

REVIEW DECISION NOTICE

Decision by East Lothian Local Review Body (the ELLRB)

Site Address: St Clements Wells Farm, Tranent, EH21 8QN

Application for Review by Mrs Janice Laird against decision by an appointed officer of East Lothian Council.

Application Ref: 11/00833/P

Application Drawings: DWG001, DWG002, DWG003, DWG004 and GAIA-WIND 18-1L.

Date of Review Decision Notice – 19th September 2012

Decision

The ELLRB upholds the decision to refuse planning permission for the reasons given below and dismisses the review.

This Notice constitutes the formal decision notice of the Local Review Body as required by the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008.

1 Introduction

1.1 The above application for planning permission was considered by the ELLRB, at a meeting held on 30th August 2012. The Review Body was constituted by Councillor Norman Hampshire (Chair), Councillor Jim Gillies and Councillor Tim Day. All three members of the ELLRB had attended an unaccompanied site visit in respect of this application on 29th August 2012.

1.2 The following persons were also present at the meeting of the ELLRB:-

Phil McLean, Planning Adviser (in attendance on Site Visit)
Morag Ferguson, Legal Adviser
Fiona Stewart, Clerk.

2 Proposal

2.1 The proposal is for the erection of a wind turbine on agricultural land in a countryside location within the Edinburgh Green Belt around 240 metres to the east of the buildings of St Clements Wells Farm, near Tranent. The application was registered by East Lothian Council's planning service on 20th September

2011 and was refused planning consent by virtue of a Decision Notice dated 18th May 2012. The reasons for refusal were set out in full in that Decision Notice and are, in summary, that, due to the harmful impact the proposed turbine would have on the landscape in this area of the Green Belt, it is contrary to policies DC1 and NRG3 of the adopted East Lothian Local Plan 2008 and associated planning guidance. The Applicant has applied to the ELLRB to review the decision to refuse planning consent.

3 Preliminaries

3.1 The ELLRB members were provided with copies of the following:-

1	The drawings specified above
2	The application for planning permission with supporting statement
3	The Appointed Officer's Report of Handling
4	A copy of the Decision Notice dated 13 th April 2012
5	Copies of Policies ENV2, ENV3, ENV6, ENV1C and ENV1D of the Approved Edinburgh and the Lothians Structure Plan 2015
6	Copies of Policies DC1, DC2, DP13, NRG3, NTG5, ENV3, ENV7 and T2 of the Adopted East Lothian Local Plan 2008
7	Copies of Consultation Responses from ELC's Senior Environmental and Consumer Services Manager, Transportation Services, Policy and Projects (Landscape) Section, Archaeology Officer and Biodiversity Officer, from Historic Scotland, Transport Scotland, MOD, BAA, NATS and CAA
8	Copy of Visual Supporting Information provided by the Applicant
9	Notice of Review dated 3 rd July 2012 and supporting review statement
10	Copy Objections and Representations
11	Schedule of Proposed Conditions

4 Findings and Conclusions

4.1 The ELLRB confirmed that the application for a review of the original decision permitted them to consider the application afresh and it was open to them to grant it in its entirety, grant it subject to conditions or to refuse it.

The Members asked the Planning Adviser to summarise the planning policy position in respect of this matter. The Planning Adviser gave a brief presentation to Members advising that the application site is at St Clements Wells, in a countryside and Green Belt location. The application is for a single 11kW wind turbine, a two-bladed horizontal axis turbine on a lattice style tower, which would be 18.3m to hub, with a blade diameter of 13m, giving a total height to blade tip of 25m. The turbine is proposed around 200m east of the farm complex.

He outlined the broad policy context for development in the countryside and green belt as provided by Structure Plan policies ENV2 and ENV3 and Local Plan policies DC1 and DC2. He explained that, essentially, these policies seek to restrict development in the countryside to protect its character, to protect the landscape setting of Edinburgh and its neighbouring towns and to avoid

coalescence between towns. He confirmed that policy DC1 contains a number of criteria to be satisfied, including relating to visual and landscape impact, while policy DC2 allows for development in the Green Belt where it will not harm the rural character of the area.

He advised that development plan policy on renewable energy development seeks to weigh the benefits of renewable energy generation against the impact on the local environment and features of interest, and to protect valued landscape features. The key policies are Structure Plan policy ENV6 and Local Plan policy NRG3; the latter requires proposals to be assessed in terms of landscape character, visual impact, noise, shadow flicker, water environment, potential alternative sites, and cumulative impacts. In addition, Local Plan policy NRG4 is also relevant and seeks to ensure suitable restoration once electricity generation has ceased.

He outlined a number of other development plan policies that are relevant to this application, namely:

- Structure Plan policies ENV1C and ENV1D and Local Plan policies ENV3 and ENV7 which provide protection to listed buildings, scheduled monuments, and other archaeological sites and their settings.
- The Local Plan requires biodiversity to be taken into account in development proposals, specifically in policy DP13.
- Policy T2 of the Local Plan requires new development not to have significant adverse consequences for road safety.

He identified that a number of other documents are also relevant to his application, including Scottish Planning Policy, the Scottish Historic Environment Policy, the Government's onshore wind turbines guidance, the Council's wind turbine planning guidance document, and the 2011 supplementary landscape capacity study. In particular,

- Scottish Planning Policy advises planning authorities to support wind farm development in locations where environmental and cumulative impacts can be satisfactorily addressed, and the Government's online advice note on onshore wind turbines contains further advice on a wide range of matters such as landscape impact, biodiversity, and impacts on communities. Scottish Planning Policy also states that the historic environment should be safeguarded through planning decisions.
- The Scottish Historic Environment Policy provides further guidance on the historic environment.
- The Council's 2010 planning guidance document on lowland wind turbines provides detailed guidance on relevant planning policies and their implications, expanding on the provisions of the development plan.
- The Council's 2011 supplementary capacity study identifies the site as being within the 'Mayfield/Tranent ridge' landscape character area. The document indicates that there is no capacity to accommodate turbines over 20m in this part of the area. It recommends that any turbines should be visually associated with farms and buildings to minimise visual clutter, and should be sited on lower slopes.

He confirmed that the appointed officer refused the application for a single reason, namely that the proposals would have a harmful impact on the landscape of the Green Belt and would therefore be contrary to the relevant development plan policies and planning guidance. The officer considered the proposals were acceptable in terms of shadow flicker, noise, residential amenity, road safety, biodiversity, and impacts on the historic environment, including nearby listed buildings and archaeological sites, and the designated battlefield.

He advised that the applicant's agent has provided a statement to accompany the request for review. In summary, this statement proposes that the development would contribute to the viability of the farm business of the applicant and would be acceptable in terms of visual and landscape impact. It also comments that the 2011 landscape capacity study does not rule out turbines of this size in this area and attention is also drawn to the proximity of the telecommunications tower nearby. He reminded the ELLRB that the original application included supporting visual information, copies of which are in the review papers.

He advised that there have been two public objections received, one from a local resident and one from the Architectural Heritage Society of Scotland. Issues raised include: impacts on the setting of the listed building at St Clements Wells, visual and landscape impact, including from nearby properties, cumulative impacts, noise, and inconsistency with the Council's landscape capacity study.

He advised that there were no objections from the Civil Aviation Authority, National Air Traffic Services, Ministry of Defence, BAA Airports, Historic Scotland, or the Council's Head of Transportation and Biodiversity Officer. The Council's Environmental Protection Manager raised no objections subject to a condition regarding noise levels. The Council's Archaeology Officer advised that the site is within a nationally designated battlefield and may also impact upon archaeological remains. He advised that this area is not thought to have seen main action of the Battle of Pinkie; however he recommended a programme of archaeological works prior to any development.

The Council's landscape officer advised that the proposed turbine would have a detrimental impact on views of Fa'side Castle when viewed from the north, and on panoramic views from the Fa'side ridge, which is a popular viewpoint. He also noted that the Council's 2011 landscape capacity study does not support the proposals.

Finally, he summarised the main questions for the ELLRB to consider in reviewing the case are:

- Whether the proposals comply with development plan policy in respect of development in the countryside and Green Belt, renewable energy, landscape, historic environment, biodiversity, and road safety; and
- Whether there are any other material considerations that should be taken into account, such as national policy, and whether any of these outweigh the provisions of the development plan in this case.

He then reminded Members that they have the option of seeking further information if necessary before making a decision, either through further written submissions, a hearing session, a further site visit, or a combination of these procedures.

The Chair asked the members to consider whether they had sufficient information to enable them to proceed to make a decision in respect of this matter. All members considered that they did have sufficient information. Accordingly, the decision of the ELLRB was that they would proceed to reach a decision at this meeting.

- 4.2 Councillor Hampshire confirmed that the site visit had been very important as it made clear the impact that this turbine would have on the landscape. Whilst he was sympathetic to the need for farmers to explore alternative sources of energy, it was his view that the application was clearly contrary to the Council's own planning guidance in respect of the siting of turbines and there was not sufficient justification to consider an exception to the guidance. Accordingly, he was minded to uphold the original decision to refuse this application.
- 4.3 Councillor Day confirmed that, having reviewed this application carefully, he was minded to uphold the original decision to refuse planning permission. He outlined his reasons, being that the proposed location for this turbine falls within the Mayfield/Tranent Ridge as outlined in the Council's own planning guidelines issued in 2011. As this application relates to a turbine of a height of some 24.8 metres, the guidance explicitly states that there is no capacity to accommodate any Typology C turbines within this location. In addition, he considered that a turbine of this scale would be incongruous and obtrusive in this location as a result of the surrounding rising landform, and the lack of shielding from nearby buildings all of which would result in a structure that would dominate the landscape, contrary to policy NRG3 of the adopted East Lothian Local Plan 2008.
- Councillor Gillies concurred with the views of his colleagues and confirmed that he was also minded to uphold the original decision to refuse for the reasons set out in the original Decision Notice.
- 4.4 Accordingly, the ELLRB unanimously agreed that the Review should be dismissed and the original decision to refuse this application should be upheld, for the reasons set out in the original Decision Letter of 18th May 2012. The Review Application was accordingly dismissed.



Morag Ferguson
Legal Adviser to ELLRB

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

Notification to be sent to applicant on determination by the planning authority of an application following a review conducted under section 43A(8)

Notice Under Regulation 21 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008.

- 1 If the applicant is aggrieved by the decision of the planning authority to refuse permission or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.

- 2 If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.