applications. In the event of any incompatibility between NPF4 and the adopted NLLDP 2022, it should be noted that the NPF4 policy position will supersede the policies in the NLLDP.

Whilst there are several policy overlaps between NPF4 and the adopted NLLDP 2022, it is considered that Policy 18 Infrastructure First of NPF4 most closely aligns with the requirements of Policy CI Contributions to Infrastructure of the NLLDP 2022.

NPF4 **Policy 18 Infrastructure First** outlines that:

“a) Development proposals which provide (or contribute to) infrastructure in line with that identified as necessary in LDPs and their delivery programmes will be supported.

b) The impacts of development proposals on infrastructure should be mitigated. Development proposals will only be supported where it can be demonstrated that provision is made to address the impacts on infrastructure. Where planning conditions, planning obligations, or other legal agreements are to be used, the relevant tests will apply.

Where planning obligations are entered into, they should meet the following tests:

- *be necessary to make proposed development acceptable in planning terms*
- *serve a planning purpose*
- *relate to the impacts of the proposed development*
- *fairly and reasonably relate in scale and kind to the proposed development*
- *be reasonable in all other respects*

Planning conditions should only be imposed where they meet all of the following tests. They should be:

- *necessary*
- *relevant to planning*
- *relevant to the development permitted*
- *enforceable*
- *precise*
- *reasonable in all other respects”*

Circular 3/2012 Planning Obligations and Good Neighbour Agreements (Revised 2020)

Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements (Revised 2020) outlines that Local Authorities may use agreements under Section 75 of the Town & Country Planning (Scotland) Act 1997 to offset the impact of new development.


The use of an agreement under Section 75 of the Town & Country Planning (Scotland) Act 1997 (hereinafter referred to as the ‘Section 75 Agreement’) to help deliver necessary infrastructure and facilities is considered a legitimate planning objective by the Scottish Government. However, Section 75 Agreements should only be sought where they are required to make a proposal acceptable in land use planning terms and where the use of a planning condition, including a suspensive condition, is not appropriate. Conditions, including suspensive conditions, should be used wherever possible. Section 75 Agreements should only be sought where they meet the following tests:

- Be necessary to make the proposed development acceptable in planning terms.
- Shall serve a planning purpose and, where it is possible to identify infrastructure provision requirements in advance, should relate to development plans.
- Shall relate to the proposed development either as a direct consequence of the development or arising from the cumulative impact of development in an area.
- Shall fairly and reasonably relate in scale and kind to the proposed development.
- Be reasonable in all other aspects.

It is acknowledged that Section 75 Agreements can at times, cause delays in the planning process and place an additional financial burden on developers. In order to minimise delays and any financial burden the requirement for planning obligations should be identified as soon as possible – ideally at the pre-application stage - and relevant parties brought together to ensure that the process flows as smoothly as possible. In addition, it is recommended that timescales for any legal agreement be included where possible within a planning processing agreement in order that the applicant has a reasonable expectation on the delivery timescales for their decision – provided they too adhere to the agreed timescales for provision of supporting information. The timescale for completion of a legal agreement will be no more than 6 months from the date of committee approval unless exceptional circumstances require additional time for its signing.

It should be noted that the requirement for and level of contribution (if necessary in terms of education infrastructure) can only be confirmed once a valid planning application has been submitted and a consultation response from NLC Education confirms the current position to the Planning Authority. However, guidance as to whether an Education contribution is likely to be required will be provided at the Pre Application stage.

In some circumstances it may be possible to expedite this process by use of an agreement under section 69 of the Local Government (Scotland) Act 1973 to achieve contributions towards provision of necessary infrastructure and facilities. Section 69 of the Local Government (Scotland) Act 1973 states that: ***‘(1)...a local authority shall have power to do anything (whether or not involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the discharge of any of their functions.’***



This provision provides the Council with a general power to enter into an Agreement with developers to secure the above contributions prior to the release of the planning consent. This type of Agreement does not have to be limited in its purpose to the restriction or regulation of the development or use of the land subject to the planning application and could also include the payment of money.

North Lanarkshire Local Development Plan 2022

The NLLDP **CI Policy Contributions to Infrastructure** outlines that:

“North Lanarkshire Council will seek to secure developer contributions for new developments that, individually or cumulatively, generate a requirement for new or enhanced infrastructure or services, covering Affordable Housing in Cumbernauld Housing Sub-Market Area, and Education, Transport and Green Network Infrastructure, Amenity Space and Play across North Lanarkshire.

Where new development is proposed that, individually or cumulatively, generates a requirement for new or enhanced infrastructure or services in the categories listed, developers will be expected to contribute towards the provision of the required infrastructure, facilities and services. This will include any infrastructure to be provided in advance of development proposed in this Plan.

Developer contributions will be sought through a legal agreement or planning condition and in accordance with the five tests of Circular 3/2012 – “Planning Obligations and Good Neighbour Agreements”, as outlined by the Scottish Government and in accordance with this Guidance.

Any information provided to developers by the Council before the application stage is only indicative, including the Action Programme for the delivery of those housing sites identified in this Plan.”

Policy CI 1 Category Education

“For proposed residential developments the Council is seeking education infrastructure contributions, through Legal Agreements or planning conditions, based on adaptations and new builds within our Schools and Centres 21 Programme and the identified solutions to deal with the impact of all known future development within the catchment areas. This may include contribution(s) towards early years provision, due to the increase in provision by 2020 outlined in the Children and Young People Act 2014. It should be noted that any potential need identified is based on known future housing provision and could be affected if additional units come forward as a result of housing sites that have not been identified through the Plan process.

A contribution towards education infrastructure will be expected for all dwellings, with the exception of those with only one bedroom. Indicative conditions attached to any agreement will include the education authority retaining any payment for a period of 10 years or as otherwise agreed with the Council, following the completion of the final dwelling, after which time the payment would be returned to the applicant if not spent. Phased payments may be acceptable in most instances.

Full details of any infrastructure and contribution requirements will be identified by the Council as Education Authority on a case-by-case basis through the Development Management process.”

5. Implementation

When a planning application relating to development is submitted to the Council for consideration, it will be assessed to determine if there is a requirement for the prospective developer to make an appropriate developer contribution in accordance with the provisions of this Supplementary Planning Guidance.

Development contributions will be sought for a contribution towards education infrastructure for all dwellings, except for developments that are within one of the following categories which are exempt from education developer contributions:

- One bedroom Dwellings;
- Proposals of fewer than 5 Dwellings;
- Change of use, conversion or redevelopment whereby no additional residential units are constructed;

- Development that would not put capacity pressures on schools e.g. Student accommodation linked to college/universities, housing for the elderly or dwellings with occupancy restrictions that prohibit children of nursery or school age.
- Non-residential development.

Phased contributions will be acceptable in most instances and indicative conditions attached to any agreement to include the education authority retaining any payment for a period of 10 years or as otherwise agreed with the Council, following the completion of the final dwelling, after which time the payment would be returned to the applicant if not spent or committed in full by the Council within 28 days of receipt of a written request from the applicant.

For the avoidance of doubt all developer contributions will be index linked to inflation from the point of the Council being minded to grant planning permission up until such times as the contract and associated costs for the adaptation/extension/new build are finalised and 'locked in' ("Index meaning the All-in Tender Price Index as published by the Building Cost Information Service of the Royal Institution of Chartered Surveyors on a quarterly basis;). For clarity the Council is only seeking to recover costs associated with the actual costs and associated impact.

6. Development Viability

North Lanarkshire Council acknowledges that unforeseen or abnormal development costs can affect development viability and may take this into account dependent on the specific circumstances. Only in circumstances where there are exceptional, abnormal costs on sites that are designated for housing or within the urban area boundary in the North Lanarkshire local Development Plan 2022, is it likely that the Council will consider a reduction or give an exemption from the requirement for an education contribution.

In considering development viability the council will not waive education contributions on unallocated sites outwith the urban area and in the greenbelt or countryside as defined in the LDP. This is to recognise that some unallocated sites within the urban area (windfall sites) which the council considers are appropriate for development may also have challenging site conditions related to or as a result of historic uses and to differentiate between these types of sites may not be practical.

In circumstances where a developer considers that development viability is compromised by the requirement for an education contribution, the requirement for developers to



undertake and submit a full viability assessment which takes into account all relevant development costs and land value.

In recognition of the timescales involved in fully developing some larger sites and that financial circumstances may change within this period any initial exemption from making a contribution will be time limited to a maximum of five years from the granting of consent at which point an updated viability assessment would need to be submitted and considered by the council.

Standard development costs such as demolition works, retaining and standard ground works, landscaping, archaeological investigations, drainage works, site purchase, site servicing and flood prevention works will not normally be accepted as abnormal costs. It is expected, and will require to be demonstrated, that the cost of preparing and developing land, including reasonably known 'abnormal' costs have been reflected in the purchase price/valuation of the land.

The process to be followed where a developer is seeking an exemption from paying the required education contribution and further guidance on the content of the report are set out in Appendix 3 and 4 of this Supplementary Planning Guidance.

7. Contribution Trigger

The cumulative impact assessment of emerging housing identifies those schools where it is anticipated that the pupils generated by housing allocations (programmed up by the current Housing Land Audit and Local Development Plan), will increase school capacity beyond 90%. Developer contributions for Education will be sought for infrastructure within these school catchment areas towards the projected pupils generated above 90% of the school capacity. The cost of these pupils is shared across the residential units (programmed in line with the current Housing Land Audit and Local Development Plan) within the catchment area.

8. Calculations

The contribution is calculated using the Pupil Product Ratio against the number of houses planned within the catchment area of each school. The number of pupils generated is added to the current number of children in each school to calculate the overall percentage capacity. The number of spaces is proportionated against each school based on the Denominational/Non-Denominational split. This is calculated annually and based on a rolling

five-year average. If the occupancy is identified to exceed 90% then a developer contribution will be required. If it is below 90% then a contribution is unlikely. If a school already exceeds 90% then a contribution will be required.

The example of how the developer contributions are calculated appear in Appendix 1.

Pupil Product Ratio (PPR)

The PPR is the number which identifies the average number of pupils relative to new areas of housing. Contributions are based on the anticipated number of residential units to generate children of school age (the anticipated number is represented as a pupil product ratio per property). The PPR used in North Lanarkshire for each age range is as follows:

***The figures below are used for example purposes only and are intended to demonstrate the calculation. For the most up to date figures please refer to <https://www.northlanarkshire.gov.uk/planning-and-building/planning-applications/our-supplementary-planning-guidance>**

***Primary School: 0.3**

***Secondary School: 0.18**

*These numbers are used as examples for the calculations

In order to achieve the correct calculation for each school the number of units within a development is multiplied by the Pupil Product ratio to project the total number of pupils anticipated to present for both primary and secondary education. The total is then split by the 5-year average Non-Denominational/Denominational ratio. The five-year average ratio is calculated by looking at the pupils in geographical areas and analysing the percentage of the total pupils in the area who attended each sector.

When calculating the pupil product for each primary school the following calculation is used:
 $[\text{Total no of units}] \times [\text{PPR}] \times [\text{ND/D Split Percentage}] = \text{Pupil yield for given school}$

When calculating the pupil product for each high school the following calculation is used:
 $[\text{Total no of units}] \times [\text{PPR}] \times [\text{ND/D Split Percentage}] = \text{Pupil yield for given school}$

Calculations will be rounded down to the nearest whole number.

Non-Denominational/Denominational Ratio

Using the existing primary school population over the last five years, the education authority calculates the Non-Denominational/Denominational split which is used to determine the percentage of pupils from new housing who are anticipated to attend either school. Based on the analysis carried out against the latest school census.

Cost Per Pupil

Costs are based on previous NLC contracted work for new builds and extensions in North Lanarkshire schools. These figures are updated and adjusted following completion of the latest projects. The figures will be reviewed annually. An average of the latest completions is used for developer contribution calculations and are based on the following information:

New Build School calculation

$$\text{Contract Cost/School Capacity} = \text{Cost per pupil}$$

*These figures are used as examples for the calculations. Formal requests should be made to ef.forwardplanning@northlan.gov.uk

** It should be noted that these figures only relate to 'build costs'. It does not include any abnormal costs, land purchase or all design fees.

Developer Contribution Calculations are shown in Appendix 1

Developer Contribution School List is shown in Appendix 2

9. Useful Contacts

For further advice on this Supplementary Planning Guidance and its applications, please contact:

For queries relating to planning applications and development viability.

**Planning & Place
Civic Centre
Windmillhill Street**

Motherwell
ML1 1AB
Planningenquiry@northlan.gov.uk

For queries relating to pre-application enquiries.

[Pre-application advice | North Lanarkshire Council](#)

For queries relating to the developer contribution figures, calculations or school list.

Forward Planning (Education)
Civic Centre
Windmillhill Street
Motherwell
ML1 1AB
ef.forwardplanning@northlan.gov.uk

For general matters.

North Lanarkshire Council Website
<http://www.northlanarkshire.gov.uk>

Appendix 1 – Developer Contribution Calculations

New Builds

Reference Site	School Capacity	Contract Cost	Cost Per Pupil
A	1522	£36,511,169	£23,988.94
B	1161	£33,071,295	£28,485.18
C	1117	£27,011,646	£24,182.32
D	484	£19,954,327	£41,227.95
E	434	£24,821,452	£57,192.29
F	509	£18,577,215	£36,497.48
Average			£35,262.36

Contributions rounded down to £35,000 per pupil

Cost per Unit

£35,000 * 0.3 (PPR) = £10,500 per unit for Primary School Contribution

£35,000 * 0.18 (PPR) = £6,300 per unit for Secondary School Contribution

The calculation for Extensions/Additional Capacity to PPP and Non-PPP schools are based on the following information

Extensions/Additional Capacity - Non PPP School

Reference Site	GIFA	Contract Cost	Cost Per Sqm	Design Fees
A	235	£610,584	£2,598.23	14%
B	184	£774,000	£4,206.52	14%
C	93	£311,000	£3,344.09	14%
Average	171	£565,195	£3,382.95	

Cost per square metre = £3,382.95

Design Fee = 14%

Cost per square metre including design fees = £3,855.42

Square metres required for each class Page 116 of 132

57sqm classroom + 3sqm cloaks + 10sqm toilets and circulation = 70sqm

Cost per classroom = £3,855.42 * 70 sqm = £269,883.60

Each classroom is anticipated to accommodate minimum 25 pupils

Cost per pupil = £269,883.60 / 25 = £10,795.34

Cost per unit = £10,795.34 * 0.3 (PPR) = £3238.60 per unit for Primary School Contribution

£10,795.34 * 0.18 (PPR) = £1943.16 Secondary per unit for School Contribution

Extensions / Additional Capacity - PPP School

North Lanarkshire has 25 PPP schools which are owned by external stakeholders. These schools are subject to additional costs when making adaptations to the buildings for ongoing revenue and life cycle costs. The total additional cost is £35,840 per classroom

Cost per classroom = £3,855.42 * 70 sqm = £269,883.60 + £35,840 = £305,723.60

Each classroom is anticipated to accommodate minimum 25 pupils

Cost per pupil = £305,723.60 / 25 = £12,228.94

Cost per unit = £12,228.94 * (0.3) = £3668.68 Primary School Contribution

£12,228.94 * (0.18) = £2,201.21 Secondary School Contribution

The table below provides the sum of the costs to developers based on all calculations.

Total Build Cost per pupil – As at March 2023*


Primary	New Build £35,000	Capacity Improvement PPP School £12,228.94	Capacity Improvement Non-PPP School £10,795.34
Secondary	New Build £35,000	Capacity Improvement PPP School £12,228.94	Capacity Improvement Non-PPP School £10,795.34

*these figures will be reviewed annually, and BCIS Index linked

Total Build Cost per unit – As at March 2023*

Primary	New Build £10,500	Capacity Improvement PPP School £3,668.68	Capacity Improvement Non-PPP School £3,238.60
Secondary	New Build £6,300	Capacity Improvement PPP School £2,201.21	Capacity Improvement Non-PPP School £1943.16

*these figures will be reviewed annually, and BCIS Index linked



It should be noted that these figures only relate to 'build costs'. It does not include any land purchase or all design fees. The BCIS All In Tender Price Index will be used to evaluate and calculate costs for any given year up until the full contribution has been received.

A full school list is provided in Appendix 2 which identifies if a developer contribution is required or not.

Appendix 2 – Developer Contribution School List (As at September 2023)

Cluster	PPP / Non PPP	School	Contribution Requested
Airdrie Academy	PPP	Airdrie Academy	No
	Non PPP	Chapelside PS	No
	Non PPP	Golfhill PS	No
	Non PPP	Greengairs PS	Yes
	Non PPP	New Monkland PS	No
	Non PPP	Rochsolloch PS	Yes
	Non PPP	Tollbrae PS	No
	Non PPP	Victoria PS	No
Bellshill Academy	Non PPP	Lawmuir PS	No
	Non PPP	Mossend SP	Yes
	Non PPP	Noble PS	No
	Non PPP	Bellshill Academy	No
Braidhurst HS	Non PPP	Braidhurst HS	No
	Non PPP	Logans PS	No
	Non PPP	Muir Street PS	No
Brannock HS	Non PPP	Brannock HS	Yes
	Non PPP	Holytown PS	Yes
	Non PPP	Keir Hardie Memorial PS	Yes
	PPP	New Stevenston PS	Yes
	Non PPP	Newarthill PS	No
Calderhead HS	Non PPP	Alexander Peden PS	Yes
	Non PPP	Allanton PS	No
	Non PPP	Calderhead HS	No
	Non PPP	Dykehead PS	No
	Non PPP	Kirk 'O' Shotts PS	No
	Non PPP	Stane PS	Yes

Cluster	PPP / Non PPP	School	Contribution Requested
Caldervale HS	Non PPP	Calderbank PS	No
	Non PPP	Caldervale HS	Yes
	PPP	Chapelhall PS	Yes
	PPP	Clarkston PS	Yes
	PPP	Glengowan PS	Yes
	Non PPP	Hilltop PS	No
	PPP	Plains PS	No
	Cardinal Newman HS	Non PPP	Cardinal Newman HS
Non PPP		Holy Family PS	No
Non PPP		Sacred Heart PS	No
Non PPP		St Gerard's PS	No
Non PPP		St John Paul II PS	No
Chryston HS	Non PPP	Chryston HS	Yes
	Non PPP	Chryston PS	Yes
	Non PPP	Gartcosh PS	Yes
	Non PPP	Glenmanor PS	Yes
	PPP	Stepps PS	Yes
Clyde Valley HS	Non PPP	Berryhill PS	Yes
	Non PPP	Clyde Valley HS	Yes
	Non PPP	Morningside PS	Yes
	Non PPP	Muirhouse PS	No
	Non PPP	Netherton PS	Yes
	Non PPP	Newmains PS	Yes
	Non PPP	Orchard PS	Yes
	Non PPP	Thornlie PS	No
PPP	Wishaw Academy PS	Yes	

Cluster	PPP / Non PPP	School	Contribution Requested
Coatbridge HS	PPP	Bargeddie PS	Yes
	Non PPP	Carnbroe PS	Yes
	PPP	Coatbridge HS	Yes
	PPP	Glenboig PS	Yes
	Non PPP	Greenhill PS	No
	Non PPP	Kirkshaws PS	No
	Non PPP	Langloan PS	No
	Non PPP	Old Monkland PS	No
	Non PPP	Shawhead PS	No
	Non PPP	Sikeside PS	No
	Non PPP	Townhead PS	No
Coltness HS	PPP	Calderbridge PS	No
	PPP	Cambusnethan PS	No
	Non PPP	Cleland PS	Yes
	Non PPP	Coltness HS	No
Cumbernauld Academy	Non PPP	Abronnhill PS	No
	Non PPP	Carbrain PS	No
	Non PPP	Cumbernauld Academy	Yes
	Non PPP	Cumbernauld PS	No
	Non PPP	Kildrum PS	No
	Non PPP	Whitelees PS	No
Dalziel HS	Non PPP	Dalziel HS	Yes
	Non PPP	Glencairn PS	Yes
	Non PPP	Knowetop PS	Yes
Greenfaulds HS	Non PPP	Baird Memorial PS	No
	Non PPP	Condorrat PS	No
	Non PPP	Eastfield PS	No
	Non PPP	Greenfaulds HS	No
	Non PPP	St Helen's PS	No
	Non PPP	Westfield PS	No

Cluster	PPP / Non PPP	School	Contribution Requested
	Non PPP	Woodlands PS	No
Kilsyth Academy	Non PPP	Balmalloch PS	No
	Non PPP	Banton PS	No
	Non PPP	Chapelgreen PS	No
	Non PPP	Kilsyth Academy	No
	Non PPP	Kilsyth PS	No
Lenzie Academy	Non PPP	Auchinloch PS	Yes
OLHS - Cumbernauld	Non PPP	OLHS Cumbernauld	Yes
	Non PPP	St Andrew's PS	No
	Non PPP	St Barbara's PS	Yes
	Non PPP	St Joseph's PS	Yes
	Non PPP	St Lucy's PS	Yes
	Non PPP	St Margaret of Scotland PS	No
	Non PPP	St Mary's PS Cumbernauld	No
OLHS - Motherwell	Non PPP	Cathedral PS	Yes
	Non PPP	OLHS Motherwell	No
	Non PPP	St Bernadette's PS	No
	Non PPP	St Brendan's PS	No
Split Catchment	Non PPP	Ladywell PS	Yes
Split Catchment	Non PPP	Ravenswood PS	No
St Aidan's HS	Non PPP	St Aidan's HS	No
	Non PPP	St Aidan's PS	No
	Non PPP	St Brigid's PS	No
	PPP	St Ignatius PS	No
	Non PPP	St Mary's PS Cleland	No
	Non PPP	St Patrick's PS Shotts	No
	Non PPP	St Thomas' PS	Yes
St Ambrose HS	Non PPP	St Ambrose HS	No
	Non PPP	St Augustine's PS	No
	Non PPP	St Bartholomew's PS	No
	PPP	St Kevin's PS	Yes

Cluster	PPP / Non PPP	School	Contribution Requested
St Andrew's HS	Non PPP	Corpus Christi PS	No
	PPP	OL & St Joseph's PS	Yes
	PPP	St Andrew's HS	No
	Non PPP	St Bernard's PS	No
	Non PPP	St Mary's PS Coatbridge	Yes
	Non PPP	St Monica's PS	No
	Non PPP	St Patrick's PS Coatbridge	Yes
	Non PPP	St Stephen's PS	Yes
	PPP	St Timothy's PS	No
St Margaret's HS	Non PPP	All Saint's PS	Yes
	PPP	St Aloysius PS	No
	Non PPP	St Andrew's PS	No
	PPP	St David's PS	Yes
	Non PPP	St Dominic's PS	No
	Non PPP	St Edward's PS	No
	Non PPP	St Margaret's HS	No
	PPP	St Mary's PS Caldercruix	No
Non PPP	St Serf's PS	No	
St Maurice's HS	Non PPP	Holy Cross PS	No
	Non PPP	St Maurice's HS	No
	Non PPP	St Michael's PS	Yes
	PPP	St Patrick's PS Kilsyth	No
Taylor HS	Non PPP	Christ the King PS	Yes
	Non PPP	OL & St Francis PS	No
	PPP	St Patrick's PS New Stevenston	Yes
	Non PPP	St Teresa's PS	Yes
	Non PPP	Taylor HS	Yes
Uddingston Grammar	Non PPP	Aitkenhead PS	No
	PPP	Tannochside PS	No

Appendix 3 – Development Viability

Development Viability Statement Requirements

Where a developer is seeking an exemption or reduction of the education contribution on the basis of economic viability then the following information will be required:

- An independent and verified Development Viability Statement undertaken by the DV or mutually agreed suitably qualified consultant. This allows a comparison of costs to be evaluated against projected house values and should also set out in detail why any abnormal development costs cannot be met from either a reduction in purchase price for the site and/or developer profit margins. This should include an explanation of financial assumptions and an explanatory note on all appraisal assumptions. The report should detail the financial implications of the additional costs and their implications for the viability of the development.
- A certified dated copy of the original viability appraisal setting out the allowances made for developer obligations and affordable housing policy (if applicable) and compatibility with prevailing policy requirements.
- From a RICS accredited firm a Quantity Surveyor's (QS) detailed cost budget on development costs e.g., externals, infrastructure, and abnormal costs which include a detailed breakdown, produced in accordance with relevant practice advise and guidance from RICS.
- Verified site valuation at the time of the application submission.
- Projected market valuations for each property within the development (with supporting evidence).
- An indication of the timescales within which each property would be marketed and sold and, where appropriate, development phasing information.
- Design and Access statement (if applicable and available).
- Build specification.

- Assumptions on all grant funding and (where appropriate) evidence of transactions/negotiations with RSL's or the council's New Supply team.


The confidential and sensitive nature of some financial information is acknowledged, and the content of the Assessment will remain confidential between the applicant and named officials within the Council, District Valuer or other third-party advisor as agreed and the relevant decision makers and committees.

As a public body, however, the Council will require to comply with the terms of the Freedom of Information (Scotland) Act 2002 and the Environmental Information (Scotland) Regulations 2004 in relation to any request for disclosure of such information. Any applicable exemptions or exceptions under the legislation will be appropriately applied. Any requests received for such disclosure of information shall be considered on a case by case basis.

Viability Assessment and Outcomes

Once an agreed Development Viability Statement and supporting information is received by the Council it will be considered. If the applicant submits their own independent Development Viability Statement that has not been agreed in advance with the Council as being carried out by a suitably independent source then it will be independently reviewed by the District Valuer Service (DVS) or an alternative third-party advisor agreed by, and acting on behalf of the Council. This will be carried out at the developers' expense with costs determined on an individual basis. The requirement for independent verification of Viability Assessments will only be removed where the time and cost associated with this process is disproportionate to the amount of developer contribution required.

Each case will be determined by the Council on its own merits. The outcome of the Viability Assessment independent review will not be binding on the Council but may inform any recommendation to the appropriate planning decision maker. If the exercise establishes there are viability issues with the development as a result of the Education contribution requirement, the council will then have to determine if the shortfall in the education requirements can be borne by the Council and/or its partners as ultimately the impact of the development will need to be mitigated and paid for. In event that the Council can support the viability, it will proceed with such a recommendation but ultimately if the infrastructure cannot be funded to offset the impact of development, then the site will be required to be deferred until such time as the site can become viable on its own merits.



For the avoidance of doubt the agreement to waive a contribution towards education provision would be for a timescale specified within the contribution waiver agreement (5 years maximum depending on the number of units to be constructed) and starting from the date of planning permission being granted. The Council would reserve the right to seek an updated Viability Assessment independent review at the end of the specified period and every 5 years for the duration of the planning permission or until site completion. Should the updated viability assessment show that the viability of the site had changed then the Council would reserve the right to withdraw a waiver on the remaining units still to be constructed and it would be expected that a contribution at the current established rate would be required for the remaining units.

Land Value

The price paid for land is not a justification for failing to accord with development plan policies. The Royal Institute of Chartered Surveyors (RICS) guidance on Financial Viability in Planning, Guidance Note (1st Edition- GN94/2012 - abbreviated to RICS FVIP) and now updated, at [para 1.2.4] of Assessing Viability confirms this, and the District Valuer (DV) or an alternative third-party advisor agreed by, and acting on behalf of the Council when instructed by the Council will adopt and use the RICS's guidance as the most appropriate. The use of the DV in this way is supported by paragraph 22 of PAN 2/2010 setting out this as recommended good practice.

It should be noted that financial viability can have regard to not just a single policy's impacts but the cumulative impact of policy requirements and developer contributions. In terms of viability however, all of these policy documents only recognise a departure from the policy requirements for provision of a developer obligation for education and to address viability and no other policy requirements.

Further information on the submission requirements of the Viability assessment can be found within Annex 4 below.

Appendix 4 – Development Viability Report Guidance

1. Proposed Scheme Details

- **Residential Unit Numbers and Tenures:**
 - Clearly outline the number of residential units, split between private and affordable tenures.
 - Show how the proposed mix affects your development's financial viability.
 - Demonstrate if the layout or design constraints impact viability.

2. Gross Development Value (GDV)

- **Existing Income:**
 - If applicable, provide evidence of any income the site generates (e.g., rental income) and how this will continue during development. This should reflect ongoing costs and limitations.
- **Residential Sales Values:**
 - Present the anticipated sales values for the private units, ground rents, and supporting market evidence, while explaining any deductions for incentives (such as discounts or shared ownership arrangements).
- **Rental Values for Affordable Housing:**
 - Supply anticipated rental values for any affordable units, alongside supporting data, and show how these affect the development's profitability.
- **Commercial Elements (if applicable):**
 - Provide estimated yields for any commercial elements within the scheme, with evidence supporting these projections.
 - Address any challenges with expected rent-free periods, voids, or other incentives that would negatively impact your GDV.
- **Affordable Housing Values:**
 - Present clear evidence of how the affordable housing units have been valued, taking into account the lower returns from affordable housing in comparison to private sales.

- **Deductions from GDV:**

- Set out any deductions necessary to arrive at the Net Development Value (NDV), including:
 - Land and Buildings Transaction Tax (LBTT)
 - Legal and agency fees
 - VAT and other sales costs.

3. Development Costs

- **Build Costs:**

- Provide a full, detailed Quantity Surveyor (QS) report outlining your expected build costs. These should be evidenced by market rates and include any costs specific to your project (e.g., bespoke designs or high-quality materials).
- Demonstrate if rising construction costs are impacting the viability of the scheme.

- **Site-Specific Costs:**

- Include any demolition, site preparation, and vacant possession costs. If any of these are higher than industry norms, explain why.
- Detail any planning-related costs, such as fees or specific obligations that may increase development costs.

- **Abnormal Costs:**

- Highlight any abnormal or unexpected costs that are adding financial pressure to the project, such as:
 - Remediation (e.g., contamination, flood risks)
 - Ground conditions (e.g., mining legacy, peatland)
 - Heritage constraints that increase development costs.

- **Finance Costs:**

- Provide evidence of the expected finance rates and borrowing costs for the development. If these are high due to market conditions or project-specific risks, this should be detailed clearly.

- **Professional Fees:**

- Break down professional fees (e.g., architects, structural engineers, planning consultants) and show how this affects the overall viability. Where fees are higher than usual, explain why they are impacting viability, using regional cost benchmarks.

4. Additional Phasing or Cost Challenges

- **Phased Development Considerations:**

- If your development is phased, outline the expected growth in sales and rental values across phases. Demonstrate how cost inflation or delays could create further financial strain.

- **Cost Inflation and Credit Rates:**

- If rising inflation or increasing interest rates are adding financial pressure, provide evidence of how these affect your ability to deliver the project as planned.

5. Development Programme and Timelines

- **Construction Timeline:**

- Detail the expected pre-build and construction periods. If delays or extended timelines are impacting viability, provide evidence to support this (e.g., labour shortages or supply chain issues).

- **Sales and Marketing:**

- Demonstrate anticipated sales rates (e.g., per month) and how these affect the cash flow of the development. If slower-than-expected sales are affecting viability, present evidence of market trends or comparable developments.

6. Benchmark Viability Proxies

- **Profitability Measures:**

- Provide calculations for:
 - Profit on cost
 - Profit on value
 - Development yield
 - Internal Rate of Return (IRR)
- If these measures fall below market expectations or industry norms, this helps justify a case for viability challenges. Explain why the expected profitability is lower than acceptable benchmarks.

7. Planning Application Details

- **Supporting Documentation:**

- Ensure that all relevant plans, sections, and elevations are included.
- Provide a Design and Access Statement that supports any constraints or features of the development impacting viability, such as specific planning requirements or design limitations.

8. Sensitivity and Risk Analysis

- **Sensitivity Analysis:**

- Conduct a two-way sensitivity analysis, demonstrating how changes in key variables (e.g., sales values or build costs) affect the scheme's viability.

- **Scenario and Simulation Analysis:**

- Include scenario or simulation analysis to show how different market conditions, interest rates, or unforeseen delays could further impact the viability of the project.

9. Accompanying Report: Structure

Ensure your report includes the following sections:

- **Executive Summary:** Summarise key viability issues.
- **Introduction and Background:** Provide an overview of the project and context.
- **Site Location and Description:** Explain any site-specific challenges that impact costs.
- **Planning Policy Context:** Highlight any specific planning obligations that are particularly challenging to meet.
- **Market Summary:** Provide market data showing that the anticipated sales or rental values are lower than expected.
- **Build Costs and Programme:** Detail your build costs and timelines, along with evidence of rising costs or delays.
- **Methodology and Approach:** Explain the financial model and methodology used in your viability assessment.
- **Outputs and Results:** Present your financial projections, GDV, and profit margins.
- **Sensitivity Analysis:** Include your sensitivity and scenario analysis results.
- **Concluding Statement:** Summarise why the current scheme is financially unviable.

