

Representation regarding planning permission appeal

**Site to the North East of Wee Minnemoer, Millport, Isle of Cumbrae, North Ayrshire
KA28 0HF. Case Reference: PPA-310-2039**

Cumbrae Community Council

18 September 2023



“To respond to the global biodiversity crisis, nature recovery must be at the heart of future places. We will secure positive effects for biodiversity, create and strengthen nature networks and invest in nature-based solutions to benefit natural capital and contribute to net zero. We will use our land wisely including through a renewed focus on reusing vacant and derelict land to help limit the new land that we build on. We will protect and enhance our historic environment, and safeguard our shared heritage for future generations.”

National Planning Framework 4, Part 1 – A National Spatial Strategy for Scotland 2045. Scottish Government, February 2023.

Contents

1	Introduction	4
2	The proposed site	5
2.1	Planning history	5
2.2	Site description	6
2.3	Site topography.....	7
3	Policy considerations	10
3.1	Introduction	10
3.2	NAC Local Development Plan (LDP2).....	10
3.3	National Planning Framework (NPF4).....	11
3.4	Carbon Neutral Islands project	12
3.5	Isle of Cumbrae Local Island Plan	12
3.6	Islands (Scotland) Act and National Islands Plan	13
3.7	Energy policy	13
3.8	Large photovoltaic arrays: planning advice	14
4	Handling of the application by NAC Planning Services	14
4.1	Introduction	14
4.2	Environmental Impact Assessment	14
4.3	Completeness of the application documents.....	15
4.4	Protected birds.....	16
4.5	Priority habitats	17
4.6	Landscape designations	17
4.7	Visual impact.....	18
4.8	Tourism	19
4.9	Transport.....	21
4.10	NAC Consultation process.....	21
5	Other issues raised by the Appeal Statement	23
5.1	Consideration by the Planning Committee	23
5.2	Adequacy of the decision notice	23
5.3	Adequacy of the Comsol consultation process.....	24
5.4	Nature crisis v energy crisis	25
6	Conclusion	26
7	Annexes	27
7.1	Topography	27
7.2	References in alphabetical order	33
7.3	Transcript of CCC presentation to NAC Planning Committee meeting 24 May 2023	37
7.4	Summary of all consultation outcomes	39

7.5	Media coverage up to 24 May 2023	39
7.6	Letter template	40

1 Introduction

- 1.1 North Ayrshire Council (NAC) Planning Services' handling of this planning application and their subsequent recommendation for approval were fundamentally flawed.
- 1.2 Given the weight of evidence contradicting that recommendation for approval, the Planning Committee correctly and unanimously agreed that NAC's Local Development Plan (LDP2) does not permit developments of this nature on sensitive habitats such as the proposed site. LDP2 repeatedly, specifically, and intentionally excludes such places from development, including renewable energy projects, as do a number of other local and national policies and plans.
- 1.3 This representation, prepared by Cumbrae Community Council (CCC), sets out the following case in support of the Planning Committee's decision:
 - **The proposed site.** The proposed site is a Special Landscape Area (SLA), Local Nature Conservation Site (LNCS), and home to 20 endangered species of bird and seven protected habitats. It has an extremely complex topography, with steep undulating slopes, large rocky outcrops and extensive boggy areas. The Appellant has stated that no changes would be required to the topography of the site to construct the proposed solar farm, but it is evident that this is not correct and significant remodelling would be necessary. This would inevitably devastate the existing habitats on the site.
 - **Policy considerations.** A range of local and national planning policies, plans and other guidance require the protection of sites of this type, even from proposals for renewable energy generation. The crux of this appeal relates the relative weight of two, in this case competing, policy positions. On the one hand, policy supports renewable energy developments, but on the other it requires protection and enhancement of natural habitats and support for biodiversity. The balancing statement in LDP2 is made by Policy 29, Energy Infrastructure Development, which is entirely clear on this matter:

“We will support development proposals for energy infrastructure development, including wind, solar, tidal, cropping and other renewable sources, ...where they ...have no unacceptable adverse environmental impacts... including impacts on our landscape designations; effects on the natural heritage – including birds.”
 - **Handling of the application.** A number of fundamental flaws are identified in the recommendation to approve the planning application that North Ayrshire Council Planning Services made to the Planning Committee.
 - **Appeal statement.** Other issues are addressed that have been raised in the Appellant's Appeal Statement and that are not dealt with elsewhere in this document. This includes; consideration of the application by the Planning Committee, the adequacy of the decision notice, the consultation process undertaken by the Appellant and the policy balance between the nature crisis and the energy crisis.

2 The proposed site

2.1 Planning history

- 2.1.1 In 2016 a planning application was submitted by Comsol Energy Limited for a 5MW solar farm at a site adjacent to the highest point on the Isle of Cumbrae ¹. This is a particularly sensitive location that provides protected habitats for endangered species of bird, and forms part of the only 360 degree view on the island.
- 2.1.2 Despite this, the Community Council in place on Cumbrae at the time did not submit a comment to NAC in response to the application. It was a relatively new Community Council with little experience of dealing with complex planning applications. Over the next 7 years however, its membership changed, the chair changed, its knowledge of the planning system improved, and it developed a better understanding of the role of NAC and local councillors. 42 public comments were submitted to NAC in response to the application, of which 41 were objections (98%). However, in 2017, the application was approved.
- 2.1.3 In 2020 a second application was made to vary the wording of conditions 6 and 10 of the 2017 permission ². These conditions related to the restoration of the site on cessation of use and the need to undertake access works prior to any construction being carried out on site. The application was lodged just 9 days before the 2017 permission was due to lapse as no construction had begun. This was seen by some as a cynical attempt to extend the permission period. Two public comments were submitted, both of which were objections, and this time CCC did object. The application was refused by NAC. An appeal was lodged but this was refused by the Local Review Body.
- 2.1.4 A new application for a similar 5MW solar farm was submitted to NAC in 2022 ³, but this was subsequently withdrawn, apparently to take on board comments made. 290 public comments had been submitted, of which 282 were objections (97%). However, the actual changes that were made to the design in the subsequent 2023 application ⁴ were that the solar panel generating capacity was increased from 5MW to 7MW, the type of solar panel was changed, and 12MW of battery storage (BESS) was added, giving a total capacity of 19MW, almost 4 times higher than the original scheme. No changes were made in response to any of the comments submitted regarding the withdrawn 2022 application or the lapsed 2017 permission.
- 2.1.5 374 public comments were made in response to the 2023 application of which 355 were objections (95%). CCC submitted a detailed objection, and the application was refused by the NAC Planning Committee.
- 2.1.6 In the 7 years between the original 2016 application and the latest 2023 application, there have been a significant number of policy changes:
- The Islands (Scotland) Act was introduced in 2018.
 - The National Islands Plan was published by the Scottish Government in 2019.
 - LDP2 was adopted in 2019.
 - The Carbon Neutral Islands project was launched by the Scottish Government in 2022.

¹ 16/00124/PP, Installation of a photovoltaic solar farm with an output of up to 5MW and associated infrastructure, Comsol Energy Limited, February 2016.

² 20/00232/PP, Variation of conditions 6 and 10 of permission ref. 16/00124/PP for installation of a photovoltaic solar farm with an output of up to 5MW and associated infrastructure, Comsol Energy Limited, March 2020.

³ 22/00385/PP, Installation of a photovoltaic solar farm with an output of up to 5MW and associated infrastructure, Comsol Energy Limited, May 2022.

⁴ 23/00114/PP, Installation of a photovoltaic solar farm, with associated battery energy storage systems and associated infrastructure, Comsol Energy Limited. February 2023.

- e. The Isle of Cumbrae Local Island Plan was published by NAC in 2022.
- f. The Scottish Biodiversity Strategy was published by the Scottish Government in 2022.
- g. NPF4 was published by the Scottish Government in February 2023.

2.1.7 It is clear therefore that both the proposal itself, the policy context and the capability and understanding of the local community changed materially between the 2017 approval and the 2023 refusal.

2.2 Site description



- 2.2.1 LDP2 identifies the proposed site as being within the countryside, part of the Great Cumbrae Special Landscape Area (SLA) and part of the Barbay Hill Local Nature Conservation Site (LNCS).
- 2.2.2 The proposed site is adjacent to the highest point on the Isle of Cumbrae, where the historic Glaid Stone can be found, along with the only 360-degree view point on the island and a picnic area offering views of the Ayrshire coast, the Arrochar Alps, Cowal, Bute, Kintyre, Arran, Holy Isle and Ailsa Craig. The site also runs alongside the narrow Core Path (NC2), part of the popular Inner Circle route.
- 2.2.3 Whilst the Appellant's proposal might not be considered a major development on the mainland, on Cumbrae the site occupies 1.3% of the entire area of the island.
- 2.2.4 North Ayrshire Council's Review of Local Nature Conservation Areas characterises the site as follows ⁵:

Site Name	Barbay Hill (Minnemoer)
Habitat(s)	Scrub and Heath, Acid and Neutral Grasslands/Open Water, Marsh and Flushes.
Species	119 species of vascular plants recorded, of which 22 are locally rare or uncommon. Bird species recorded in the area total 45 species.
Connectivity	It is contiguous with Ballikillet Woodland LNCS.

⁵ Review of Local Nature Conservation Sites (LNCS), North Ayrshire Council 2023.

Community	It can be accessed from North Ayrshire core path NC2 and is on the Coig Route 5. It is the highest point on Great Cumbrae and popular for walking.
Description	The site is located on the highest part of Cumbrae and is centred on the moorland and pools (Minnemoer) of Barbay Hill. The moorland consists of dwarf shrub heath, acid grassland and rush-dominated vegetation, often in patchy mosaics. There are three water bodies, some basin mire, flush vegetation, and scrub. To the immediate south of the site lies the new Ballikillet Woodland LNCS, where woodland listed in the Ancient Woodland Inventory has expanded around a small watercourse flowing south to towards Ballikillet Farm.
Nature conservation summary	The site includes area of diverse open moorland with water bodies, complemented to the south by the woodland habitats. There are several species of note, including royal fern, marsh stitchwort, lesser marshwort, many stalked spike-rush, floating club-rush, lesser bladderwort, bog pimpernel and white water-lily. Bird species recorded include including peregrine, kestrel, raven, and breeding snipe, skylark and meadow pipit. It has good dragonfly and damselfly numbers. Species included common hawkler, black darter and blue tailed damselfly.
Management	The moorlands are considered to have suffered over recent years and are dependent on sympathetic grazing, lack of drainage and low nutrient inputs in order to retain the diverse habitats.

- 2.2.5 Twenty endangered species of bird on the RSPB red and amber lists have been sighted on the proposed site and recorded with the British Trust for Ornithology and the Clyde Islands Recorder ⁶. This includes two species (skylark and common linnet) on the priority species list in the North Ayrshire Local Biodiversity Action Plan ⁷, and eight (dunlin, curlew, linnet, lesser redpoll, cuckoo, swift, black-headed gull and northern lapwing) on the Scottish Biodiversity List ⁸.
- 2.2.6 The Extended Vegetation Survey submitted by the Appellant found seven Scottish Biodiversity List Priority Habitats within the survey area and found on-site examples of Priority Habitats including upland heathland and upland flushes, fens and swamps, semi-natural broadleaved woodland and wet woodland ⁹.

2.3 Site topography

- 2.3.1 The proposed site is extremely complex, and a surprising choice for the installation of straight rows of solar panels, associated buildings and vehicular tracks. There is a 25m change in overall elevation across the site, as well as steep local undulations, numerous large rocky outcrops, deep valleys, extensive boggy areas, large waterbodies and dense vegetation.
- 2.3.2 In comments submitted to NAC regarding the 2023 planning application, CCC expressed concern that: "The application does not detail the inevitable changes to topography that will be necessary to accommodate HGV and other vehicle movements and the installation of buildings and 12,000 solar panels on a very irregular, uneven and undulating site." ¹⁰

⁶ Objection to the proposed photovoltaic solar farm on Cumbrae 23/00114/PP, Cumbrae Community Council, 29 March 2023, Appendix 1 Observations of birds found on the application site.

⁷ North Ayrshire Local Biodiversity Action Plan 2019-2031, North Ayrshire Council, 2019.

⁸ Scottish Biodiversity List, NatureScot, 2020.

⁹ Solar Farm, Isle of Cumbrae, Extended Vegetation Survey, EnviroCentre Limited, January 2023, Executive Summary.

¹⁰ Objection to the proposed photovoltaic solar farm on Cumbrae 23/00114/PP, Cumbrae Community Council, 29 March 2023. Page 3.

- 2.3.3 In their response to NAC, the Appellant stated: "Note that there will be no changes to the topography of the site as part of the proposed development. Temporary track matting systems will be used to provide access to all areas of the site beyond the proposed crushed stone / aggregate track." ¹¹
- 2.3.4 Following this response, CCC reiterated to NAC: "Cumbrae Community Council finds it impossible to believe that no changes to the highly complex topography of the site would be required to accommodate 12,000 solar panels and associated buildings, roads and turning areas for articulated and 40 tonne lorries." ¹²
- 2.3.5 Even a cursory inspection of the site makes it difficult to understand how the proposals shown on the application drawings could be constructed at all, and certainly not without dramatic changes to the topography of the landscape and the resultant destruction of the existing habitats.
- 2.3.6 The Appellant's failure to recognise this suggests that they and their designers may not have properly inspected the site or procured suitable topographical survey data.
- 2.3.7 The Landscape and Visual Impact Assessment (LVIA) submitted as part of the planning application states: "To facilitate the construction, operation, and decommissioning of the proposed development, areas of land cover require to be removed, with areas of rough grassland the most affected; although, it is recognised that areas of roadway may require to be altered to facilitate the formation of access tracks. Individual or small stands of tree cover and scrub vegetation may have to be felled/cleared to facilitate construction; however, the development layout has been designed to minimise any potential effects on natural landscape features with compensatory planting proposed for any trees lost." ¹³
- 2.3.8 In fact, the design shows no understanding of, or sensitivity to, the site topography. There appears to have been no attempt to minimise any effects on landscape features, and no compensatory planting is shown on the application drawings. To give just one example of the lack of understanding shown in the application drawings, they indicate a new vehicular track crossing a ditch below the existing dam, and then proceeding up an exceptionally steep slope to the highest point of the site. This would involve the track being significantly inclined across its section, and ascending a 45 degree slope that rises 6 to 8m in elevation. This would be impossible to construct or to use.
- 2.3.9 The Planning Statement also suggests that: "Within the site, a permanent road formed of crushed stone / aggregate, complete with internal turning heads, will be located along the north and east boundaries, providing maintenance access to all areas of the site." ¹⁴ These tracks are not shown on the drawings, and it is not clear how they would be accessed, or whether it would be possible to construct or use them.
- 2.3.10 The complex nature of the site makes it wholly unsuited to this sort of development. The proposals cannot be constructed as drawn, and if a variation of the proposals was constructed, it would require major topographical change resulting in total devastation of existing habitats.
- 2.3.11 It is vital therefore that the Reporter considering this appeal carries out a thorough inspection of the whole site, ideally accompanied by someone with local knowledge or with specialist understanding of complex habitats and relevant construction techniques. CCC will be happy to facilitate this or to attend such a site inspection should that be considered helpful.

¹¹ Response to Community Council Objection, Proposed Installation of a Photovoltaic Solar Farm with associated Grid Battery Energy Storage Systems, Prepared by Santec on behalf of Comsol Energy Limited, May 2023. para 2.28

¹² Comments on the response to the Community Council objection, Proposed photovoltaic solar farm on Cumbrae 23/00114/PP, Cumbrae Community Council, May 2023. Page 2

¹³ Landscape and Visual Impact Assessment, Mabbett & Associates Ltd, January 2023. Para 12.2.

¹⁴ Planning Statement, Proposed Installation of a Photovoltaic Solar Farm with associated Grid Battery Energy Storage Systems, Prepared by Santec on behalf of Comsol Energy Limited, February 2023. Para 3.11

- 2.3.12 The photo below shows one example of an area of the proposed site where the application drawings indicate perfectly straight lines of solar panels. Additional photos showing one of the proposed routes for a vehicular track, and a sample of other locations where it would be impossible to construct the proposed solar farm as shown on the application drawings are included in [Appendix 7.1 Topography](#).



3 Policy considerations

3.1 Introduction

3.1.1 The Appeal Statement suggests that planning policy supports the application, alleging: “Elected Members may not have carried out a full review of the technical assessments and relevant policies in as rigorous a manner as the Council’s Officers did, when exercising their planning judgement and determining the application.”¹⁵ In fact, there are a great number of policies that support the position taken by the Planning Committee, many of which were discussed at the Planning Committee meeting attended by the Appellant. Relevant policies are set out below.

3.2 NAC Local Development Plan (LDP2)

3.2.1 **LDP2 Strategic Policy 1 - The Countryside Objective** states: “In principle, we will support proposals outwith our identified towns and villages for... c) developments with a demonstrable specific locational need including developments for renewable energy production i.e. wind turbines, hydroelectric schemes and solar farms” (our emphasis). The Appellant has not demonstrated the specific locational need for selecting this site. The power generated would be fed back to the national grid on the mainland (by means as yet not explained by the Appellant), and so the development could be anywhere. It is difficult to understand therefore why the Appellant has selected such a remote, undulating site on a small tourist island that can only be accessed via a lifeline ferry service (only operating during the day) and that is an important habitat and local beauty spot.

3.2.2 **LDP2 Policy 15 b** states: “We will only support development which affects Special Landscape Areas where it would not have an unacceptable impact on their special character, qualities and setting.” The proposed site is a Special Landscape Area, and the development would undoubtedly have an unacceptable impact on it.

3.2.3 **LDP2 Policy 16** states: “We will support development which would not have an unacceptable adverse effect on our valuable natural environment as defined by the following legislative and planning designations;

- **c) Nature Conservation Sites of Local Importance:** “Development adversely affecting Local Nature Reserves or Local Nature Conservation Sites will generally not be permitted unless it can be demonstrated the overall objectives of the designation and the overall integrity of the designated area would not be compromised, or any adverse effects are clearly outweighed by social, environmental or economic benefits of local importance” (our emphasis). The proposed site is designated a Local Nature Conservation Site, and so the onus is on the Appellant to demonstrate the overall objectives of the designation and the overall integrity of the designated area would not be compromised by their proposals. They have not done so.
- **e) Biodiversity Action Plan Habitats and Species:** “Development adversely affecting priority habitats or species set out in the North Ayrshire Local Biodiversity Action Plan will not be permitted unless it can be demonstrated the impacts are clearly outweighed by social or economic benefits of local importance” (our emphasis). Two species of bird recorded at the site are listed as Priority Species in the North Ayrshire Local Biodiversity Action Plan; common linnet and northern lapwing¹⁶. The Appellant is required therefore to demonstrate overriding social or economic benefits of local importance, which they have not done.

¹⁵ Land to the North East of Wee Minnemoer, Cumbrae, Appeal Statement, Stantec UK Limited, August 2023. Para 5.8

¹⁶ Objection to the proposed photovoltaic solar farm on Cumbrae 23/00114/PP, Cumbrae Community Council, 29 March 2023, Appendix 1 Observations of birds found on the application site.

- **f) Protected Species:** “Development likely to have an unacceptable adverse effect on... ii) The Scottish Biodiversity List (SBL) of animals, plants and habitats that Scottish Ministers considered to be of principle importance for biodiversity conservation in Scotland.” Eight species of bird recorded at the site appear on the SBL; black-headed gull, cuckoo, curlew, dunlin, lapwing, lesser redpoll, common linnet and swift,¹⁷ as well as seven priority habitats¹⁸.

3.2.4 **LDP2 Policy 29** states: “We will support development proposals for energy infrastructure development, including wind, solar, tidal, cropping and other renewable sources, where they will contribute positively to our transition to a low carbon economy and have no unacceptable adverse environmental impacts, taking into consideration (including cumulatively) the following:

- “Landscape – including avoiding unacceptable adverse impacts on our landscape designations;
- “Effects on the natural heritage – including birds;
- “Impacts on tourism and recreation;”

3.3 National Planning Framework (NPF4)

3.3.1 The Appeal Statement refers to the climate crisis highlighted by NPF4. However, the Appeal Statement fails to mention the parallel nature crisis also highlighted by NPF4. The Ministerial Foreword to NPF4 refers to: “Putting the twin global climate and nature crises at the heart of our vision for a future Scotland” (our emphasis). NPF4 Part 1 states: “We will need to respond to a growing nature crisis” and the section on National Spatial Strategy states: “To respond to the global biodiversity crisis, nature recovery must be at the heart of future places.”

3.3.2 **NPF4 Policy 3, Policy Intent** makes a commitment: “To protect biodiversity, reverse biodiversity loss, deliver positive effects from development and strengthen nature networks.” Policy 3a states: “Development proposals will contribute to the enhancement of biodiversity, including where relevant, restoring degraded habitats and building and strengthening nature networks and the connections between them. Proposals should also integrate nature-based solutions, where possible.” And Policy 3c states: “Proposals for local development will include appropriate measures to conserve, restore and enhance biodiversity, in accordance with national and local guidance.”

3.3.3 **NPF4 Policy 4, Policy Intent** makes a commitment: “To protect, restore and enhance natural assets making best use of nature-based solutions.” Policy 4a states: “Development proposals which by virtue of type, location or scale will have an unacceptable impact on the natural environment, will not be supported.”

3.3.4 **NPF4 Policy 11 c** states in relation to energy: “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” (our emphasis). Policy 11 e states: “...project design and mitigation will demonstrate how the following impacts are addressed: ... ix) biodiversity including impacts on birds.”

3.3.5 **NPF4 Policy 14 a** states: “Development proposals will be designed to improve the quality of an area whether in urban or rural locations and regardless of scale.”

3.3.6 **NPF4 Policy 20 a** states: “Development proposals that result in fragmentation or net loss of existing blue and green infrastructure will only be supported where it can be demonstrated that the proposal would not result in or exacerbate a deficit in blue or green infrastructure provision, and the overall integrity of the network will be maintained.”

¹⁷ Objection to the proposed photovoltaic solar farm on Cumbrae 23/00114/PP, Cumbrae Community Council, 29 March 2023, Appendix 1 Observations of birds found on the application site.

¹⁸ Solar Farm, Isle of Cumbrae, Extended Vegetation Survey, EnviroCentre Limited, January 2023, Executive Summary.

- 3.3.7 **NPF4 Policy 29, Policy Intent** states an intention: “To encourage rural economic activity, innovation and diversification whilst ensuring that the distinctive character of the rural area and the service function of small towns, natural assets and cultural heritage are safeguarded and enhanced”. Policy 29 b states: “Development proposals in rural areas should be suitably scaled, sited and designed to be in keeping with the character of the area. They should also consider how the development will contribute towards local living and take into account the transport needs of the development as appropriate for the rural location.”

3.4 Carbon Neutral Islands project

- 3.4.1 The Appeal Statement suggests that: “Elected members also ignored or failed to properly consider other material considerations, including ... the NAC Cumbrae Island Plan and the Scottish Government’s Carbon Neutral Islands Project.”
- 3.4.2 In the foreword to the Carbon Neutral Islands: project progress report, published by the Scottish Government in January 2023, Scotland's Cabinet Secretary for Rural Affairs and Islands, Mairi Gougeon MSP stated: “I am delighted that the project has communities at its heart. Implementation will take a bottom-up approach including active participation of island communities and organisations to ensure their voices are heard and they have a say in their own decarbonisation journeys.”¹⁹ Katy Clark, MSP for the West Scotland Region, wrote to Mairi Gougeon MSP raising concerns about the proposed solar farm and referencing the January Progress Report.²⁰
- 3.4.3 As any energy generated by this proposal would be fed back to the national grid on the mainland, and there is no commitment by the Appellant to supply that energy to the island, there would be no contribution to the Carbon Neutral Islands Project (CNI). CNI is a community-led project, and in relation to this application, they have expressed their belief that the proposed solar farm goes against the Cumbrae Community Climate Action Plan which prioritises community-owned renewable energy generation, and that it undermines the extensive work being done by Community Energy Scotland.²¹
- 3.4.4 CNI and Community Energy Scotland are conducting a review of the energy infrastructure on Cumbrae and the suitability and feasibility of a range of possible community-owned generation options. This will include a review of landscape designations to give an indication of areas that would not be appropriate for renewable generation. The Cumbrae Community Climate Action Plan states: “The Scottish Government commissioned Community Energy Scotland to act as the key delivery partner for the initial phase of the project. A key aim from government is to ensure the community is at the heart of the project.”²²

3.5 Isle of Cumbrae Local Island Plan

- 3.5.1 The Isle of Cumbrae Local Island Plan, published by NAC in 2022²³, was developed with significant contribution by CCC. It specifically calls for protection of the natural environment, and consultations with the local community undertaken whilst preparing the plan identified this as priority.
- 3.5.2 It also notes that a quarter of employed people on the island work in tourism related sectors, and states: “The island offers many leisure opportunities, including walking, wild swimming, golf, bowls and watersports. Nature-lovers and wildlife watchers enjoy the island’s stunning land and coastline which is home to over 125 species of birds, seal colonies, porpoises, and basking sharks.”²⁴

¹⁹ Carbon Neutral Islands: project progress report, published by the Scottish Government in January 2023

²⁰ Email from Katy Clark MSP to Gregor Harvie, 23 February 2023

²¹ CNI Project Update - 22 August 2023. Community Development Officer (Cumbrae), Carbon Neutral Islands Project.

²² Cumbrae Community Climate Action Plan, North Ayrshire Council, March 2023.

²³ Cumbrae 10-year Strategic Island Plan, North Ayrshire Council, 2022.

²⁴ Cumbrae 10-year Strategic Island Plan, North Ayrshire Council, 2022. Page 12.

- 3.5.3 The earlier Millport & Cumbrae, Economic Plan 2015, published by NAC states: “The focus is on the drivers of enterprise, business growth and job creation based on innovation and investment in the built and natural heritage, infrastructure and skills and above all respect for the natural environment” (our emphasis) and that: “Cumbrae’s high quality natural environment needs to be viewed as an economic asset.”²⁵

3.6 Islands (Scotland) Act and National Islands Plan

- 3.6.1 The Islands (Scotland) Act 2018²⁶ established a duty for Scottish Ministers to prepare a National Islands Plan to improve outcomes for island communities. These outcomes include; (b)(iv) community empowerment and (g) enhancing biosecurity. It also established duties to consult with and have regard to island communities in respect of policies, strategies and services.
- 3.6.2 The National Islands Plan was published by the Scottish Government in December 2019²⁷. Strategic Objective 8 of the plan states: “To improve and promote environmental wellbeing and deal with biosecurity we will:”
- “Protect island biodiversity.”
 - “Address biosecurity in a holistic and integrated manner as a means not only to contribute to environmental wellbeing, but also to contribute to sustainable economic development on Scottish islands.”
- 3.6.3 It also states: “The implementation of the Plan will build on, and align with, where possible, existing green policies and strategies, such as the 2020 Challenge for Scotland’s Biodiversity²⁸, which incorporates a strategy for the conservation and enhancement of biodiversity in Scotland...”
- 3.6.4 Scottish Biodiversity Strategy to 2045, Tackling the Nature Emergency in Scotland, published by the Scottish Government in December 2022²⁹, refers to Scotland’s biodiversity crisis and nature emergency. The Executive Summary states: “There is now an indisputable body of evidence that biodiversity, both globally and in Scotland, is in real trouble. Our efforts to address the crisis to date have generated some lessons and local successes, but we urgently need to accelerate and scale up those efforts to drive landscape and seascape scale recovery. This strategy sets out a clear ambition: for Scotland to be Nature Positive by 2030, and to have restored and regenerated biodiversity across the country by 2045.” The Strategy contains 26 Priority Actions to:
- Accelerate restoration and regeneration.
 - Expand and connect protected areas and improve their condition.
 - Support nature-friendly farming, fishing and forestry.
 - Recover and protect vulnerable and important species.
 - Generate the investment needed to support nature recovery.

3.7 Energy policy

- 3.7.1 Energy policy in Scotland does support the development of renewable energy generation, but it does not give unconditional support. Scottish Energy Strategy, The future of energy in Scotland,

²⁵ Millport & Cumbrae, Economic Plan 2015, North Ayrshire Council, 2015.

²⁶ Islands (Scotland) Act 2018.

²⁷ The National Islands Plan, Scottish Government, 2019.

²⁸ 2020 Challenge for Scotland’s Biodiversity, Scottish Government, 2013.

²⁹ Scottish Biodiversity Strategy to 2045, Tackling the Nature Emergency in Scotland, Scottish Government, 2022.

published by the Scottish Government in 2017 ³⁰ refers to: "...the important role of renewable energy and energy infrastructure, in the right places" (our emphasis), and advocates: "...developers and communities working together and continuing to strike the right balance between environmental impacts, local support, benefit, and – where possible – economic benefits deriving from community ownership."

3.8 Large photovoltaic arrays: planning advice

- 3.8.1 Large photovoltaic arrays: planning advice, published by the Scottish Government in 2013 ³¹ recommends that local authorities: "Identify long standing redundant brownfield sites, industrial sites where allocations have not been taken up in previous development plans, industrial/commercial sites with large available roofscapes and poor quality vacant agricultural land." And that they: "Collate information on known landscape, nature conservation and built environment sensitivities."
- 3.8.2 In drafting Development Plan Policy, it states: "Ensure that policies for large arrays of PVs cover landscape, urban design, land use, biodiversity, aviation, access, grid, security fencing and decommissioning issues."
- 3.8.3 It goes on to state: "Large PV arrays of (sic) sited in open sensitive landscapes have the potential to create significant visual impact by virtue of their number, site coverage or layout, the effect they have on the colour of the landscape and degree of reflection, together with access tracks, security fencing and ancillary components such as substations and power lines. The ability of the landscape to absorb development often depends on the inherent characteristics of the landscape such as landform, ridges and vegetation.... A cautious approach is necessary in relation to particular landscapes which are rare or valued.... there is also the potential for negative environmental effects, with possible loss of or damage to valuable habitat resulting from construction of the poles to mount PV units and the change in land management associated with a change of use to PVs, together with access tracks and other works." (our emphasis)

4 Handling of the application by NAC Planning Services

4.1 Introduction

- 4.1.1 The Appellant contends that planning permission for the proposed development should have been granted in line with the NAC Planning Case Officer's recommendations. However, there were serious flaws in the way the planning application was handled by NAC, and these are set out below.

4.2 Environmental Impact Assessment

- 4.2.1 At 15.3 hectares, the proposal falls well within the scope of Schedule 2 of the Town & Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017. Schedule 3 of the Regulation, Selection Criteria for Screening Schedule 2 Development, includes the following criteria for consideration:
- 1a. the size and design of the development.
 - 1c. the use of natural resources, in particular land, soil, water and biodiversity.

³⁰ Scottish Energy Strategy, The future of energy in Scotland, Scottish Government, 2017.

³¹ Large photovoltaic arrays: planning advice, Scottish Government 2013.

- 2b. the relative abundance, availability, quality and regenerative capacity of natural resources (including soil, land, water and biodiversity) in the area and its underground.

- 4.2.2 Due to the sensitivity of proposed site, which is a Special Landscape Area and Local Nature Conservation Site, and home to protected species and habitats; and given large scale of the proposed site in relation to the small island of Cumbrae, CCC requested that NAC require an Environmental Impact Assessment (EIA) ³².
- 4.2.3 The case officer wrote to CCC stating that an EIA would not be required, but that the information an EIA would have generated would be expected to accompany the application ³³. However, as was pointed out to NAC by CCC, this did not include an assessment of the site selection. As a result, the application did not include any justification for the decision to develop this sensitive location and there was no assessment of possible alternative sites that may have had less significant environmental impacts.
- 4.2.4 Planning Advice Note 1/2013: Environmental Impact Assessment, published by the Scottish Government in 2013 states: “For schedule 2 development, the key question to consider is whether the particular project, by virtue of factors such as its “nature, size or location” is likely to have significant effects on the environment. Where this is the case, EIA must always be carried out and there is no discretion not to require EIA simply because information about the project is available from other sources.” ³⁴ (our emphasis)
- 4.2.5 The Councillors representing NAC Council ward 01 - North Coast ward, wrote a joint letter to NAC calling the decision not to require an EIA “misjudged” and asking for it to be re-examined ³⁵. Ross Greer MSP also wrote to NAC pointing out that an EIA would allow proper assessment of possible alternative sites ³⁶. NAC rejected these requests.
- 4.2.6 This decision was questioned again by Councillors at the Planning Committee meeting.

4.3 Completeness of the application documents

- 4.3.1 The planning application submitted by the Appellant in 2023 was missing a great deal of important information, as listed in full in CCC’s objection to the planning application submitted to NAC ³⁷. A limited amount of this information was subsequently submitted by the Appellant after the consultation period had ended, giving no opportunity for proper public scrutiny. CCC requested an extension to the consultation period, but this was refused by NAC ³⁸.
- 4.3.2 Despite this late submission of information, key details were still not provided, including:
- a. Any information about the proposed communication tower.
 - b. Explanation of why this site was selected. LDP2, Policy 1, Spatial Strategy, requires: “...demonstrable specific locational need including developments for renewable energy production i.e. wind turbines, hydroelectric schemes and solar farms” (our emphasis).

³² Email from Alex Harvie, Chair of Cumbrae Community Council to Iain Davies, NAC Senior Development Management Officer, 23 January 2023.

³³ Email from Iain Davies, NAC Senior Development Management Officer to Alex Harvie, Chair of Cumbrae Community Council, 30 January 2023.

³⁴ Planning Advice Note 1/2013: Environmental Impact Assessment, Scottish Government, 2013.

³⁵ Email from Councillor Tom Marshall to Iain Davies, NAC Senior Development Management Officer, 9 March 2023.

³⁶ Email from Chris Cotton, Regional Coordinator for Ross Greer MSP to Iain Davies, NAC Senior Development Management Officer, 10 March 2023.

³⁷ Objection to the proposed photovoltaic solar farm on Cumbrae 23/00114/PP, Cumbrae Community Council, 29 March 2023.

³⁸ Email from Iain Davies, Senior Development Management Officer, to Alex Harvie, chair of Cumbrae Community Council to Alex Harvie, 2 May 2023.

- c. Any indication of the method or route by which power generated would be transmitted to the national grid on the mainland. Whilst it is acknowledged that the detail and approval of such routes is a matter under the Electricity Act, on a small, tourist island, the overall route and method of transmission is a significant concern, and the broad approach should have been a material consideration in the planning application. It is notable that other, similar applications do include this information³⁹. This is something that the Planning Committee queried, describing the overall planning application and the transmission route as: “inextricably linked together”, and asking: “How can we make an assessment on the visual and environmental impact of this if we don’t actually know what the cabling is going to be to get it off and how that is going to be done?”

- 4.3.3 In addition, a critical document that formed part of the application was withheld by NAC without notification of this given to consultees. The withheld Preliminary Ecological Appraisal⁴⁰ was a vital document as it highlighted the presence of protected species and habitats on the site. When CCC requested this document, NAC stated: “Preliminary Ecological Assessments are not normally public as they can contain information relating to protected species which requires to be kept (sic) sensitive.”⁴¹ Despite this explanation, the document was then made available.
- 4.3.4 The Preliminary Ecological Appraisal itself turned out to be out of date. It was registered as received by NAC on 10 February 2023, but the report was dated 9 February 2022, and related to the previous withdrawn application, which did not include the increased generating capacity or the 12MW battery storage. The Preliminary Ecological Appraisal itself stated: “If this report is to be submitted for regulatory approval more than 12 months following the report date, it is recommended that it is referred to EnviroCentre Ltd for review to ensure that any relevant changes in data, best practice, guidance or legislation in the intervening period are integrated into an updated version of the report.” No such updated version was prepared.

4.4 Protected birds

- 4.4.1 NAC’s report to the Planning Committee stated: “There were no field signs of protected species recorded within the site”⁴² and: “No protected species have been identified on site”⁴³. NAC should have been aware that both these statements were incorrect.
- 4.4.2 CCC explained in great detail in its formal comment to NAC, before the report for the Planning Committee was prepared, that 20 endangered species of bird had been sighted at the proposed location for the solar farm. These birds are on the RSPB red and amber lists and the sightings have been recorded with the British Trust for Ornithology and the Clyde Islands Recorder. They include two species on the priority species list in the North Ayrshire Local Biodiversity Action Plan, and eight species that appear on the Scottish Biodiversity List. A detailed list of sighted birds was included in the Appendix to CCC’s formal comment to NAC⁴⁴.
- 4.4.3 Furthermore, the Appellant’s Preliminary Ecological Appraisal (PEA), also submitted to NAC before the report was prepared for the Planning Committee, found five dunlin on the proposed site and acknowledged dunlin are on the Scottish Biodiversity List and are of national importance. These

³⁹ 20/00019/FULM, Installation of Solar Photovoltaic Array, Battery Energy Storage System with a Private Wire Grid Connection and Associated Infrastructure, Field 600M S Of East Balloch East Balloch Montrose. Angus Council, 2020.

⁴⁰ Solar Farm, Isle of Cumbrae, Preliminary Ecological Appraisal, EnviroCentre, 9 February 2022.

⁴¹ Email from Iain Davies, Senior Development Management Officer, to Alex Harvie, Chair of Cumbrae Community Council, 15 March 2023.

⁴² Planning Committee Report, North Ayrshire Council, 24th May 2023. Section 1 Preliminary Ecological Appraisal and Extended Vegetation Survey.

⁴³ Planning Committee Report, North Ayrshire Council, 24th May 2023. Section 2.3

⁴⁴ Objection to the proposed photovoltaic solar farm on Cumbrae 23/00114/PP, Cumbrae Community Council, 29 March 2023. Appendix 1 Observations of birds on the application site.

sightings were made despite the PEA survey being carried out on just one day in January, a time of year that is not generally recommended for such surveys.

4.5 Priority habitats

- 4.5.1 The Extended Vegetation Survey submitted by the Appellant ⁴⁵ states: “A total of 25 Phase 1 habitat types, including boundary features, are present within the survey area. Seven Phase 1 habitat types are considered to be of national (Scotland) Importance due to their inclusion as Priority Habitats in the Scottish Biodiversity List. On-site examples of Priority Habitats include Upland Heathland and Upland Flushes, Fens and Swamps. Semi-Natural Broadleaved Woodland and Wet Woodland Priority Habitats are located exclusively within the survey area.... There are six wetland Nation Vegetation Classification (NVC) communities within the site and survey area representing potential Groundwater Dependent Terrestrial Habitats (GWDTE).”
- 4.5.2 It goes on to state: “Barbay Hill has been previously described ⁴⁶ (our reference) as being an area of heather moor with a range of habitats that include wet dwarf shrub heath, dry heath/acid grassland mosaic, wet heath/acid grassland mosaic, acid grassland, marshy grassland, patches of continuous bracken, small area of dense gorse scrub, flushes, interesting lochans, one with swamp vegetation, another one totally vegetated classified as a basin mire, flushes and a total of 90 vascular plants. This includes national, regional and local rarities such as whorled caraway (*Carum verticillatum*), bog rosemary (*Andromeda polifolia*), creeping Jenny (*Lysimachia nummularia*), bog pondweed (*Potamogeton polygonifolius*), alternate leaved water-milfoil (*Myriophyllum alternifolium*) and small sweet grass (*Glyceria declinata*).”
- 4.5.3 The objection submitted by the Scottish Wildlife Trust also states: “When the site was re-surveyed in 2015 on behalf of North Ayrshire Council its quality was confirmed and it was recommended that it should be combined with an adjacent area to form the Barbay Hill and Ballikillet Wood LNCS. During the 2015 survey of Barbay Hill significant plant species recorded were Royal Fern, Marshwort, Bog Pimpernel and Whorled Caraway.” And that: “...the proposer has not demonstrated any benefits associated exclusively with this particular site that would outweigh normal policy restrictions” ⁴⁷ (our emphasis).
- 4.5.4 Despite this, the NAC report for the Planning Committee suggested that the application documents: “...did not highlight that the proposed development would have any significant adverse impacts on priority species or habitats.” ⁴⁸
- 4.5.5 The Appeal Statement suggests: “A number of biodiversity enhancement measures have also been identified through the PEA” ⁴⁹. CCC is not aware of commitment to any such enhancement measures within the application documents, and no such measures are indicated on the design drawings. It goes on to state: “...it can be considered that the proposed development would provide significant environmental benefits, at least in the local context of the Isle of Cumbrae, and also the wider NAC area” but no explanation is given about what those benefits might be.

4.6 Landscape designations

- 4.6.1 The site is designated a Special Landscape Area (SLA) and a Local Nature Conservation Site (LNCS).

⁴⁵ Solar Farm, Isle of Cumbrae, Extended Vegetation Survey, EnviroCentre Limited, January 2023.

⁴⁶ Preliminary ecological appraisal, Ballochmartin Farm, Cumbrae, Starling Learning, 2015.

⁴⁷ 23/00114/PP Installation of photovoltaic solar farm on site to NE of Wee Minnemoer, Isle of Cumbrae, Scottish Wildlife Trust, 3 March 2023.

⁴⁸ Planning Committee Report, North Ayrshire Council, 24th May 2023, Section 3, Natural heritage/soils/water environment

⁴⁹ Land to the North East of Wee Minnemoer, Cumbrae, Appeal Statement, Stantec UK Limited, August 2023.

- 4.6.2 The NAC report for the Planning Committee acknowledged that the application site covers 46% of the LNCS, but says: “It is not considered that there would be any significant adverse impact on the LNCS, protected species or habitats, the water environment. The proposal is considered to be of a type and scale which would not have an unacceptable impact on the natural environment in this location.”⁵⁰
- 4.6.3 It is difficult to understand how this conclusion has been reached. The development would involve the installation of 12,000 solar panels up to 3m tall, a network of vehicular tracks, 6 battery storage containers, 4 inverter stations, a switchgear station, and a substation; all of which are up to 5.3m tall. It would also involve construction of 12 power converting units, 6 transformers, and a comms tower (about which nothing is known), over an area the size of 22 football pitches, all surrounded by a 3m high fence and 31 CCTV masts. This will clearly have a significant impact on the LNCS.
- 4.6.4 The NAC report for the Planning Committee goes on to state: “The panels would allow for habitats to be retained underneath and for species to access and use the site”⁵¹. This is a highly questionable and unsubstantiated statement. When published research and guidance suggests that solar farm developments can have a positive impact on wildlife, it is referring to brownfield sites or sites of intensive agriculture, that is, sites where there was previously very little wildlife and so any change has the potential to be positive. They are not referring to fragile nature conservation sites that are home to an extensive variety of protected species and habitats.

4.7 Visual impact

- 4.7.1 The Committee Report states: “The development is considered to have a significant impact when viewed from the Glaid Stone viewpoint and some localised parts of the NC2 Core Path (the Inner Circle road). This is due to the proximity of the development.” The site of the Glaid Stone is the location of the only 360-degree view on the island.
- 4.7.2 The Committee Report goes on to state that the affected section of the Core Path: “...extends to approximately 750m, which amounts to approximately 13.5% of the whole route assessed (5.5km).” The Landscape and Visual Impact Assessment (LVIA) submitted by the Appellant⁵² did not include any views from the Core Path that runs alongside the proposed site, and from which the site and its associated buildings would be accessed.
- 4.7.3 In terms of the overall visual impact on the island, the Committee Report suggests: “Any significant effects would extend for approx. 750m from the site”. This area includes approximately a quarter of the entire landmass of the small island of Cumbrae, which at the location of the proposed site, is just 2.2km wide.
- 4.7.4 The LVIA accepted there was a significant zone of theoretical visibility up to the 5km it assessed, and conceded that the site would be visible from Little Cumbrae Castle, a scheduled monument 5km from the site, from Portencross Castle, a scheduled monument 8km from the site, and from the Waterhead Moor Wild Land Area 7km from the site, but claims visibility would be limited and restricted.
- 4.7.5 The LVIA also refers to the “low-level nature” of the proposed development, however, the development includes a range of buildings up to 5.3m tall, a 3m high perimeter fence, a comms tower of unknown height, and solar panels up to 3m tall, all at the highest point of the island. Barbay

⁵⁰ Planning Committee Report, North Ayrshire Council, 24th May 2023. Section 3, Natural heritage/soils/water environment.

⁵¹ Planning Committee Report, North Ayrshire Council, 24th May 2023. Section 3, Natural heritage/soils/water environment.

⁵² Ballochmartin, Great Cumbrae Solar Farm: Landscape and Visual Impact Assessment, Mabbett & Associates Ltd, 2023.

Hill is a prominent feature in the local landscape and the intrusion of an incongruous industrial-scale development such as this would cause significant harm to its character.

- 4.7.6 Landscape Capacity Assessment, Arran and Cumbrae, published by North Ayrshire Council in 2008⁵³, categorised Cumbrae as a Sensitive Landscape Character Area and suggested that the hills surrounding the town of Millport “...help to enclose the settlement of Millport; providing a distinctive background horizon to the landscape setting of the town and development in these remote areas would be highly visible and likely to lead to adverse effects.” (our emphasis)
- 4.7.7 The Committee Report suggests that compensatory planting is proposed stating: “Landscaping, particularly along northern and western boundaries, could additionally mitigate any impacts”. In fact there are no details of any compensatory planting or any other visual mitigation in the design drawings or described in the accompanying documents, and if any such mitigation were proposed it would be likely to increase obstruction of the views.
- 4.7.8 During the Planning Committee meeting, Councillor Ian Murdoch questioned why the Appellant had not shown any visual impact images during their presentation, and queried the selection of view points shown in the LVIA stating his belief that “...the very least effort here in terms of visual impact has been taken. I am very concerned”. It is also notable that no views are included from the sea, despite Cumbrae being an island, with plans to expand its tourism offer with the development of a new marina (See [Section 4.8 Tourism](#)). In addition, the LVIA does not mention any pylons which it is assumed would be necessary to transmit power across the island to some location where it would be taken back to the mainland by means that have not been explained.
- 4.7.9 The Planning Committee also expressed concern that residents of the Millport Conservation Area, which extends over most of the town, do not have permitted development rights to install solar panels on their properties. NAC have suggested that if residents apply for planning permission, solar panels might be allowed where: “...they are not readily visible in public views from within or towards the Conservation Area. This might limit the opportunity for seaward facing panels but this could only be determined on a case by case basis.” For most properties in the conservation area, seaward facing panels would be the ones facing south⁵⁴.
- 4.7.10 The Appeal Statement suggests: “...no concerns regarding the selection of viewpoints were raised in the determination of the previous planning application or the application which is subject to this appeal.”⁵⁵ This is clearly incorrect, many objections lodged in 2017, 2022 and 2023 referred to the shortcomings of the LVIA, including comments by CCC, and this was raised again in the deliberations of the Planning Committee.

4.8 Tourism

- 4.8.1 Cumbrae has a fragile economy that is heavily dependent on tourism:
- The NAC report for the Planning Committee states that Cumbrae has: “... a lower proportion of working age population (53% compared to 64%). Approx. 55% of the workforce is employed in either health or tourism.”
 - The 2022 Draft Isle of Cumbrae Economic Baseline Report states: “...tourism related sectors (‘accommodation and food service activities’ and ‘arts, entertainment, and recreation’) account for a quarter of local GVA.”⁵⁶

⁵³ Landscape Capacity Assessment, Arran and Cumbrae, North Ayrshire Council, 2008.

⁵⁴ Email from Iain Davies, Senior Development Management Officer, to Gregor Harvie, advisor to Cumbrae Community Council, 24 March 2023.

⁵⁵ Land to the North East of Wee Minnemoer, Cumbrae, Appeal Statement, Stantec UK Limited, August 2023. Para 6.10

⁵⁶ Isle of Cumbrae Economic Baseline Report (draft), North Ayrshire Council, August 2022.

- c. 114,000 passengers used the Largs to Cumbrae ferry route to visit the island in just one month in August 2022 ⁵⁷.
- 4.8.2 Councillor Tim Billings made the following statement about Cumbrae's unspoiled landscape at the Planning Committee meeting when proposing the motion to refuse the application: "It is my opinion that the Applicant does not actually provide us sufficient information having read through the documents associated with this application to justify, and in fact my opinion is that some of the information, particularly around tourism and the economy is very minimal to be kind to it. I am an islander, I live on Arran and I am very aware of the reasons why people come to islands. Why do so many people want to take a trip across on the unreliable ferries and risk getting stuck there? Because they really like, they really enjoy the experience of going. It is a different place, (they) say to come over here, it just feels so different from how it was back on the mainland. And that separation of the water from the mainland is very important, and part of that is because the islands are wide open spaces. They have higher points, you get views, you get walks, you get rambling, you get cycling, and people come to really enjoy those spaces. Surveys that I have been involved with around reasons why people go to islands – round about 70 to 80% of people say it is because of the open spaces."
- 4.8.3 Other members of the Planning Committee expressed concern about the impact the proposed development would have on views from popular destinations on the mainland and the effect this might have on tourism.
- 4.8.4 NAC are currently constructing a £48 million coast flood protection scheme on Cumbrae ⁵⁸. Part of the reason for this is to create a sheltered bay within which a marina will be constructed to improve the tourism offer of the island ⁵⁹.
- 4.8.5 The Appeal Statement however makes some claims which are difficult to understand in relation to tourism:
- a. "...this is not something the Appellant had a chance to consider until it was raised at Committee." (para 6.16)
 - b. "...tourism on the island predominantly comprises self-catering holidays, and therefore many visitors to the island may not visit the Glaid Stone as part of their trip." (para 6.18)
 - c. "Anecdotally, it is understood that the main views from the Glaid Stone are to the north, and therefore looking in the opposite direction of the solar farm. The Appellant therefore submits that any negative tourist impacts on the island as a result of the proposed development are at worst simply overstated and at best non-existent." (para 6.19)
- 4.8.6 The Appeal Statement also cites research suggesting renewable energy developments may not have a negative impact on tourism. However, there is little research into this subject, and what research there is tends to relate to wind farms which are generally in higher, more visible, more scenic landscapes and so are more likely to be in areas visited by tourists. Solar farms do not need access to wind and so tend (although not in the case of the Appellant's proposals) to be in lower-lying, less scenic areas that are less visited by tourists. Solar farms also cover the landscape in a way that wind farms do not.
- 4.8.7 The research cited by the Appellant into the impact of renewable energy farms on visitors to Cornwall states that whilst 90% of visitors were aware of wind farms in Cornwall, only 35% were aware of solar farms. ⁶⁰

⁵⁷ Carrying statistics - Custom reporting, CalMac.

⁵⁸ Millport Coastal Flood Protection Scheme.

⁵⁹ Ayrshire Growth Deal, Marine Tourism.

⁶⁰ The Impact of Renewable Energy Farms on Visitors to Cornwall, Final Report, Produced for and on behalf of Good Energy by The South West Research Company Ltd, November 2013.

- 4.8.8 The economic impacts of wind farms on Scottish tourism ⁶¹, prepared for the Scottish Government in 2008, and also cited by the Appellant in the Appeal Statement, states: “There is often strong hostility to developments at the planning stage on the grounds of the scenic impact and the perceived knock on effect on tourism. However, developments in the most sensitive locations do not appear to have been given approval so that where negative impacts on tourism might have been a real outcome there is, in practice, little evidence of a negative effect.” (our emphasis)

4.9 Transport

- 4.9.1 The report for the Planning Committee states: “The access route is considered to be feasible and any increase to traffic flows would be minor during the construction phase. Deliveries of panels and equipment is expected to be phased over an 8-week period. Details of potential visibility splays and passing places are provided.”
- 4.9.2 However, access to the site would be via ferry from Largs, along Ferry Road, and then up the narrow, single track Core Path, which is part of the popular Inner Circle walking route. The Appellant has proposed the construction of six possible passing places and the use of an “existing widening”, which is actually parking associated with the picnic area and the highest point, to allow HGV and other vehicles to use this route. However, having undertaken a site visit, members of the Planning Committee questioned access to the site, describing it as “impassible”.

4.10 NAC Consultation process

- 4.10.1 The population of Cumbrae is unusually diverse and includes a large proportion of people who are unable to navigate the complexities of the Online Planning Information System (OPIS) which is NAC’s preferred method for commenting on planning applications. Because of this CCC prepared a blank letter template that members of the community could use to write to NAC, expressing their views on the application, whether positive or negative. The template included a space for the commentor’s name and address, and had the correct postal address for NAC, the correct reference number for the planning application and stated at the top “Letter to North Ayrshire Council Planning Services” (See [Appendix 7.6](#)).
- 4.10.2 The format of this template was discussed with NAC in advance, who confirmed: “Any letters sent within the public consultation period and containing the name and full address of the sender will be accepted.” ⁶²
- 4.10.3 CCC had adopted a similar approach to the 2022 application before it was withdrawn. In this case, 220 written comments were submitted to NAC, of which 214 were objections. This was in addition to the 70 comments submitted via OPIS, 68 of which were objections.
- 4.10.4 Following withdrawal of the 2022 application, a note was placed on OPIS by NAC ⁶³ stating: “It is advised that any comments in respect of any future planning application be made online, through OPIS.” The community was not alerted to this note, and it contradicts the statement on NAC’s website confirming: “The preferred method for making comments is to use our website if you are able to do so. Otherwise, please send your comments by post to the address below and quote the application reference number.” ⁶⁴ (our emphasis)

⁶¹ The economic impacts of wind farms on Scottish tourism, prepared for the Scottish Government, 2008. Literature Review.

⁶² Email from Iain Davies, Senior Development Management Officer, to Graham Wallace, advisor to Cumbrae Community Council, 30 August 2022.

⁶³ Application withdrawn - please read, North Ayrshire Council, 5 September 2023.

⁶⁴ Comment on a planning application, North Ayrshire Council website guidance.

- 4.10.5 NAC's digital inclusion plan published in May 2023⁶⁵, estimates that 95% of the population has access to the internet at home, meaning on average 5% do not. However, Cumbrae has a significantly higher percentage of elderly people than average as well as a high percentage of SIMD 1 & 2. The Committee Report states "...the Island has more than double the percentage share of over 65s compared to Scotland (38% of population as opposed to 19%)."
- 4.10.6 CCC prepared the blank letter template as part of a commitment to best practice in equality and inclusion. 240 individual letters of this type were submitted, both supporting and objecting to the application. Many people selected this method because of difficulties registering and submitting comments on the OPIS system, which was frequently unavailable or not functioning correctly. Problems with OPIS were raised with NAC, and a request was made for an extension to the consultation period, but this request was refused⁶⁶, leaving some members of the community to rely on paper submissions instead. Similar problems had been encountered with OPIS during the 2022 application, and again many people opted for paper submissions instead, although in that case NAC did allow an extension to the consultation period, acknowledging that OPIS has been down for significant periods⁶⁷.
- 4.10.7 It came as a shock to the community therefore when those 240 letters (representing 20% of the entire population of Cumbrae, and two thirds of all public comments) were not recorded as public comments by NAC, who stated in their report to the planning committee, "There have been 116 representations received of which 108 are objections, 1 neutral representation and 7 comments in support."
- 4.10.8 In response to queries about the disenfranchisement of 240 people, NAC stated "The Council is under no obligation to make any comments public on the website... The Council does not have the resource to make the additional 239 (sic) comments submitted by the Community Council public."⁶⁸
- 4.10.9 Subsequently, when the appeal was lodged, NAC refused to notify those 240 people about the appeal as required by regulation 5 of The Town and Country Planning (Appeals) (Scotland) Regulations 2013 on 'notification of interested parties'. NAC suggested that the letters did not constitute "direct" representations, despite each individual letter stating "Letter to North Ayrshire Council Planning Services" at the top.
- 4.10.10 So as not to disenfranchise disadvantaged members of the community, CCC took it on themselves to write to each of those 240 people informing them about the appeal.
- 4.10.11 Every one of the objections submitted, including objections by CCC, Fairlie Community Council (FCC) and the Scottish Wildlife Trust (SWT) were dismissed by NAC in the Committee Report and were refuted by the Appellant in their response to the CCC objection.⁶⁹

⁶⁵ Digital North Ayrshire, a leading innovative organisation, 2023 to 2028, North Ayrshire Council, 2023.

⁶⁶ Email from Iain Davies, NAC Senior Development Management Officer to Alex Harvie, Chair of Cumbrae Community Council, 13 March 2023.

⁶⁷ Email from Iain Davies, NAC Senior Development Management Officer to John McHenry, Deputy Chair of Cumbrae Community Council, 29 August 2022.

⁶⁸ Email from Iain Davies, NAC Senior Development Management Officer to Alex Harvie, Chair of Cumbrae Community Council, 30 March 2023.

⁶⁹ Response to Community Council Objection, Proposed Installation of a Photovoltaic Solar Farm with associated Grid Battery Energy Storage Systems, Prepared by Santec on behalf of Comsol Energy Limited, May 2023.

5 Other issues raised by the Appeal Statement

5.1 Consideration by the Planning Committee

- 5.1.1 Members of the Planning Committee correctly reasoned that whilst policy does support renewable energy generation, it does not do so in all circumstances. In fact LDP2 specifically and intentionally excludes sensitive habitats such as the proposed site from development, including renewable energy generation projects.
- 5.1.2 However, the Appeal Statement makes the following allegations: "...it would appear to us that the Elected Members may not have carried out a policy assessment as rigorously as the Council's officers",⁷⁰ and: "...the Elected Members may not have fully analysed the matters before them."⁷¹
- 5.1.3 In fact, the Planning Committee meeting, which the Appellant attended, discussed planning policy in great detail during 1 hour and 30 mins of representations and debate. This included an extensive representation about planning policy from CCC, a transcript of which is included in [Appendix 7.3](#) to this document⁷². A video recording of the full proceedings is available on the NAC website⁷³ as are the published minutes of the meeting⁷⁴. Members of the Planning Committee also made a site visit to inspect the proposed location for the development.
- 5.1.4 The motion to refuse the application, proposed by Vice Chairperson Councillor Timothy Billings, and seconded by Councillor Murdoch, was supported unanimously by the committee members. Local Councillors representing NAC Council ward 01 - North Coast ward, also unanimously opposed the proposal – the first time they have taken a joint, cross-party position on a planning application.
- 5.1.5 The Appeal Statement suggests: "We are not aware that the Elected Members had access to or relied upon any contrary evidence to that submitted in support of the application when taking their decision. If they had, we would expect the Appellant to have been made aware in advance of the committee meeting so that they would have had an opportunity to address any concerns arising out of that new evidence." Two very detailed submissions made by CCC, 374 public comments, some of which were comprehensive and technically detailed, as well as objections by the Scottish Wildlife Trust and Fairlie Community Council, all of which the Appellant was aware of, highlighted policies that do not support the proposal, as did representations relating to the previous 3 planning applications. The idea that the Appellant was not aware of any contrary evidence is not plausible.
- 5.1.6 The Appellant also suggests the Planning Committee objections were: "technical in nature" and "subjective" although, given the weight of national and local policy supporting the decision made, it is not clear what they mean by this.

5.2 Adequacy of the decision notice

- 5.2.1 The Appeal Statement questions the fact that no specific policies are referred to within the Decision Notice issued by NAC, stating: "The single reason for refusal includes the impacts of the proposed development on habitats, visual impact and tourism", and: "Elected Members do need to give valid and proper planning reasons to explain their decision to refuse a proposed development contrary to officer recommendation. Where the issues are of a technical nature, there should be justifiable reasons based on supporting evidence to inform any contrary position which members may wish to take."

⁷⁰ Land to the North East of Wee Minnemoer, Cumbrae, Appeal Statement, Stantec UK Limited, August 2023. Para 4.15.

⁷¹ Land to the North East of Wee Minnemoer, Cumbrae, Appeal Statement, Stantec UK Limited, August 2023. Para 5.10.

⁷² Transcript of CCC presentation to NAC Planning Committee meeting 24 May 2023. See Appendix 7.3.

⁷³ Webcast, Planning Committee, North Ayrshire Council, 24/05/2023.

⁷⁴ Planning Committee, 24 May 2023, Minutes of meeting, North Ayrshire Council.

5.2.2 Planning Circular 3/2022: Development Management Procedures ⁷⁵ states decision notices should include:

- The terms of the planning authority's decision.
- Any conditions to which that decision is subject.
- The reasons on which the authority based that decision.
- A statement as to whether the planning authority considers the proposed development to be in accordance with the development plan, and the authority's reasons for reaching that view.

The Decision Notice does all of these things.

5.2.3 In the case of *Moray Council v Scottish Ministers* (2006), relating to an appeal decision, Lord Justice Clerk stated: "In his decision letter he must set out the process of reasoning by which he reaches his decision; but that does not require an elaborate philosophical exercise. Nor does it require a consideration of every issue raised by the parties." ⁷⁶

5.2.4 In *South Bucks County Council v Porter* (2004), Lord Brown of Eaton-under-Heywood stated: "Decision letters must be read in a straightforward manner, recognising that they are addressed to parties well aware of the issues involved and the arguments advanced." ⁷⁷

5.2.5 In the case of *Uprichard v Scottish Ministers* (2013), Lord Reed similarly stated: "...the adequacy of the reasons given in the present case has to be considered on the basis that they are addressed to persons who are familiar with the background and the issues." He went on to state: "It is in addition important to maintain a sense of proportion when considering the duty to give reasons, and not to impose on decision-makers a burden which is unreasonable having regard to the purpose intended to be served." ⁷⁸

5.2.6 The decision reached in this case was discussed in great detail at the Planning Committee meeting, which the Appellant attended, including the relevant policies that supported refusal of the application. The motion for refusal also recapped and expanded on several of these issues. The Appellant cannot therefore claim that they are not fully aware of the reasons that their application was refused, and indeed, they themselves have revisited many of those reasons in their Appeal Statement.

5.3 Adequacy of the Comsol consultation process

5.3.1 In 2016, 42 public comments were submitted in response to the first planning application, of which 41 were objections (98%). None of those comments resulted in any changes to the proposals.

5.3.2 In 2022, 290 comments were submitted in response to the second planning application, of which 282 were objections (97%). The Appellant stated that they withdrew this application to take on board comments made, but in fact no comments were taken on board. The changes made to the design were alterations to the type and layout of solar panels and the addition of battery storage to increase the capacity of the proposed solar farm from 5MW to 19MW.

5.3.3 In relation to the 2023 application, the Appellant states they undertook a public consultation process even though they were not required to do so. However, this consultation process involved just one drop-in session and the invitations to that drop-in session arrived two days after the event. The

⁷⁵ Planning circular 3/2022: Development Management Procedures, Scottish Government, October 2022.

⁷⁶ *Moray Council v Scottish Ministers* 2006 SC 691 (at para [28] et seq).

⁷⁷ *South Bucks County Council v Porter* (No. 2) [[2004] 1 WLR 1953] para 36.

⁷⁸ *Uprichard v Scottish Ministers and another (Respondents)* (Scotland) 2013, UKSC 21. Para 46 and 48.

Appeal Statement states: “Unfortunately, as the Appellant used an external postal company this was outwith their control, and we understand that delivery was affected by national postal strikes.”

- 5.3.4 As a consequence, only 35 members of the public attended the drop-in session and only 12 feedback forms were received by the Appellant. This poor response was in stark contrast to the 374 public comments submitted to NAC in response to the planning application, and the more than 100 people who made their way to the top of the island to protest against the proposal on 25 February 2023.
- 5.3.5 The Committee Report states: “...it is understood they undertook consultation. The adequacy or otherwise would be a matter for themselves and is not relevant to the planning application.” However, at the Planning Committee meeting, the committee members raised concerns about this, with Councillor Marshall stating “I take real concern when you say you’ve consulted the locals. You’ve consulted the locals but you’ve not listened to them. You’ve consulted the Community Council but you haven’t listened to them. I’m here to represent four elected members, 15,000 people; our view strongly is against this application.”⁷⁹
- 5.3.6 Neither the comments made during the drop-in session, nor the public comments submitted to NAC resulted in any changes to the application. The Planning Statement submitted as part of the application states: “In terms of the changes to the proposed development as a result of the public consultation these have been limited for the following reasons” and then gives an explanation as to why no changes were made⁸⁰.
- 5.3.7 After the consultation process had ended, the Appellant submitted a new document to NAC refuting all of the comments made.⁸¹ Despite this, the document states: “Through discussions with the Planning Officer and statutory consultees, a number of concerns were successfully addressed during the determination of the application. At the time of the application being reported to NAC’s Planning Committee, the only other outstanding objection was from the SWT.” This is incorrect, CCC’s objection was still outstanding as was the objection by Fairlie Community Council, as well as objections from 355 members of the public, in addition to 5 people who filled in feedback forms at their own drop-in session.
- 5.3.8 The Appeal Statement also suggests that: “The site layout was informed by a number of key technical considerations, including minimising landscape and visual impact of the proposed development, minimising disturbance to local wildlife and areas of ecological interest and the protection of residential amenity.” (para 2.6) and that they had made: “...significant effort to provide a site layout and design which reflected the pre-application advice given by NAC” (para 3.7). It also states that: “Following submission of the planning application, discussions with NAC’s Planning Officers continued, with discussions focussing on comments received from NAC, the public and statutory consultees, with the Appellant looking to address any concerns raised through the provision of additional information or design revisions.” (para 3.13). In fact no design changes have been made as a result of any of the 708 comments submitted during the 7 years since the original planning application was lodged with NAC.

5.4 Nature crisis v energy crisis

- 5.4.1 The Appellant is correct that **NPF4 Part 1** states: “The world is facing unprecedented challenges. The global climate emergency means that we need to reduce greenhouse gas emissions and adapt to the future impacts of climate change.”

⁷⁹ Webcast, Planning Committee, North Ayrshire Council, 24/05/2023.

⁸⁰ Planning Statement, Proposed Installation of a Photovoltaic Solar Farm with associated Grid Battery Energy Storage Systems, Prepared by Santec on behalf of Comsol Energy Limited, February 2023. Para 4.14.

⁸¹ Response to Community Council Objection, Proposed Installation of a Photovoltaic Solar Farm with associated Grid Battery Energy Storage Systems, Prepared by Santec on behalf of Comsol Energy Limited, May 2023.

- 5.4.2 However, **NPF4 Part 1** also states: “A healthy natural environment is key to reducing emissions. Policies 3 and 4 protect biodiversity and natural assets, which in turn play a crucial role in carbon reduction.” And that: “...when considering all development proposals significant weight will be given to the global climate and nature crises.” (our emphasis)
- 5.4.3 **NPF4 Policy 1 Policy Intent** makes a commitment: “To encourage, promote and facilitate development that addresses the global climate emergency and nature crisis’ (our emphasis)
- 5.4.4 **NPF4 Policy 11: Energy** supports renewable, low-carbon and zero emissions technologies, including solar arrays. But it also states: “...project design and mitigation will demonstrate how the following impacts are addressed: ...biodiversity including impacts on birds.” (our emphasis)
- 5.4.5 LDP2 also includes a number of policies aimed at balancing the nature crisis and energy crisis, most notably, Policy 29, Energy Infrastructure Development, which states: “We will support development proposals for energy infrastructure development, including wind, solar, tidal, cropping and other renewable sources, ...where they ...have no unacceptable adverse environmental impacts... including impacts on our landscape designations; effects on the natural heritage – including birds.”

6 Conclusion

- 6.1 While policy does support proposals for renewable energy generation, it does not do so unconditionally. A range of local and national policies, plans and guidance give specific protection to sensitive and special landscapes, nature conservation areas, habitats and species.
- 6.2 The simple question, to which LDP2 Policy 1 requires an answer, and which an EIA would have required detailed explanation, is - why here? Why propose this large, industrial-scale development on a beauty spot that is an important habitat and home to protected species at the top of a small tourist island accessible only by ferry and a core path, adjacent to its only 360-degree viewing area and a picnic area? The proposed site itself is also topographically and geologically challenging. It is uneven, boggy, rocky and undulating; completely unlike sites typically considered feasible for the construction of solar farms.
- 6.3 This must be one of the most complex and inappropriate sites the Appellant could have selected, and many alternative locations are available. North Ayrshire has 12% of all vacant and derelict land in Scotland, one of the highest proportions of any Scottish Local Authority⁸², including 320 acres of brownfield development land at the Hunterston site just 2km from Cumbrae.⁸³ It is notable that two solar farms that NAC are developing themselves (Shewalton and Nethermains) are on former landfill sites not local beauty spots and important habitats.
- 6.4 Why then does the Appellant propose taking on the additional difficulties of a site on an island, with complex terrain, that is only accessible by ferry, and from which any electricity generated would have to be transmitted back to the mainland, for no obvious benefit to them or to the local community? On a more conventional site a solar farm could achieve all the benefits the Appellant is seeking, could be operational more quickly and at a lower cost, and would have less detrimental effect on the environment.
- 6.5 Construction of the proposed solar farm, even if it is possible on this complex site, would certainly require extensive remodelling of the topography, which would devastate its existing habitats. While it is important that we all act to reduce our carbon emissions, in doing so we must not destroy the very thing we are trying to protect.

⁸² North Ayrshire Vacant and Derelict Land Strategy 2023 - 2027 DRAFT. North Ayrshire Council 2023.

⁸³ Hunterston PARC Development Framework, Peel Ports Group, December 2021.

7 Annexes

7.1 Topography

This page is intentionally blank.



Viewpoint 1

Looking south east from the dam. The design drawings indicate a vehicular track going along the side of a very steep bank with a dramatic change in elevation of 6 to 8m. It would be impossible to construct or use such a track.



Viewpoint 2

Looking up towards the top of the steep incline above the dam. The design drawings indicate a vehicular track climbing this incline. Such a track would be impossible to construct or to use.



Viewpoint 3
Looking towards a large, rocky outcrop. The design drawings indicate straight lines of solar panels installed over this outcrop. It is difficult to understand how this could be constructed without completely remodelling the landscape.



Viewpoint 4
Looking towards a waterbody and large rocky outcrop. The design drawings indicate straight lines of solar panels covering this complex terrain. It is difficult to understand how this could be constructed without completely remodelling the landscape.



Viewpoint 5

Looking across a boggy area towards a large hill. The design drawings indicate straight lines of solar panels covering this landscape, including the hill. It is difficult to understand how this could be constructed without remodelling the landscape.

7.2 References in alphabetical order

Documents and other resources referred to in this representation are listed in alphabetical order below. Where available, links are included. Pdf's of these, and other documents for which links are not available can be provided if required. Copies of emails have not been provided but can be if required.

16/00124/PP, Installation of a photovoltaic solar farm with an output of up to 5MW and associated infrastructure, Comsol Energy Limited, February 2016.	https://www.eplanning.north-ayrshire.gov.uk/OnlinePlanning/applicationDetails.do?keyVal=O2L9BCLE03P00&activeTab=summary
20/00019/FULM, Installation of Solar Photovoltaic Array, Battery Energy Storage System with a Private Wire Grid Connection and Associated Infrastructure, Field 600M S Of East Balloch East Balloch Montrose. Angus Council, 2020.	https://planning.angus.gov.uk/online-applications/applicationDetails.do?keyVal=Q3W10LCFJ3800&activeTab=summary
20/00232/PP, Variation of conditions 6 and 10 of permission ref. 16/00124/PP for installation of a photovoltaic solar farm with an output of up to 5MW and associated infrastructure, Comsol Energy Limited, March 2020.	https://www.eplanning.north-ayrshire.gov.uk/OnlinePlanning/applicationDetails.do?keyVal=Q7AKCLLEKN400&activeTab=summary
2020 Challenge for Scotland's Biodiversity, Scottish Government, 2013.	https://www.gov.scot/publications/2020-challenge-scotlands-biodiversity-strategy-conservation-enhancement-biodiversity-scotland/
22/00385/PP, Installation of a photovoltaic solar farm with an output of up to 5MW and associated infrastructure, Comsol Energy Limited, May 2022.	https://www.eplanning.north-ayrshire.gov.uk/OnlinePlanning/applicationDetails.do?activeTab=summary&keyVal=RC6H9ALEIAD00
23/00114/PP, Installation of a photovoltaic solar farm, with associated battery energy storage systems and associated infrastructure, Comsol Energy Limited. February 2023.	https://www.eplanning.north-ayrshire.gov.uk/OnlinePlanning/applicationDetails.do?activeTab=summary&keyVal=RPV2QWLEMZN00
23/00114/PP Installation of photovoltaic solar farm on site to NE of Wee Minnemoer, Isle of Cumbrae, Scottish Wildlife Trust, 3 March 2023.	https://www.eplanning.north-ayrshire.gov.uk/OnlinePlanning/files/6BCDD2456479F05852CFE4C935DB874E/pdf/23_00114_PP-SWT_RESPONSE-1131435.pdf
Application withdrawn - please read, North Ayrshire Council, 5 September 2023.	https://www.eplanning.north-ayrshire.gov.uk/OnlinePlanning/applicationDetails.do?activeTab=documents&keyVal=RC6H9ALEIAD00
Ayrshire Growth Deal, Marine Tourism.	https://www.ayrshiregrowthdeal.co.uk/service/marine-tourism/
Ballochmartin, Great Cumbrae Solar Farm: Landscape and Visual Impact Assessment, Mabbett & Associates Ltd, 2023.	https://www.eplanning.north-ayrshire.gov.uk/OnlinePlanning/files/ED2A01FF8BA7BF9D7E1638F366EE83F2/pdf/23_00114_PP-Landscape_and_Visual_Impact_Assessment-1127107.pdf
Carbon Neutral Islands: project progress report, published by the Scottish Government in January 2023	https://www.gov.scot/publications/carbon-neutral-islands-project-progress-report/

Carrying statistics - Custom reporting, CalMac.	https://www.calmac.co.uk/corporate/your-carrying-statistics
CNI Project Update - 22 August 2023. Community Development Officer (Cumbrae), Carbon Neutral Islands Project.	
Comment on a planning application, North Ayrshire Council.	https://www.north-ayrshire.gov.uk/planning-and-building-standards/comment-on-a-planning-application.aspx
Comments on the response to the Community Council objection Proposed photovoltaic solar farm on Cumbrae 23/00114/PP, Cumbrae Community Council May 2023.	https://www.eplanning.north-ayrshire.gov.uk/OnlinePlanning/files/3EC02BC04E00E5D0ED850BCBF163BDE1/pdf/23_00114_PP-Response_to_the_Community_Council_Comments-1146178.pdf
Cumbrae 10-year Strategic Island Plan, North Ayrshire Council, 2022.	https://www.north-ayrshire.gov.uk/business/islands-recovery-renewal.aspx
Cumbrae Community Climate Action Plan, North Ayrshire Council, March 2023.	https://carbonneutralcumbrae.co.uk/
Digital North Ayrshire, a leading innovative organisation, 2023 to 2028, North Ayrshire Council, 2023.	https://www.north-ayrshire.gov.uk/Documents/CorporateServices/ITCustServices/digital-strategy.pdf
Email from Alex Harvie, Chair of Cumbrae Community Council to Iain Davies, NAC Senior Development Management Officer, 23 January 2023.	
Email from Chris Cotton, Regional Coordinator for Ross Greer MSP to Iain Davies, NAC Senior Development Management Officer, 10 March 2023.	
Email from Councillor Tom Marshall to Iain Davies, NAC Senior Development Management Officer, 9 March 2023.	
Email from Iain Davies, NAC Senior Development Management Officer to Alex Harvie, Chair of Cumbrae Community Council, 30 January 2023.	
Email from Iain Davies, NAC Senior Development Management Officer to Alex Harvie, Chair of Cumbrae Community Council, 13 March 2023.	
Email from Iain Davies, NAC Senior Development Management Officer to Alex Harvie, Chair of Cumbrae Community Council, 30 March 2023.	
Email from Iain Davies, Senior Development Management Officer, to Alex Harvie, Chair of Cumbrae Community Council to Alex Harvie, 2 May 2023.	
Email from Iain Davies, Senior Development Management Officer, to Alex Harvie, Chair of Cumbrae Community Council, 15 March 2023.	
Email from Iain Davies, NAC Senior Development Management Officer to John	

McHenery, Deputy Chair of Cumbrae Community Council, 29 August 2022.	
Email from Iain Davies, Senior Development Management Officer, to Gregor Harvie, advisor to Cumbrae Community Council, 24 March 2023.	
Email from Iain Davies, Senior Development Management Officer, to Graham Wallace, advisor to Cumbrae Community Council, 30 August 2022.	
Email from Katy Clark MSP to Gregor Harvie, advisor to Cumbrae Community Council, 23 February 2023	
Hunterston PARC Development Framework, Peel Ports Group, December 2021.	https://www.hunterstonparc.com/media/uz0agy4/pp_hunterston_parc_approved_framework_consult.pdf
Islands (Scotland) Act 2018.	https://www.legislation.gov.uk/asp/2018/12/enacted
Isle of Cumbrae Economic Baseline Report (draft), North Ayrshire Council, August 2022.	
Land to the North East of Wee Minnemoer, Cumbrae, Appeal Statement, Stantec UK Limited, August 2023.	https://www.dpea.scotland.gov.uk/Document.aspx?id=966224
Landscape Capacity Assessment, Arran and Cumbrae, North Ayrshire Council, 2008.	https://www.north-ayrshire.gov.uk/Documents/CorporateServices/LegalProtective/LocalDevelopmentPlan/ldp2/arran-cumbrae-landscape-capacity-assessment.pdf
Landscape and Visual Impact Assessment, Mabbett & Associates Ltd, January 2023.	https://www.eplanning.north-ayrshire.gov.uk/OnlinePlanning/files/ED2A01FF8BA7BF9D7E1638F366EE83F2/pdf/23_00114_PP-Landscape_and_Visual_Impact_Assessment-1127107.pdf
Large photovoltaic arrays: planning advice, Scottish Government 2013.	https://www.gov.scot/publications/large-photovoltaic-arrays-planning-advice/
Millport Coastal Flood Protection Scheme.	https://www.north-ayrshire.gov.uk/your-community/community-safety/flooding/millport-coastal-fps.aspx
Moray Council v Scottish Ministers 2006 SC 691 (at para [28] et seq).	
North Ayrshire Local Biodiversity Action Plan 2019-2031, North Ayrshire Council, 2019.	https://www.north-ayrshire.gov.uk/Documents/CorporateServices/Finance/approved-lbap.pdf
North Ayrshire Vacant and Derelict Land Strategy 2023 - 2027 DRAFT. North Ayrshire Council 2023.	https://www.north-ayrshire.gov.uk/Documents/PropertyServices/InfrastructureDesign/vacant-and-derelict-land-strategy-draft-2023-2027.pdf
Millport & Cumbrae, Economic Plan 2015, North Ayrshire Council, 2015.	
Objection to the proposed photovoltaic solar farm on Cumbrae 23/00114/PP, Cumbrae Community Council, 29 March 2023.	https://www.eplanning.north-ayrshire.gov.uk/OnlinePlanning/files/C40E4AC2893C860D1B5811A3C37B59A2/pdf/23_00114_PP-CUMBRAE_COMMUNITY_COUNCIL_RESPONSE-1140936.pdf

Planning Advice Note 1/2013: Environmental Impact Assessment, Scottish Government, 2013.	https://www.gov.scot/publications/planning-advice-note-1-2013-environmental-impact-assessment/documents/
Planning circular 3/2022: development management procedures, Scottish Government, October 2022.	https://www.gov.scot/publications/planning-circular-3-2022-development-management-procedures/pages/5/
Planning Committee Report, North Ayrshire Council, 24th May 2023.	https://north-ayrshire.cmis.uk.com/north-ayrshire/CommitteesMeetings/MeetingsCalendar/tabid/70/ctl/ViewMeetingPublic/mid/397/Meeting/3605/Committee/147/SelectedTab/Documents/Default.aspx
Planning Committee, 24 May 2023, Minutes of meeting.	https://north-ayrshire.cmis.uk.com/north-ayrshire/CommitteesMeetings/MeetingsCalendar/tabid/70/ctl/ViewMeetingPublic/mid/397/Meeting/3605/Committee/147/SelectedTab/Documents/Default.aspx
Planning Statement, Proposed Installation of a Photovoltaic Solar Farm with associated Grid Battery Energy Storage Systems, Prepared by Santec on behalf of Comsol Energy Limited, February 2023.	https://www.eplanning.north-ayrshire.gov.uk/OnlinePlanning/files/0653569A6F7DCF4A5DEF43A2FCF43761/pdf/23_00114_PP-Planning_Statement-1127109.pdf
Preliminary ecological appraisal, Ballochmartin Farm, Cumbrae, Starling Learning, 2015.	https://www.eplanning.north-ayrshire.gov.uk/OnlinePlanning/files/50B998A05DC4E770DC1B23B072FEE747/pdf/16_00124_PP-ECOLOGICAL_APPRAISAL-678496.pdf
Response to Community Council Objection, Proposed Installation of a Photovoltaic Solar Farm with associated Grid Battery Energy Storage Systems, Prepared by Santec on behalf of Comsol Energy Limited, May 2023.	https://www.eplanning.north-ayrshire.gov.uk/OnlinePlanning/files/2F8C96F8B7DCFAFE819E7B166F948E9B/pdf/23_00114_PP-RESPONSE_TO_COMMUNITY_COUNCIL_OBJECTIONS-1144559.pdf
Review of Local Nature Conservation Sites (LNCS), North Ayrshire Council 2023.	https://storymaps.arcgis.com/stories/d037001e221a4760ab8bcad7a16284ac
Scottish Biodiversity List, NatureScot, 2020.	https://www.nature.scot/doc/scottish-biodiversity-list
Scottish Biodiversity Strategy to 2045, Tackling the Nature Emergency in Scotland, Scottish Government, 2022.	https://www.gov.scot/publications/scottish-biodiversity-strategy-2045-tackling-nature-emergency-scotland/
Solar Farm, Isle of Cumbrae, Extended Vegetation Survey, EnviroCentre Limited, January 2023.	https://www.eplanning.north-ayrshire.gov.uk/OnlinePlanning/files/945C3E75C0605517719EC8901CC53436/pdf/23_00114_PP-Extended_Vegetation_Survey-1127089.pdf
Solar Farm, Isle of Cumbrae, Preliminary Ecological Appraisal, EnviroCentre, 9 February 2022.	https://www.eplanning.north-ayrshire.gov.uk/OnlinePlanning/files/A0047984D11432DC9365F9B8CDEF6A11/pdf/23_00114_PP-Preliminary_Ecological_Appraisal-1127111.pdf
South Bucks County Council v Porter (No. 2) [2004] 1 WLR 1953] para 36.	
The economic impacts of wind farms on Scottish tourism, prepared for the Scottish Government, 2008.	
The Impact of Renewable Energy Farms on Visitors to Cornwall, Final Report, Produced for and on behalf of Good Energy by The	

South West Research Company Ltd, November 2013.	
The National Islands Plan, Scottish Government, 2019.	https://www.gov.scot/publications/national-plan-scotlands-islands/
Transcript of CCC presentation to NAC Planning Committee meeting 24 May 2023.	See Appendix 7.3
Uprichard v Scottish Ministers and another (Respondents) (Scotland) 2013, UKSC 21. Para 46 and 48.	
Webcast, Planning Committee - 24/05/2023. North Ayrshire Council.	https://north-ayrshire-public-i.tv/core/portal/webcast_interactive/766781

7.3 Transcript of CCC presentation to NAC Planning Committee meeting 24 May 2023

This application resulted in 350 written comments, a huge number for a tiny island. Many I know are watching the live stream today. 98% were objections. People do not object to solar power on our island in principle - what they object to is this particular proposal for the destruction of a beauty spot and an important habitat.

Our simple question is, why here?

Your local development plan LDP2 states: "In principle, we will support proposals outwith our identified towns and villages for: developments with a demonstrable specific locational need including ... solar farms."

The onus is on the applicant to demonstrate locational need. But they never have, because the power would be fed back to the grid on the mainland, so it could literally be anywhere.

And if that's the case, why put it on a small tourist island, on a beauty spot, next to a picnic area, adjacent to the historic Glaid Stone and the highest point, alongside the core path, on land that includes Scottish Biodiversity List Priority Habitats. And a location where 20 endangered species of bird have been sighted on the RSPB red and amber lists. Those sightings - recorded with the British Trust for Ornithology and the Clyde Islands Recorder, include two species on the priority species list in the North Ayrshire Local Biodiversity Action Plan.

LDP2 Policy 16 states: "Development adversely affecting priority habitats or species set out in the North Ayrshire Local Biodiversity Action Plan will not be permitted unless it can be demonstrated the impacts are clearly outweighed by social or economic benefits of local importance." That's local importance.

Eight of the recorded bird species appear on the Scottish Biodiversity List.

Policy 16 states: "We will support development which would not have an unacceptable adverse effect on our Protected species – your definition of Protected species includes those on the Scottish Biodiversity List."

So why does the planner's report state: "No protected species have been identified"?

Even the applicant's half-hearted survey found five dunlin and acknowledged dunlin are on the Scottish Biodiversity List and are of national importance.

The Scottish Wildlife Trust have objected to this proposal.

The site is also designated by you a Special Landscape Area and a Local Nature Conservation Site.

Policy 16 states: "Development adversely affecting Local Nature Conservation Sites will generally not be permitted unless it can be demonstrated the overall objectives of the designation and the overall integrity of the designated area would not be compromised."

Policy 15 states: "We will support development that protects and/or enhances our landscape / seascape character, avoiding unacceptable adverse impacts on our designated and non-designated landscape areas and features. We will only support development which affects Special Landscape Areas where it would not have an unacceptable impact on their special character, qualities and setting."

Well, a 3m-high fence, 12,000 solar panels, a road network, 6 battery storage containers, 4 inverter stations, a switchgear station, and a substation all of which are up to 5.3m tall as well as 12 power converting units, 6 transformers, and a comms tower (which we know nothing about), over an area the size of 22 football pitches - would obviously have an unacceptable impact on the special character, qualities and setting of the site. Of course they would.

Now the planner's report accepts the application covers 46% of the local nature conservation site, but it says: "It is not considered that there would be any significant adverse impact." None at all.

That would actually be funny if this wasn't so serious. And their suggestion that wildlife won't be affected because the 12,000 solar panels would be raised slightly off the ground is ridiculous.

I think it's important to say here that that when people talk about solar farms not affecting wildlife, what they are talking about is brownfield sites and sites that have previously been intensively agricultural. They are not talking about nature conservation sites because that would be stupid.

Policy 29 states: We will support development proposals for energy infrastructure development, including solar ...where they ... have no unacceptable adverse environmental impacts,... including impacts on our landscape designations and effects on the natural heritage – including birds." So that is your own policy.

Last week we were asked to take part in the North Ayrshire Local Landscape Designation Review which you are undertaking at the moment and I will quote: "We'd like to hear about favourite walks, views and special features of scenic, nature conservation and cultural heritage interest." Well, if you allow this development then those landscape designations are totally meaningless.

It's worth noting that the two similar solar farms being developed by North Ayrshire Council are on former landfill sites, not local beauty spots.

It's also ironic that the residents of Millport do not have permitted development rights to put solar panels on their own roofs because they might spoil the view. A view which will soon include the tallest structure in Scotland, created to bring solar power to the UK from Morocco. So just think about that for a moment.

This proposal offers no benefit whatsoever to the island. Comsol would sell the power for profit back to the grid, so there would not be any contribution to the community-led Carbon Neutral Islands project. None

The applicant may claim that the principle of development was established by a previous approval. But that was seven years ago, they did not act upon it, it was before LDP2 and NPF4 and it was before the community-led Carbon Neutral Island project. It was for a 5MW scheme, not a 19MW scheme, so that's almost four times as much power, and it did not include battery storage. So they can't just wind the clocks back to 2016 and the project they failed to build, because the world has changed and so has their proposal.

They may draw your attention to policies that encourage renewable energy, and they do exist, but as I hope I have highlighted, they explicitly and intentionally exclude sites like this one.

They may also show you some, in our view, misleading computer-generated images. And if they do that, I would just ask you to remember this actual photo of the site. And at the last minute they may talk about visual mitigation measures – which so far they haven't mentioned to us at all – but in reality any mitigation measures would actually just block the views even more.

So please, we just ask look at your own policies, consider your own landscape designations and ask yourself – why here? Because we have never received an answer to that question.

7.4 Summary of all consultation outcomes

Application	Public Comments	Total	For	Neutral	Against
2023 Ref 23/00114/PP Refused application	Submissions on OPIS	122	7	2	113
	Paper submissions not recorded on OPIS	240	3	0	237
	Feedback forms at Comsol drop in session	12	2	5	5
		374	12 (3.2%)	7 (1.9%)	355 (94.9%)
2022 Ref 22/00385/PP Withdrawn application	Submissions on OPIS	70	2	0	68
	Paper submissions recorded on OPIS	220	4	2	214
		290	6 (2.1%)	2 (0.7%)	282 (97.2%)
2020 Ref 20/00232/PP Refused application for variation of conditions. Appeal dismissed	Submissions on OPIS	2	0 (0%)	0 (0%)	2 (100%)
2016 Ref 6/00124/PP Lapsed approval	Submissions on OPIS	42	1 (2.4%)	0 (0%)	41 (97.6%)
Total		708	19 (2.7%)	9 (1.3%)	680 (96.0%)

7.5 Media coverage up to 24 May 2023

Media coverage relating to this case up to the date of the Planning Committee meeting on 24 May 2023 has been compiled and is provided in a separate file: **Cumbrae Community Council - Annex 7.5 Media coverage up to 24 May 2023.pdf**.

7.6 Letter template

Letter to North Ayrshire Council Planning Services

Planning Services
North Ayrshire Council
Cunninghame House
Irvine, KA12 8EE

My name _____

Address _____

Post code _____

My response to the proposed solar farm Planning Application (Ref 23/00114/PP)

I am in favour

I am against

My reasons are

Please continue on another page if needed and remember to include your name and address