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06 October 2022

Dear Mr Beck

## **ELECTRICITY ACT 1989**

### **THE ELECTRICITY WORKS (ENVIRONMENTAL IMPACT ASSESSMENT) (SCOTLAND) REGULATIONS 2017 (AS AMENDED)**

#### **SCREENING OPINION OF THE SCOTTISH MINISTERS IN RESPECT OF A PROPOSED APPLICATION UNDER SECTION 36C OF THE ELECTRICITY ACT 1989 TO VARY THE EXISTING SECTION 36 CONSENT TO CONSTRUCT AND OPERATE THE GALAWHISTLE WIND FARM WITHIN THE PLANNING AUTHORITY AREAS OF EAST AYRSHIRE COUNCIL AND SOUTH LANARKSHIRE COUNCIL**

Thank you for your letter dated 29 June 2022 requesting, on behalf of Galawhistle Wind Farm Limited, a wholly owned subsidiary of Ventient Energy Ltd ('the applicant'), a screening opinion in respect of a proposed application under section 36C of the Electricity Act 1989 to vary the consent granted under section 36 of said Act for Galawhistle Wind Farm.

The proposed varied development is Galawhistle Wind Farm, to be located approximately 7km east of Muirkirk in East Ayrshire and 5km west of Douglas in South Lanarkshire.

The applicant is proposing to vary the section 36 consent for Galawhistle Wind Farm. This was granted by Scottish Ministers on 08 August 2012 (ref: ECU00003185) , with a variation application granted on 26 May 2015 (ref: ECU00003123). This proposed

variation is to extend the period of operation of the generating station by 10 years, from 25 years to 35 years.

The proposed variation requires to be screened by Scottish Ministers in accordance with regulation 7 of the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (as amended) ('the regulations'). Following a request under regulation 8(1), Scottish Ministers are required to adopt a screening opinion on whether the proposed variation is or is not EIA development.

The screening application letter was accompanied by supporting documentation which included the Galawhistle Wind Farm site layout and a screening criteria table.

### **The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017**

The regulations set out (at 8(2)) the information that must accompany a request to Scottish Ministers to adopt a screening opinion. Regulation 10 requires that Scottish Ministers must seek that information if it not included within the screening application documentation. Scottish Ministers consider that the information included in the application letter and supporting documents is sufficient to meet the requirements set out in regulation 8(2), and that the submitted information has been compiled taking into account the selection criteria within schedule 3 of the regulations.

### **Statutory Consultation**

Under regulation 8(5) of the regulations, Scottish Ministers are required to consult the planning authority(ies) within whose land the proposed development would be located. The planning authorities – East Ayrshire Council and South Lanarkshire Council – were consulted. East Ayrshire Council responded on 9 August 2022 advising that, in their view, the proposed varied development **does not** constitute EIA development. South Lanarkshire Council responded on 14 September 2022 advising that, in their view, the proposed varied development **does** constitute EIA development.

Copies of the planning authorities' responses are annexed to this screening opinion (**Annex A**).

### **Scottish Ministers' Considerations**

EIA development is defined in the regulations, in respect of a variation application, as a proposed variation which is either Schedule 1 development, or Schedule 2 development likely to have significant effects on the environment by virtue of factors such as its nature, size or location.

The proposed variation constitutes Schedule 2 development in terms of the regulations.

In adopting a screening opinion as to whether Schedule 2 is EIA development, Scottish Ministers must, in all cases, take into account such of the selection criteria set out in Schedule 3 of the regulations as are relevant to the proposed variation, and the available results of any relevant assessment.

Scottish Ministers have taken the selection criteria set out in Schedule 3 of the regulations, and all of the information submitted in respect of the screening request into account, and have also taken account of the views of the planning authorities.

The Guidance Note: 'Applications for Variations of Section 36 Consents' sets out at sections 27-33, information on how variation applications should be considered in relation to the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (as amended). The amendments to the regulations mean that in situations where the proposed variation is unlikely to have significant environmental effects, no EIA report or process would be required in respect of the variation application.

Scottish Ministers agree with the view of East Ayrshire Council however, disagree with the view of South Lanarkshire Council, and adopt the opinion that **the proposal does not constitute EIA development, and that any application submitted for this proposed development would not require to be accompanied by an EIA report.**

In accordance with regulation 7(2), this opinion is accompanied by the following written statement, with reference to the relevant section criteria within Schedule 3 of the regulations (**Annex B**). In accordance with the regulations, a copy of the screening opinion has been sent to the planning authorities.

## **Written Statement**

### *Characteristics and Location of Development*

The proposed variation consists of an extension of 10 years to the period of operation of the generating station from 25 years to 35 years. Galawhistle Wind Farm is already in place and operational, and the proposed variation to the existing section 36 consent does not require the carrying out of any building, engineering or other operations in, on, over or under land. The extension of time does not alter the appearance or the dimensions of the operational wind farm.

No natural resources such as water, soil, land or areas of biodiversity will be disturbed. No waste will be generated as a result of the proposal, and no pollutants, hazardous substances or nuisances will be released into the air. There will be no risk of major accidents or disasters, and no risk to human health associated with the proposed variation.

### *Characteristics of Potential Impacts*

Taking account of the above, the proposed variation will not have a likely significant effect on the factors specified in regulation 4(3) of the regulations.

This screening opinion does not constitute pre-application advice, and is provided without prejudice to the assessment of any future application under section 36C of the Electricity Act 1989.

Yours sincerely,

**Kirstin Keyes**

**A member of the staff of the Scottish Government**

Cc: Graham Mitchell, East Ayrshire Council  
Stuart Ramsay, South Lanarkshire Council

## **The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017**

### **Regulation 8(5) – Requests for screening opinion of the planning authority by Scottish Ministers**

#### **South Lanarkshire Council – Screening Opinion response to Scottish Ministers**

**Development description:** Section 36C application to extend the operational life of Galawhistle Wind Farm by ten years (Scottish Government EIA Screening Request)

**Site location:**

Galawhistle Windfarm,  
A70 from Glenbuck to Douglas,  
Glespin  
South Lanarkshire

**Date request received:** 26.07.2022

#### **Background**

Under 28 (10 of The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (EIA Regs), it is stated that the EIA Regs apply in “relation to a variation application as they apply in relation to an application for consent under section 36 of the Electricity Act 1989”.

It is therefore the Council’s interpretation of the EIA Regs, that given the original consent was an EIA development, any subsequent Section 36C application should also be treated as an EIA Development, regardless of the variation proposed.

The Council would therefore state, that in their opinion, the proposed variation application constitutes an EIA development and as such should be accompanied by an EIA.

The Council would also note, however, that an update of the original EIA Report outlining the potential effects the amendments may have on the previous findings of said report may suffice in terms of the subsequent Section 36C application.

#### **Screening opinion**

Having regard to the provisions of the above mentioned EIA Regs, it is the Council’s interpretation that any Section 36c application to amend the original Galawhistle consent should be accompanied by an EIA Report. It should be noted however that this is solely the opinion of the Council, as relevant Planning Authority, and that the final decision rests with the Scottish Ministers.

General Letter

Governance

**Chief Governance Officer, Solicitor to the Council  
and Council Monitoring Officer: David Mitchell**



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Our Ref: 22/0003/S36VSC

Date: 5 August 2022

Contact: Graham Mitchell

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Glasgow  
G2 8LU

Dear Sir/Madam

**The Electricity Works (Environmental Impact Assessment) (Scotland)  
Regulations 2017**

**Proposal: Screening Consultation Response in respect of a proposed application under Section 36c of the above act for a variation to amend Condition 1 of S36C consent (EAC ref: 10/0001/S36VAR and ECU ref: EC00003123) to extend the operational life of Galawhistle wind farm**

**Site Address: Galawhistle Wind Farm, C38 Glenbuck Off A70, Glenbuck, East Ayrshire**

I write in connection with the recent consultation sent by the Scottish Government to East Ayrshire Council, as Planning Authority, in respect of above which seeks the Council's views on whether the proposed development is EIA development, as required by Regulation 8 of The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017.

EIA development is defined in the Regulations, in respect of an application, as a proposed development which is either Schedule 1 development, or Schedule 2 development which is likely to have significant effects on the environment by virtue of factors such as its nature, size or location.

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## **EAST AYRSHIRE COUNCIL SCREENING CHECKLIST**

For many types of development, perhaps the majority, it will be necessary to consider the characteristics of the development in combination with its proposed location in order to identify the potential for interactions between a development and its environment and therefore determine whether there are likely to be significant environmental effects. In determining whether a particular development is likely to have such effects, authorities must take account of the selection criteria in Schedule 3 to the Regulations. Three categories of criteria are listed:-

- Characteristics of the development
- Location of the development
- Characteristics of the potential impact

**Consideration of the third of these categories is designed to help in determining whether any interactions between the first two categories (i.e. between a development and its environment) are likely to be significant.**

The items on this checklist are only indicative. Planning authorities and developers should consider the particular circumstances of each application to ensure that all the characteristics of the development and its location are taken into account.

## THE ELECTRICITY WORKS (ENVIRONMENTAL IMPACT ASSESSMENT) (SCOTLAND) REGULATIONS 2017

### SCHEDULE 3

#### SELECTION CRITERIA FOR SCREENING SCHEDULE 2 DEVELOPMENT - EAST AYRSHIRE COUNCIL

	Yes/No	Briefly describe	Is effect likely to be significant? Significance should be considered in terms of the extent, transboundary nature, magnitude and complexity, probability, duration, frequency and reversibility of any impact(s).
<b>1. CHARACTERISTICS OF THE DEVELOPMENT</b>			
<b>(a) Size and design of the development</b>			
Will the development be out of scale with the existing environment?	Yes	The extension of the operational period of the wind farm would continue to exert an impact on the landscape.	Yes.  In the same way as the wind farm itself exerts a significant impact on the landscape, this impact as currently exists would be extended in duration beyond the period whereby the landscape was assessed as being returned to its former state.
Will it lead to further consequential development or works (e.g. new roads, extraction of aggregate, generation or transmission of power)?	No	Site access and tracks already existing would continue to be used.	No. Although these features were introduced by the wind farm originally, having an impact at the time, the current proposal under screening would retain these existing tracks for a further 10 years.
<b>(b) Cumulation with other development</b>			
Are there potential cumulative impacts with other existing development or for proposed development in the planning system?	Yes	Other consents issued and scoping submissions made for other wind farms throughout the wider area.	Yes.  Cumulative impacts are likely to have a significant impact upon the environment given the scale and nature of the proposed

Annex A	Yes/No	Briefly describe	Is effect likely to be significant? Significance should be considered in terms of the extent, transboundary nature, magnitude and complexity, probability, duration, frequency and reversibility of any impact(s).
			development and close proximity of other similar developments, either submitted or forthcoming. Although the contribution to cumulative impacts from this proposal would not increase compared to the existing Galawhistle wind farm at present.
Should the application for this development be regarded as an integral part of a more substantial project? If so, can related developments which are subject to separate applications proceed independently?	Yes	Is directly related to the existing Galawhistle wind farm.	Unlikely. The proposal would extend the life of the existing wind farm. As such the existing wind farm is unaffected and any new application to extend its life can be determined on its own merits.
<b>(c) Use of natural resources</b>			
Will construction or operation of the development use natural resources i.e. land (especially undeveloped or agricultural land)? <ul style="list-style-type: none"> <li>• water or fisheries?</li> <li>• minerals or aggregates?</li> <li>• agriculture, forests and timber?</li> <li>• energy including electricity and fuels?</li> <li>• tourism and biodiversity?</li> <li>• any other resources?</li> </ul>	Yes	The operation of the wind farm has used rough grazing land for sheep farming.	Unlikely. Although the construction of the wind farm has used natural resources and required land take to construct and operate, the proposal to extend the lifetime of the wind farm would require the ongoing land use of the existing wind farm for an extended period but would not require additional use of resources.
<b>(d) Production of waste</b>			
Will the development produce wastes during construction or operation or decommissioning?	Yes	General site waste during operation, though this should be relatively limited. General (de)construction waste during any subsequent deconstruction period.	Yes. During decommissioning of the wind farm there would be the potential for waste arising from such activities to take place, although this would be the same risk associated with the current wind farm and wouldn't materially alter by a proposal to extend the operational lifetime.

Annex A	Yes/No	Briefly describe	Is effect likely to be significant? Significance should be considered in terms of the extent, transboundary nature, magnitude and complexity, probability, duration, frequency and reversibility of any impact(s).
<b>(e) Pollution and nuisances</b>			
Will the development cause noise and vibration or release of leachates, light, heat energy or electromagnetic radiation during construction or operation or decommissioning?	Yes	Operational noise from the turbines.	Yes. Noise impacts would be extended by any proposed lifetime extension of the existing wind farm, though the same controls and mitigation as exist at present would be expected to continue to apply to any proposed lifetime extension.
<b>(f) Risk of accidents, relevant to the project, including those caused by climate change</b>			
Will there be a risk of accidents during construction or operation of the development which could have effects on people or the environment?	Yes	General operating risks.	Likely to be mitigated using the same controls and mitigation as exist on the current operational wind farm.
<b>(g) Other characteristics: potential physical changes (topography, land use, changes in waterbodies etc) from construction, operation or decommissioning of the development; Risks to human health</b>			
<ul style="list-style-type: none"> <li>permanent or temporary change in land use, landcover or topography including increases in intensity of land use?</li> </ul>	Yes	The extension of the operational lifetime of the wind farm will continue to have an impact upon the surrounding landscape.	<p>Yes.</p> <p>The same significant landscape impacts resulting from the operation of Galawhistle wind farm at present would persist for a further period beyond that when the site / landscape was expected to revert to something resembling its original condition.</p>
<ul style="list-style-type: none"> <li>peat land disturbance and/ or degradation leading to:</li> </ul>	No	As the wind farm is currently	Unlikely. The retention of the operational wind

Annex A	Yes/No	Briefly describe	Is effect likely to be significant? Significance should be considered in terms of the extent, transboundary nature, magnitude and complexity, probability, duration, frequency and reversibility of any impact(s).
carbon release, damage to habitats, affecting land stability or hydrology?		operational, the retention of it for a further 10 years would not lead to further land disturbance or carbon releases.	farm for an additional period has some risks for accidental release of contaminants for an increased period over and above the duration for which it was originally intended to operate, and would extend habitat and ecology impacts similarly. However, there would be no additional or more substantial risks or impacts or disturbance to the site and wider environment as there would be no additional construction required to facilitate the extension of the operational lifetime of the existing wind farm.
<ul style="list-style-type: none"> <li>pre-construction investigations e.g. boreholes, soil testing?</li> </ul>	No	Such investigations will have already taken place in respect of the existing operational wind farm.	Unlikely. As the existing wind farm is currently operational and the proposal is to extend the operational lifetime for a further 10 years, there should be no need for any further ground investigations in respect of the current proposal.
<ul style="list-style-type: none"> <li>construction, demolition, reclamation or excavation works?</li> </ul>	Yes	Decommissioning and site restoration at the end of the operational lifetime of the wind farm.	Yes. The decommissioning of the wind farm would result in impacts not dissimilar to the construction period of the wind farm. Any such impacts though would have occurred once the existing consent expires, so there should be no additional significant impacts, over and above those expected to take place, as a result of the current proposal being screened compared to the existing consent.
<ul style="list-style-type: none"> <li>underground works ?</li> </ul>	No	All cabling required should already be in situ.	Unlikely. No additional cabling or underground works should be necessary in respect of extending the operational lifetime of the wind farm.

Annex A	Yes/No	Briefly describe	Is effect likely to be significant? Significance should be considered in terms of the extent, transboundary nature, magnitude and complexity, probability, duration, frequency and reversibility of any impact(s).
<ul style="list-style-type: none"> <li>facilities for storage of goods or materials?</li> </ul>	Yes	Materials will be required to be stored on site as necessary for use in site restoration.	Unlikely. Such material stockpiles should be handled correctly currently and the proposed lifetime extension, subject to appropriate working practices, should retain the appropriate handling and storage of these material for their intended use during the decommissioning and restoration period.
<ul style="list-style-type: none"> <li>new road, rail, air or sea traffic or infrastructure during construction or operation or decommissioning?</li> </ul>	Yes	Traffic associated with decommissioning.	Yes. Decommissioning of the wind farm would see a considerable increase in traffic accessing the site, though this tends to be slightly less than the traffic volumes associated with the construction period. Such significant traffic impacts would be expected to be the same as would take place for decommissioning the existing operational wind farm with or without any extension of the operational lifetime.
<ul style="list-style-type: none"> <li>new or diverted transmission lines or pipelines?</li> </ul>	No	Not forming a part of this application, any such grid connection will have already been implemented to export electricity from the operational wind farm to the national grid.	No. Should not be impacted by any proposal to extend the operational lifetime of the wind farm.
<ul style="list-style-type: none"> <li>any works requiring an <a href="#">authorisation</a> under the Water Environment (Controlled Activities) (Scotland) Regulations 2005</li> </ul>	No	Should this have been required to construct the wind farm, that would have been dealt with already.	Unlikely. The proposal to extend the operational lifetime of the wind farm should not require any additional groundworks.
<ul style="list-style-type: none"> <li>long-term/ongoing activity during restoration or decommissioning which could have an impact on the environment?</li> </ul>	Yes	Decommissioning will have an impact upon the surrounding natural habitats.	Yes. Decommissioning would be similar in duration to the construction period and would generate similar levels of activity on site,

Annex A	Yes/No	Briefly describe	Is effect likely to be significant? Significance should be considered in terms of the extent, transboundary nature, magnitude and complexity, probability, duration, frequency and reversibility of any impact(s).
			<p>which would lead to disturbance on the environment. The proposal to extend the operational lifetime of the wind farm should not result in any additional significant impacts over and above those which would take place at the end of the current operational lifetime of the wind farm.</p> <p>Any habitat or species adjustment to the existence of the wind farm on this site would require to re-establish on the site after decommissioning of the wind farm.</p>
<ul style="list-style-type: none"> <li>influx of people to an area either temporarily or permanently?</li> </ul>	Yes	Construction personnel for decommissioning an site restoration of the site.	Yes. Such influx of people will be a significant change over the infrequent visits required during the operational period. Such impacts in respect of the proposed lifetime extension are expected to be similar to those of the existing consent.
<ul style="list-style-type: none"> <li>risks to human health?</li> </ul>	Yes	General amenity impacts.	Yes. Visual impacts and noise impacts and any potential risk of shadow flicker impacts affecting residential amenity would be extended for an additional 10 years. Subject to appropriate mitigation and controls, as should be in place currently, such impacts should be capable of being mitigated for any extended operational period.
<b>2. LOCATION OF THE DEVELOPMENT</b>			
<b>(a) Existing and approved land use</b>			

Annex A	Yes/No	Briefly describe	Is effect likely to be significant? Significance should be considered in terms of the extent, transboundary nature, magnitude and complexity, probability, duration, frequency and reversibility of any impact(s).
Are there existing land uses on or around the location which could be affected by the development, e.g. undeveloped land, Greenfield land, homes, other private property, industry, commerce, recreation, public open space, community facilities, agriculture, forestry, tourism, water catchments, functional floodplains, mining or quarrying?	Yes	Nearby residential properties.	Yes. Operational wind farm impacts on amenity would continue to be experienced for an extended period. Such impacts should be capable of being mitigated in line with the existing operational controls over the wind farm.
<b>(b) Relative abundance, quality and regenerative capacity of natural resources in the area</b>			
Are there any areas on or around the location which contain important, high quality or scarce resources which could be affected by the development?	Yes	Deep peat in the vicinity of the site.	Possibly. Any impacts on peat will have occurred through the construction and operation of the existing wind farm. Retention of the wind farm for a further 10 years beyond its consented lifetime would retain impacts for a longer period and delay any decommissioning and restoration of the site which may have benefitted the peatland.
<b>(c) Absorption capacity of the natural environment</b>			
Are there any areas on or around the location which are protected under international or national or local legislation for their ecological, landscape and visual, cultural or other value, which could be affected by the development? Particular attention should be paid to wetlands, watercourses or other waterbodies, the coastal zone, mountains, forests or woodlands, nature reserves and parks.	Yes	Muirkirk Uplands S.S.S.I., Glenbuck Loch S.S.S.I., Muirkirk and North Lowther Uplands Special Protection Area (SPA), Glenbuck Loch Local Nature Conservation Site (LNCS), Muirkirk South Uplands LNCS, Muirkirk North Uplands LNCS and Sensitive Landscape Areas are all within close proximity of the application site.	Yes. These designations, particularly in respect of wildlife/birdlife would see impacts extended for a further 10 years over and above those originally assessed.

Annex A	Yes/No	Briefly describe	Is effect likely to be significant? Significance should be considered in terms of the extent, transboundary nature, magnitude and complexity, probability, duration, frequency and reversibility of any impact(s).
Are there any groundwater source protection zones or areas that contribute to the recharge of groundwater resources?	Unknown	Potential for Groundwater Dependent Terrestrial Ecosystems (GWDTE) to be located on site.	Unknown. Impacts should in essence be a continuation of any existing impacts with appropriate controls and mitigation in place to deal with these.
Are their protected species in or around the location, for example European Protected Species, which could be affected?	Yes	A number of designated sites as listed above include those designated for ecological and ornithological interests and could be impacted by the development.	Yes. The Applicant's submission has not included any up to date ecological appraisal so it is unclear what impacts are likely. However, any impacts, particularly in respect of bird species, notably collision risk, would be extended as a result of any extension to the operational lifetime of the development, increasing the risks / impacts to such species.
Are there any routes or facilities on or around the location which are used by the public for access to recreation or other facilities, which could be affected?	Yes	River Ayr Way commences just south of the application site. General access through right to roam. Glenbuck Ironworks Scheduled Monument and Glenbuck garden and designed landscape would attract visitors.	Yes. Recreational users to these sites would continue to face impacts for an extended period. Impacts are likely to be of the same magnitude and nature as experienced at present but for an extended period.
Are there any areas or features of historic or cultural importance on or around the location which could be affected?	Yes	There are a number of Glenbuck non-inventory garden and designed landscape, Glenbuck Ironworks Schedule Monument, and some listed structures, the closest approximately 3km from the nearest turbines to the west, including others within Muirkirk.	Yes. Impacts on settings would be significant although should be no different to those impacts currently experienced as a result of the operational wind farm, albeit the impacts would be extended for an additional 10 years.

Annex A	Yes/No	Briefly describe	Is effect likely to be significant? Significance should be considered in terms of the extent, transboundary nature, magnitude and complexity, probability, duration, frequency and reversibility of any impact(s).
Are there any areas on or around the location which are already subject to pollution or environmental damage e.g. where existing legal environmental standards are exceeded, which could be affected?	Unknown		
Is the development in a location where it is likely to be highly visible to many people?	Yes	The visibility of the development would be as currently experienced throughout the area.	Yes. Visual impacts will be significant and would reflect such impacts as already present, though extended for an additional period of time.
Is the location of the development susceptible to earthquakes, subsidence, landslides, erosion, flooding or extreme or adverse climatic conditions which could cause the development to present environmental problems?	Yes	SEPA flood maps indicate surface water and fluvial flood risk in areas within the site.	Unlikely. As no changes to infrastructure are proposed, the flood risk should remain as presently on the operational wind farm site.

The proposed development constitutes Schedule 2 development in terms of the Regulations (i.e. it constitutes a generating station). In adopting a screening opinion as to whether Schedule 2 development is EIA development, the Council must take into account such of the selection criteria in Schedule 3 of the Regulations as are relevant to the proposed development, and the available results of any relevant assessment.

The Scottish Government's Guidance Note 'Applications for variation of section 36 consents' (May 2019) states in paragraph 33c. "*EIA would be required where (i) the proposed variation, taking account of schedule 3 criteria, introduces a new significant effect, or (ii) the proposed variation may increase or intensify an existing effect, such that the effect would now be likely to be significant for the "proposed varied development" (i.e. the development which would be authorised, if varied as requested in the application).*"

Paragraph 38 of the Scottish Government's May 2019 Guidance Note simply notes in respect of changes to consented operational periods that such applications to extend the time period of operation may or may not constitute EIA development.

With due regard to the selection criteria of Schedule 3 for screening Schedule 2 development set out within the above Regulations, the Council is of the view that **this development is not an EIA development**. An overview of the reasons for this is set out below.

The following statement gives full reasons for this conclusion:

### **Characteristics of development**

The proposed variation relates to Condition 1 of the previous S36C variation consent (ECU ref: EC00003123) which states, "*This consent is for a period from the date of this consent until the date occurring 25 years after the Final Commissioning of the Development. Written confirmation of the date of Final Commissioning of the Development shall be provided to the Planning Authority and Scottish Ministers no later than one calendar month after that event.*"

The Applicant is seeking to extend the operational life of the wind farm by an additional 10 years over and above the original 25 years consented, though the specific wording of their request to vary Condition 1 has not at this time been provided.

No changes are proposed to the physical infrastructure of the existing operational Galawhistle wind farm, which comprises 22 wind turbines (18 at 110.2m to blade tip height and 4 at 121.2m to blade tip height) and associated infrastructure including access tracks.

### **Location of development**

The operational Galawhistle wind farm site is located approximately 7km east of Muirkirk in East Ayrshire and 4km west of Douglas in South Lanarkshire, and extends across both local authority areas, with the majority of the site and turbines located within South Lanarkshire Council. The site areas totals approximately 594ha and is located within the Upland River Valley (10) Landscape Character Type (LCT) (access only) and East Ayrshire Plateau Moorlands (18) LCT where the turbines are located. The A70 road runs in an east-west direction approximately 900m south of the nearest turbine.

The landscape character itself is relatively expansive, open and undulating in nature with a number of hills, with the highest point in the site approximately 463m AOD. The site has some flood risk, as indicated by SEPA's flood mapping, in respect of fluvial and surface water flooding, though this is limited to specific areas of the site and not a widespread risk across large areas of the site.

There are a number of designations out with the site but in close proximity to it, which cover a range of interests. Some of the closest heritage designations include the Glenbuck Garden and Designed Landscape and the Glenbuck Ironworks Scheduled Monument. There are some listed structures in the wider area though these tend to be located at greater distances to the application site than the Glenbuck heritage assets which are just outside the application site. An associated recreational asset located to the south of the application site is the River Ayr Way which begins at Glenbuck Loch.

Other designations in close proximity to the site include the Muirkirk Uplands S.S.S.I., Glenbuck Loch S.S.S.I., Muirkirk and North Lowther Uplands Special Protection Area (SPA). Furthermore, there are the following Local Nature Conservation Sites:- Glenbuck Loch, Muirkirk South Uplands and Muirkirk North Uplands. The Council's Sensitive Landscape Area is also located to the west of the application site.

Muirkirk is the closest settlement at approximately 2.3km west of the application site (and 6.3km from the nearest turbine). Though there are a number of rural farms and properties in closer proximity to the application site, though generally this is a fairly sparsely populated area.

### **Characteristics of potential impact**

The application site currently comprises the operational Galawhistle wind farm, for which the Applicant is seeking consent through a S36c variation to extend the operational life by an additional 10 years.

The impacts associated with the proposed variation would to a large extent

represent the same impacts as result from the current operational wind farm. Considering these characteristics it is considered that landscape and visual impacts will be significant, as too would cumulative landscape and visual impacts, given the scale and nature of the wind farm and other nearby similar developments, extending across South Lanarkshire Council, and more widely in the southern part of the East Ayrshire Council area.

The development also has the potential to cause significant amenity impacts such as through shadow flicker, visual amenity, and most likely noise.

In addition to the above mentioned impacts, there would also be impacts on ecology, hydrology, and the built heritage. These result from the scale and number of turbines and their impact on the settings of heritage assets but also on direct impacts on habitats for protected species and risk of mortality to birds through collision risk with turbine blades.

Through the consent of Galawhistle wind farm, Scottish Ministers took account of the various impacts likely and determined that these impacts would be acceptable for the lifetime of the wind farm – 25 years. After which it was expected that the development would be decommissioned and the site restored, thus alleviating and mitigating some of the greatest impacts, notably the landscape and visual impacts and ecological impacts. Some significant impacts such as traffic impacts and (de)construction impacts expected to take place when the wind farm is eventually decommissioned would be the same as assessed for the original wind farm, though would take place later than originally envisaged.

By seeking to extend the operational lifetime of the wind farm, the proposal would in essence result in the same significant impacts as experienced by the wind farm at present and would extend these for a further 10 years.

Looking back at the Scottish Government's May 2019 Guidance Note at paragraph 33c. there are two instances identified when EIA would be required. Each will be considered in turn:-

*(i) The proposed variation, taking account of schedule 3 criteria, introduces a new significant effect*

Having considered schedule 3 (including the accompanying checklist, summarised in this written response) it is clear the proposed variation would result in a number of significant effects across a range of aspects. These significant effects, however, should effectively be the same as those already experienced or anticipated as assessed for the now operational Galawhistle wind farm. As such it is not considered that the proposed extension to the operational lifetime of the wind farm would introduce *new* significant effects.

*(ii) The proposed variation may increase or intensify an existing effect, such that the effect would now be likely to be significant for the "proposed varied*

*development”*

The proposal to extend the operational life of the existing wind farm would extend significant effects for a longer duration than previously consented. For many significant effects this shouldn't have a material change to how these are experienced at present. With regards to ecology, there is the potential that by extending the operational life of the wind farm, this would extend the duration of time during which wildlife would be displaced or discouraged from using a site for habitat or foraging. Though such displacement or adaptation by wildlife to existing impacts from the operational wind farm are likely to mean that this behavioural change by wildlife would remain through any extension of the operational life of the wind farm. One exception could be the risk of collision with turbine blades by birds, which could see an increase in bird mortality as the risk factor (moving turbine blades) is present for an extended period beyond that originally assessed.

The proposal to extend the operational lifetime of the wind farm is unlikely to increase significant effects over and above those which take place currently due to the operation of the wind farm. By prolonging or 'intensifying' the existing effects (particularly in respect of ornithological impacts), however, this means instance (ii), set out above, has relevance to whether the proposal would require EIA or not. Worth noting is the emphasis within the Scottish Government's Guidance Note on 'now' which is italicised in the Guidance Note, and underlined above. The intensification of effects which would occur as a result of the proposed variation would not result in those effects now being significant for the proposed varied development, as the effects were already considered to be significant originally. Therefore, the proposal to extend the operational life of the existing development by a further 10 years would represent an intensification of existing effects, which were already significant, and the 'proposed varied development' would not now be considered to cause significant effects where those had not previously been identified.

In conclusion, it is worth noting that despite a wide range of significant impacts being assessed for Galawhistle wind farm through previous applications before it was consented and subsequently constructed and began operating, Scottish Ministers assessed these impacts and found them, on balance and subject to appropriate mitigation, to be acceptable. Having regard to the above commentary, it is considered that the proposed variation being sought through a S36c application would result in a wide range of significant effects. These effects, however, are anticipated to be largely equal to those effects already experienced as a result of the operational wind farm, and existing controls and mitigation would be expected to be retained and equally effective for any extended operational period. The proposed variation would represent an intensification of existing *significant* effects rather than an intensification causing significant effects where those had not previously been significant.

The Council, having taken the selection criteria in Schedule 3, all of the information submitted in respect of the screening request, together with the Scottish Government's May 2019 Guidance Note and the above assessment into account, adopts the opinion that the Development **does not constitute EIA development** and any application submitted for this development would not require to be accompanied by an EIA Report.

Nevertheless, appropriate submission materials would be expected to accompany any forthcoming application to enable a fully informed assessment to take place.

Yours faithfully

Graham Mitchell  
**Interim Team Leader – Development Management**

## ECU Screening Checklist – Galawhistle Wind Farm Variation Life Extension

	Yes/ No	Briefly Describe	Is effect likely to be significant? Significance should be considered in terms of the extent, transboundary nature, magnitude and complexity, probability, duration, frequency and reversibility of any impact(s).
<b>1. Characteristics of the Development</b>			
<b>(a) Size and design of the development</b>			
Will the development be out of scale with the existing environment?	No	Galawhistle Wind Farm is operational, comprising 22 wind turbines located c. 7km east of Muirkirk in East Ayrshire and c. 5km west of Douglas in South Lanarkshire. The proposed development involves a variation to the existing consent to alter the consented operational life of the Wind Farm only. There will be no physical changes made to the Wind Farm and, therefore, no change to the existing environment.	Not significant
Will it lead to further consequential development or works (e.g. new roads, extraction of aggregate, generation or transmission of power)?	No	There will be no physical changes made to the Wind Farm and, therefore, no further consequential development.	Not significant
<b>(b) Cumulation with other development</b>			
Are there potential cumulative impacts with other existing development or for proposed development in the planning system?	No	No. The Wind Farm is already in operation and increasing its operational life will not change the scale or effect or result in any cumulative impacts with other existing development or development with planning permission. Subsequent proposed and permitted	Not significant

		developments have taken account of the existing Wind Farm as part of their cumulative assessment with no significant adverse impacts noted.	
Should the application for this development be regarded as an integral part of a more substantial project? If so, can related developments which are subject to separate applications proceed independently?	No	The proposed development includes the amendment of Condition 1 of section 36 consent and ECU00003185 to extend the expiry date of the consent by 10 years. No other development or related projects are proposed.	Not significant
<b>(c) Use of natural resources</b>			
Will construction or operation of the development use natural resources i.e. land (especially undeveloped or agricultural land)? <ul style="list-style-type: none"> <li>• water or fisheries?</li> <li>• minerals or aggregates?</li> <li>• agriculture, forests and timber?</li> <li>• energy including electricity and fuels?</li> <li>• any other resources?</li> </ul>	No	No – the proposed development will not utilise any further resources. The operation of the proposed development utilises wind resources to generate renewable energy, however these are not finite.	Not significant
<b>(d) Production of waste</b>			
Will the development produce wastes during construction or operation or decommissioning? <ul style="list-style-type: none"> <li>• Spoil, overburden or mine wastes?</li> <li>• Household or commercial waste?</li> <li>• Hazardous or toxic substances?</li> <li>• Other industrial processes wastes?</li> <li>• Surplus product?</li> <li>• Sewage or sludge or other sludges from effluent treatment?</li> <li>• Construction or demolition wastes?</li> <li>• Redundant machinery or equipment?</li> <li>• Contaminated soils or other material?</li> <li>• Agricultural wastes?</li> <li>• Any other solid wastes?</li> <li>• Liquid or solid wastes in suspension?</li> </ul>	No	Construction is already complete and there will be no significant additional wastes generated during the operation of the proposed development. All reasonable steps will be taken to ensure that the proposed development adheres with the waste hierarchy principles in terms of preventing, re-using, recycling and recovering waste prior to disposal. Wastes associated with the decommissioning of the project has already been accounted for through technical information supporting the original section 36 consent (ref: EC00003185) including the Environmental Statement ('ES').	Not significant

<b>(e) Pollution and nuisances</b>			
<p>Will the development cause noise and vibration or release of leachates, light, heat energy or electromagnetic radiation during construction or operation or decommissioning?</p> <ul style="list-style-type: none"> <li>• Combustion of fossil fuels from stationary or mobile sources?</li> <li>• Production processes?</li> <li>• Materials handling including storage or transport?</li> <li>• Construction activities including plant &amp; equipment?</li> <li>• Dust or odours from handling of materials including construction materials, sewage and waste?</li> <li>• Any other sources?</li> </ul>	No	<p>There will be no pollutants or hazardous / toxic / noxious substances released to the air during the operational phase of the proposed development. As outlined in the ES, as well as the Environmental Management Plan ('EMP'), which was provided as a condition of the planning permission, measures have been and will continue to be put in place during the operation of the Wind Farm to ensure there are no escape of wastes or other contaminants to the environment. Extending the operational life of the Wind Farm will not impact upon these mitigation measures.</p> <p>The proposed development will continue the operation of the wind turbines, and therefore the existing level of noise generation will continue beyond the currently consented time frame. The Wind Farm has been designed to comply with noise limits contained in ETSU-R-97, the Assessment and Rating of Noise from Noise Farms. The malfunction shut down mechanism and maintenance of the turbines helps to ensure that these noise limits are not exceeded. No noise complaints have been received in relation to the operation of the Wind Farm.</p> <p>The extension of the operation life of the Wind Farm will not result in any additional noise impacts to those for which mitigation measures are already in place. The proposed development will not lead to any increased risk of contamination to surrounding areas. Although regular maintenance of the wind turbines may require the use of oils, greases and other substances, the measures set out through the ES and EMP seek to minimise the risks of contamination to the surrounding area. These measures would continue to be implemented should the operational life of the Wind Farm be extended.</p>	Not significant
<b>(f) Risk of accidents, having regard in particular to substances technologies used</b>			

<p>Will there be a risk of accidents during construction or operation of the development which could have effects on people or the environment?</p>	No	<p>The construction phase of Galawhistle Wind Farm is complete. There have been no reports of any major accidents, pollution incidents or health related incidents.</p> <p>It is not expected that increasing the operational life of the Wind Farm, by an additional 10 years would lead to any additional risk of accidents on people or the environment.</p> <p>As mentioned previously, the maintenance of the wind turbines may require the use of oils, greases and other substances. There are mitigation measures in place in this regard to ensure the risk to people or the environment remains low.</p>	Not significant
<b>(g) Risk to human health</b>			
<ul style="list-style-type: none"> <li>Will there be a risk to human health in respect of water contamination or air?</li> </ul>	No	<p>Galawhistle Wind Farm is already in place and operational. No polluting substances are stored at the site.</p> <p>Galawhistle wind farm is operated in accordance with a site pollution prevention plan to ensure prevention of pollution to land, air or water and compliance with current environmental legislation</p> <p>In terms of air quality, no significant impact is expected given the small number of maintenance vehicle traffic that is created by the Wind Farm.</p>	Not significant
<b>2. Location of the Development</b>			
<b>(a) Existing land use</b>			
<p>Are there existing land uses on or around the location which could be affected by the development, e.g. undeveloped land, Greenfield land, homes, other private property, industry, commerce, tourism and recreation, public open space, community facilities, agriculture, forestry, tourism, water catchments, functional floodplains, mining or quarrying?</p>	No	<p>The impact of the Wind Farm on residential amenity has been considered through the technical information supporting the original consent.</p> <p>Although the proposed development would result in an already established and acceptable visual impact being in place over a longer time period, no additional impacts on residential amenity is predicted as a result of any increase to the operational life of the Wind Farm.</p>	Not significant

Are there any areas on or around the location which are occupied by sensitive land uses e.g. hospitals, schools, places of worship, community facilities which could be affected?	No	The proposed development is located in the rural area, and as such is not in close proximity to any identified sensitive land uses.	
Is the development located in a previously undeveloped area where there will be loss of greenfield land?	No	The development comprises an extension to the operational life of a Wind Farm that is already in place, and therefore, there will be no further loss of greenfield land.	
<b>(b) Relative abundance, quality and regenerative capacity of natural resources in the area</b>			
Are there any areas on or around the location which contain important, high quality or scarce resources which could be affected by the development?	No	<p>The Wind Farm is already in operation, and therefore no further effects are anticipated on any scarce resources including ground water, soil or forestry.</p> <p>In terms of the impact of the proposed development on biodiversity, there are mitigation / enhancement measures set out in the Habitat Management Plan ('HMP') submitted as part of the conditions for the original consent. There is no evidence to suggest the extension to the operational life of the Wind Farm would have any significant effect on biodiversity.</p> <p>Furthermore, the HMP would continue to be reported and reviewed with monitoring results and recommendations provided to South Lanarkshire Council, East Ayrshire Council, NatureScot (formerly Scottish Natural Heritage) and Forestry Commission Scotland.</p> <p>Measures have been implemented on site as part of the HMP commitments to off-set the direct loss of 11.6ha of wet bog, wet heath and dry heath that will result from the wind farm, which include the enhancement of the remaining areas of these habitats, blocking of drainage channels, installing fencing to allow improved stock control, reducing levels of grazing, re-wetting and creation of pools.</p>	Not Significant

<b>(c) Absorption capacity of the natural environment</b>			
<p>Are there any areas on or around the location which are protected under international or national or local legislation for their ecological, landscape and visual, cultural or other value, which could be affected by the development? Particular attention should be paid to wetlands, watercourses or other waterbodies, the coastal zone, mountains, forests or woodlands, nature reserves and parks.</p>	Yes	<p>Part of Shiel Burn Site of Special Scientific Interest ('SSSI') lies within the south section of the Site, but no wind farm infrastructure has been developed on or near it.</p> <p>Muirkirk and North Lowther Uplands SSSI and Special Area of Conservation ('SPA') is located 1.1km northwest, west and southwest from the existing wind farm.</p> <p>The applicant noted that there are twelve other SSSIs and three Special Areas of Conservation within the 10km buffer of the Site boundary. East Ayrshire Council also specifies Glenbuck Loch S.S.S.I, Glenbuck Loch Local Nature Conservation Site (LNCS), Muirkirk South Uplands LNCS, Muirkirk North Uplands LNCS and Sensitive Landscape Areas within close proximity to the Site.</p> <p>No adverse impacts are anticipated from the proposed development beyond those identified in the original ES, for which mitigation measures have already been identified and implemented as applicable. It is not anticipated that an increase in the operational life of the wind farm by 10 years would give rise to any additional significant adverse impacts on these areas.</p>	Not Significant
<p>Are there any areas on or around the location which are densely populated or built up, which could be affected?</p>	No	<p>The area surrounding the Wind Farm is sparsely populated and no significant increase in population is expected during the proposed increase in lifespan of the Wind Farm.</p>	Not significant
<p>Are there any groundwater source protection zones or areas that contribute to the recharge of groundwater resources?</p>	No	<p>There is no sensitive public water supply infrastructure or groundwater source protection zones are located within or in the vicinity of the operational wind farm.</p>	Not significant
<p>Are their protected species in or around the location, for example European Protected Species, which could be affected?</p>	Yes	<p>As outlined above, a HMP is in place which would continue to assess the effects of the proposed development on biodiversity and provide monitoring results and recommendations.</p>	Not significant

		<p>Regarding ornithology, an extension to the operational life of the Wind Farm would increase the total amount of time where there is a risk of collision mortality events for birds. However, as detailed in the ES, 'the magnitude of operational collision effects on all species of High or Moderate Nature Conservation Importance, is considered to be nil or negligible. These effects are not considered to be significant under the terms of the EIA Regulations' (pg. 137).</p> <p>As such, there is no evidence that the predicted rate or mortality will change and therefore no significant effects on these populations are anticipated as a result of the proposed development.</p>	
Are there any routes or facilities on or around the location which are used by the public for access to recreation or other facilities, which could be affected?	Yes	<p>Although the applicant states that there are no core paths or national cycle networks run through the site, East Ayrshire Council state that River Ayr Way commences south of the site, as well as general access through right to roam. They also state that Glenbuck Ironworks Scheduled Monument and Glenbuck garden and designed landscape attract visitors.</p> <p>However it is not anticipated that an increase in the operational life of the wind farm by 10 years would give rise to any additional significant adverse impacts.</p>	Not significant
Are there any transport routes on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected?	No	As identified in the ES, during the operational phase of the Wind Farm, no permanent staff will be based on site. LGV and HGV movements associated with the maintenance of wind turbines will be infrequent and low in number. The extension of the operational life of the Wind Farm will not generate any significant additional regular traffic movements.	Not significant
Are there any areas or features of high landscape or scenic value on or around the location which could be affected?	No	<p>The proposed development will not lead to a change in the landscape from that which is currently in place with the consented Galawhistle Wind Farm. Furthermore, the site itself is not subject to any landscape designations.</p> <p>As identified in the ES, there are several Designated Landscapes within a 35km distance from Galawhistle Wind Farm, including a National</p>	Not significant

		Scenic Area (NSA), three Areas of Great Landscape Value (AGLV), two Sensitive Landscape Areas (SLA,) and two Regional Scenic Areas (RSA). However, only minor and negligible potential effects during operation were identified in the Landscape and Visual Impact Assessment (LVIA) chapter. These effects are not considered to be significant under the terms of the EIA Regulations' (pg. 137). As such, there is no evidence that the predicted effects will change, and therefore, no significant effects on the already mentioned areas of landscape or scenic significance are anticipated as a result of the extension of the operational Galawhistle Wind Farm.	
Are there any areas or features of historic or cultural importance on or around the location which could be affected?	No	All effects of the Wind Farm on cultural heritage have been considered through the ES provided with the original application. An extension to the operational life of the Wind Farm will not lead to any significant effects.	Not significant
Are there any areas on or around the location which are already subject to pollution or environmental damage e.g. where existing legal environmental standards are exceeded, which could be affected?	No	No known areas.	Not significant
Is the development in a location where it is likely to be highly visible to many people?	No	The proposed development will not result in any changes to the visual baseline – i.e. no additional development is proposed beyond that which already exists in the landscape.	Not significant
Is the location of the development susceptible to earthquakes, subsidence, landslides, erosion, flooding or extreme or adverse climatic conditions which could cause the development to present environmental problems?	No	Not at present. There is no evidence to suggest that any extension in the operational life of the Wind Farm, by 10 years, would lead to a significant change in the incidence of landslides, flooding erosion or extreme / adverse climatic conditions. In addition, as noted through the ES the site is not at any significant risk of flooding.  Although SEPA flood maps indicate surface water and fluvial flood risk in areas within the site, this is unlikely to be significant as no changes to infrastructure are proposed, so there should be no additional flood risk due to the extension of the operational life of the Wind Farm.	Not significant

<b>3. CHARACTERISTICS OF THE POTENTIAL IMPACT</b>			
<b>(a) Magnitude and extent of the impact</b>			
Will the effect extend over a large area?	No	The proposed extension to the operational life of the Wind Farm will not extend the effect of development in terms of land area.	Not significant
Will many people be affected?	No	The proposed development will not increase the risk of additional people being affected.	Not significant
<b>(b) The nature of the impact</b>			
Is the nature of the impact of the proposed development unusual in the area?	No	The Wind Farm is already in place and operational on the site. No development is proposed other than the extension of the operational life of the Wind Farm.	Not significant
<b>(c) The transboundary nature of the impact</b>			
Will there be any potential for transboundary impact?	No		Not significant
<b>(d) The intensity and complexity of the impact</b>			
Will there be a large change in environmental conditions?	No	The nature of the site will remain the same.	Not significant
Will the effect be unusual in the area or particularly complex?	No		Not significant
Will many receptors other than people (fauna and flora, businesses, facilities) be affected?	No	As detailed, above, a HMP has been provided which would continue to be reviewed every five years with monitoring results and recommendations provided to South Lanarkshire and East Ayrshire Councils as well as NatureScot (formerly Scottish Natural Heritage) and Forestry Commission Scotland.	Not significant
Will valuable or scarce features or resources be affected?	No		Not significant
Is there a risk that environmental standards will be breached?	No		Not significant
Is there a risk that protected sites, areas, features will be affected?	No		Not significant
<b>(e) The probability of the impact</b>			

Is there a high probability of the effect occurring?	No		Not significant
Is there a low probability of a potentially high significant effect?	Yes	There is low probability of a high significant effect.	Not significant
<b>(f) The expected onset, duration, frequency, and reversibility of the impact</b>			
Will the effect continue for a long time?	Yes	Operational effects will be for a temporary duration, lasting for up to an additional 10 years beyond the currently consented 25 years.	Not significant
Will the effect be permanent rather than temporary?	No	Operational effects will be extended for up to an additional 10 years beyond the currently consented 25 years, but will remain temporary.	Not significant
Will the impact be continuous rather than intermittent?	Yes	The operational effects will be temporary in duration, but during the consented period of operation impact will be continuous.	Not significant
If intermittent, will it be frequent rather than rare?	N/A	N/A	Not significant
Will the impact be irreversible?	No	Following the expiry date of the proposed development, the site would be reinstated in accordance with the conditions set out within the original consent (ref: ECU 00003185).	Not significant
<b>(g) The cumulation of the impact</b>			
Will there be a cumulative impact with other existing or approved development?	No	The additional cumulative effects which arise because of the interaction of Galawhistle Wind Farm with other wind farms will not change in nature but will increase in duration. This is unlikely to lead to any new significant effects. A cumulative assessment of effects upon landscape and visual receptors has been assessed previously in the ESs for subsequent wind farms. No cumulative impacts are therefore expected.	Not significant
<b>(h) The possibility of effectively reducing the impact</b>			
Will it be difficult to avoid or reduce or repair or compensate for the effect?	No	Any adverse impacts can be effectively mitigated. No significant negative effect is anticipated.	Not significant