

REPORT TO: Cabinet

MEETING DATE: 11 June 2013

BY: Executive Director (Services for Communities)

SUBJECT: Proposed Modification to Planning Guidance for the Location and Design of Wind Turbines in the Lowland Areas of East Lothian – Consultation Response on Environmental Report

1 PURPOSE

- 1.1 This report (i) advises Cabinet on the consultation response to the Environmental Report for the proposed modification to the Council's *Planning Guidance for the Location and Design of Wind Turbines in the Lowland Areas of East Lothian*, December 2010 (ii) recommends the response that Cabinet should make to each representation and (iii) recommends that the proposed modification to this planning guidance, with minor amendment, should be adopted as Council planning policy.

2 RECOMMENDATIONS

- 2.1 It is recommended that Cabinet:
- (i) Considers and approves the recommended response to each of the representations received on either the Environmental Report that accompanies the proposed modification to the Council's *Planning Guidance for the Location and Design of Wind Turbines in the Lowland Areas of East Lothian*, or on the proposed modification itself, all as detailed in Appendix One to this report;
 - (ii) Agrees to adopt the proposed modification, as amended, as policy guidance that will constitute a material consideration in the determination of planning applications for wind turbines in lowland East Lothian.

3 BACKGROUND

- 3.1 In December 2011, the Council approved the recommendations of the *East Lothian Supplementary Landscape Capacity Study for Smaller Wind Turbines* (SLC). In doing so, the Council agreed that the study's recommendations should be incorporated into the Council's *Planning Guidance for the Location and Design of Wind Turbines in the Lowland Areas of East Lothian* (PGLDWT) and that this modification would require Strategic Environmental Assessment (SEA).
- 3.2 The Environmental Assessment (Scotland) Act 2005 (EIA Act) requires that certain plans and projects are subject to environmental assessment. SEA is a means of assessing and monitoring any significant environmental effects that might arise as a result of the practical application of the proposed modification, and how any such negative effects can be prevented or reduced.
- 3.3 An Environmental Report (ER) was therefore prepared to accompany the proposed modification to the Council's planning guidance. This ER was placed into the Members Library Service and was recorded into Council business at its meeting on 23 April 2013 (62/13).
- 3.4 It is a requirement of the EIA Act that, before the proposed modification to the Council's PGLDWT can be formally adopted, its Environment Report must be consulted on and the outcome of these consultations taken into account. The Act also requires that once the proposed modification is adopted a statement is published explaining how the Council has taken the SEA process into account and how environmental considerations have been integrated into the proposed modification to the PGLDWT.
- 3.5 Both the ER and the planning guidance, as modified, were made available for public consultation. The latter has been renamed, for brevity, as *Planning Guidance for Lowland Wind Turbines*. The consultation involved a seven week consultation period, with press advertisement, details placed on the Council's consultation hub and the planning pages of the Council's web site, and an extensive mailing list. This list included all Community Councils, amenity and other organisations, the renewables industry and every applicant who had made an application for a wind turbine/wind farm in East Lothian.
- 3.6 The response to the consultation is presented in Appendix One. Given the extent of the consultation, the number of responses is perhaps disappointing. Other than from the Consultation Authorities and other statutory bodies, all responses appear to be from local organisations and individuals. There is no renewables industry response.
- 3.7 In terms of the statutory SEA formalities, the Consultation Authorities (Historic Scotland, SNH and SEPA) are broadly content with the findings of the Environment Report. Historic Scotland has an issue with the conclusion that the proposed modification will have a neutral, rather than a negative, impact on cultural heritage (mitigated to a neutral

impact when other development plan policy considerations are applied). This does not affect the Proposed Modification itself and will be considered further in the required SEA post-adoption statement mentioned in para. 3.4 (above).

- 3.8 None of the responses to the Environment Report raise any issues that require change to the proposed modification to the Council's planning guidance. Comments on the proposed modification itself are overwhelmingly supportive of the Council's position. In response to issues raised by two respondents in relation to the impact of turbines on landmark features, minor amendments to the text of the proposed modification are recommended. No other change is recommended.
- 3.9 Cabinet is now free to adopt the proposed modification to its PGLDWT. Completing the SEA process means that the guidance cannot be challenged as not complying with the EIA Act. While this guidance does not have the same status as development plan policy, it is a material consideration in the determination of planning applications. The guidance will subsequently be incorporated into the East Lothian Local Development Plan currently in preparation.
- 3.10 The next stage in the process is the preparation of the post adoption statement. This will provide the public with details of the adopted modification to the Council's PGLDWT, it will inform the Consultation Authorities of its adoption and it will advise as to how environmental considerations have been integrated into the modification and how these will be monitored.

4 POLICY IMPLICATIONS

- 4.1 The modified planning guidance will be a material consideration in the determination of wind turbine applications.

5 EQUALITIES IMPACT ASSESSMENT

- 5.1 This report is not applicable to the well being of equalities groups and Equality Impact Assessment is not required.

6 RESOURCE IMPLICATIONS

- 6.1 Financial – None
- 6.2 Personnel - None
- 6.3 Other – None

7 BACKGROUND PAPERS

- 7.1 *Planning Guidance for the Location and Design of Wind Turbines in the Lowland Areas of East Lothian*, ELC, 2010
- 7.2 *East Lothian Supplementary Landscape Capacity Study for Smaller Wind Turbines*, Carol Anderson and Alison Grant, 2011
- 7.3 Report by Executive Director of Environment to East Lothian Council, 13th December 2011, *Supplementary Landscape Capacity Study for Smaller Wind Turbines: Review of Consultation Response*
- 7.4 Environmental Report on a *Proposed Modification to Planning Guidance for the Location and Design of Wind Turbines in the Lowland Areas of East Lothian*, December 2010, East Lothian Council, March 2013.
- 7.5 Report to Members Library Service (ref 62/13) *Environmental Report for Proposed Modification to Planning Guidance for the Location and Design of Wind Turbines in the Lowland Areas of East Lothian*, Executive Director, Services for Communities, March 2013

AUTHOR'S NAME	Ian Glen
DESIGNATION	Policy and Projects Manager
CONTACT INFO	01620 827395 iglen@eastlothian.gov.uk
DATE	22 May 2013

Comments on the *Environmental Report* and/or the Proposed Modification to the Council's *Planning Guidance for the Location and Design of Wind Turbines in Lowland Areas of East Lothian*, December 2010

1 THE CONSULTATION AUTHORITIES

Historic Scotland

Historic Scotland is content to agree with the approach taken, namely that the SEA relates only to the Proposed Modification to the Lowland Wind Turbine Guidance and not to the Guidance as a whole.

HS welcomes the inclusion of the comments that they made at scoping stage, particularly in relation to historic battlefields.

HS comment that the ER's assessment of the Proposed Modification's as having a neutral impact on cultural heritage is based on the application of local and national policy in mitigating any such effects. It is their view that the environmental effect of the Proposed Modification is a negative one, with the residual impact being neutral dependant on the successful implementation of the mitigation by development plan policy.

Under Monitoring, HS would wish to see consideration given to monitoring wind turbine planning applications where significant effects on the setting of historic assets are predicted.

Recommended ELC Response

Acknowledge the importance of considering effects on the setting of historic assets when monitoring wind turbine applications.

Further consideration to be given in the post-adoption SEA statement to Historic Scotland's view that the Proposed Modification will, without policy mitigation, have a negative impact.

No change to Proposed Modification or Environmental Report required as a consequence of comments.

Scottish Natural Heritage

SNH welcomes the modification and notes that the ER has addressed all of the issues raised in their Scoping response. SNH confirms that they are satisfied with the conclusions drawn that impacts of the proposed modification on biodiversity, fauna and cultural heritage will be neutral while there will be a significantly positive impact on landscape.

Recommended ELC Response

Welcome support.

No change to Proposed Modification or Environmental Report required as a consequence of comments.

SEPA

SEPA is content that most of their scoping comments have been taken into account and welcome the additional information provided in relation to waste and the further explanation for scoping out material assets.

In terms of procedures, SEPA note that as this is a finalised Proposed Modification then the Council is required to take account of the ER findings and of the views expressed on it during the consultation period. As soon as practical after the Proposed Modification's adoption the Council should publish a statement (an "SEA Statement") setting out how this has occurred.

Recommended ELC Response

Note consequential procedural matters.

No change to Proposed Modification or Environmental Report required as a consequence of comments.

2 OTHER STATUTORY BODIES

Forestry Commission Scotland

Welcome the key consideration highlighted under paras 4.21-4.23 (resisting the removal of trees and hedgerows that would be detrimental to landscape character).

Recommended ELC Response

Welcome support.

No change to Proposed Modification or Environmental Report required as a consequence of comments.

City of Edinburgh Council

No comment to make on the inclusion of the recommendations of the Supplementary Landscape Capacity Study for Small Wind Turbines as a modification to East Lothian Council's planning guidance.

Recommended ELC Response

Comments noted.

No change to Proposed Modification or Environmental Report required as a consequence of comments.

3 COMMUNITY COUNCILS

North Berwick Community Council

Consider the Proposed Modification to be completely acceptable and necessary. Comment that the Scottish Government's proposed ban on wind farms in wild areas increases pressure on the remaining parts of Scotland.

Express concerns about the overturning of local decisions on wind turbines by Scottish Government Reporters.

Comment that the proposed modifications use of landscape and visual impacts as its only criteria could be questioned from the scoping point of view. Note that cultural heritage, biodiversity and fauna must also be considered as important factors, although believe that there are sufficient established policy safeguards on biodiversity and cultural heritage.

Note that the Community Council's area includes particularly sensitive areas for both landscape and biodiversity and stress the importance of tourism and comment that smaller turbines can still affect the setting of historic buildings. The Community Council would be glad of advice on what grounds they are permitted to make objections to applications.

Recommended ELC Response

Support welcomed. Cultural heritage, biodiversity and fauna are considered important factors in the Environmental Report that accompanies the Proposed Modification. The Planning Service would not wish to provide advice to Community Councils on the grounds for objecting to specific planning applications. Every application should be assessed on its individual merits and the Service would not

wish to be seen to be less than independent in its consideration of these. Further discussion with the Community Council is required on this matter and will be followed up.

No change to Proposed Modification or Environmental Report required as a consequence of comments.

Gullane Community Council

Consider that ELC should not allow groups of turbines that are not visually associated with farm or other buildings in the Northern Coastal Margin landscape character area and those parts of the Agricultural Plain that lie within the Gullane Community Council area.

Consider that the Guidance's acknowledged limited capacity for wind turbines of more than 20 metres in height within the Agricultural Plain has already been reached.

Suggest that with respect to turbine typology D (between 12 metres and less than 20 metres) there should be a similar reference under the Agricultural Plan as there is under the Northern Coastal Margin to the avoidance of intrusion of turbines on landmark features such as North Berwick law, the Firth of Forth Islands and Tantallon and Dirleton Castles.

Consider that the amenity of Saltcoats Castle should be protected in the same way.

Concerned at the stark white appearance of several of the existing turbines and suggest that the Council should require future columns and blades to be finished in colours better able to blend into the landscape.

Recommended ELC Response

The first two points relate to the practical application of the Planning Guidance and are noted. As a general principle, smaller turbines should be sited such that they are associated with existing buildings. However, a degree of flexibility may need to be retained here as it remains possible that an acceptable turbine location could be identified that was not related to existing buildings.

The third and fourth points, which suggest amendment to the conclusions on typology D turbines in respect of the Agricultural Plain landscape character area, are broadly accepted. It is recommended that:

- 1 the reference '*landmark features such as North Berwick Law, Tantallon and Dirleton Castles*' is added to the Agricultural Plan, sub area 1 East, in the third line of para 6.29, and

- 2 the reference '*landmark features such as North Berwick Law and Dirleton and Saltcoats Castles*' is added to the Agricultural Plan, sub area 2 North, in the fifth line of para 6.31.

The issue of turbine colour is noted and will be considered in the determination of turbine applications. The impact of turbine colour is often a combination of factors, including the prevailing weather conditions and the backcloth against which it is viewed. Light grey may offer the best balance between these factors.

Dunpender Community Council

Confirms their support for the adoption of the revised guidance material.

Recommended ELC Response

Support welcomed.

No change to Proposed Modification or Environmental Report required as a consequence of comments.

4 AMENITY AND LOCAL ORGANISATIONS

SABEL (Sustain a Beautiful East Lothian)

Fully endorse the revised Planning Guidance. Welcome the addition of the siting guidelines in Appendix Four and its recognition of cumulative impact issues. To ensure respect for the guidance by both supporters and objectors, request that the Council strongly enforces the typology banding restrictions when undertaking pre-application discussion with applicants.

Recommended ELC Response

Support welcomed.

No change to Proposed Modification or Environmental Report required as a consequence of comments.

Dirleton Village Association

Welcome any improvements to current guidance which produce clarity and transparency in the decision-making process. Comment that within the Northern Coastal Margin there is a 'presumption against' groups of turbines not visually associated with farms or other buildings but note that there is already in this area a number of such turbines.

Note that there remain areas of subjectivity, such as in relation to an assessment of the 'capacity' of an area for wind turbines.

Suggest that with respect to turbine typology D (between 12 metres and less than 20 metres) there should be a similar reference under the Agricultural Plan as there is under the Northern Coastal Margin to the avoidance of intrusion of turbines on landmark features such as North Berwick law, the Firth of Forth Islands and Tantallon and Dirleton Castles.

Consider that conservation villages should be added to the list of key landmark features.

Concerned at the stark white appearance of the majority of installed turbines and suggest that the Council should negotiate with manufacturers a range of less obtrusive colours.

Recommended ELC Response

General support welcomed. As a general principle, smaller turbines should be sited such that they are associated with existing buildings. However, a degree of flexibility may need to be retained here as it remains possible that an acceptable turbine location could be identified that was not related to existing buildings.

Agree that assessment of capacity is subjective to a degree: it is not an exact science. The planning authority, in applying this planning guidance, will try to minimise the scope for any such subjectivity in its decision-making.

The suggested amendments to the conclusions on typology D turbines in respect of the Agricultural Plain landscape character area, are broadly accepted. It is recommended that:

- 1 the reference '*landmark features such as North Berwick Law, Tantallon and Dirleton Castles*' is added to the Agricultural Plan, sub area 1 East, in the third line of para 6.29, and
- 2 the reference '*landmark features such as North Berwick Law and Dirleton and Saltcoats Castles*' is added to the Agricultural Plan, sub area 2 North, in the fifth line of para 6.31.

Conservation villages are not in themselves a specific planning designation. The impact of wind turbine development on the landscape setting of settlements, and on the character and appearance of conservation areas, is considered in paras 4.1 to 4.8 of the planning guidance.

The issue of turbine colour is noted and will be considered in the determination of turbine applications. The impact of turbine colour is often a combination of factors, including the prevailing weather conditions and the backcloth against which it is viewed. Light grey may offer the best balance between these factors.

5 INDIVIDUALS

F Hamilton

Questions whether any ELC policy will have any influence, given that the Scottish Government frequently overrules local decision-making.

Considers turbines have an awful visual impact, are costly and generate intermittently.

Considers that turbines should not be sited:

- (a) in areas where migratory birds fly in spring and autumn ie along the coast such as between Dunbar and Thorntonloch.
- (b) in areas where geese are frequent, particularly inland of Aberlady Bay.
- (c) within two miles of known sites where bird populations are known to be high, such as Aberlady and Tynninghame Bays, new quarry south of Dunbar, or Levenhall Lagoons/Esk
- (d) in areas of moorland on peat should be completely avoided because of road construction and the turbines themselves. Such areas are also often key for raptors.

In view of the number of existing and potential turbines, no more should be given planning permission.

Recommended ELC Response

The policy is intended to influence the location and design of wind turbines before they are submitted as planning applications. It is a matter for Inquiry Reporters how they determine any subsequent planning appeals.

The siting comments are noted. Paras 4.63 to 4.71 of the guidance addresses the biodiversity impacts of lowland wind turbines. The Planning Service consults with the Council's Biodiversity Officer and with Scottish Natural Heritage. The preference is not to be any more specific in the guidance but to consider each application on its merits, informed by these consultation responses.

No change to Proposed Modification or Environmental Report required as a consequence of comments.

T Hield

Wholehearted agreement with the modification, bringing much needed clarity of purpose and force to the Supplementary Landscape Capacity for Smaller Wind Turbines.

Recommended ELC Response

Support welcomed.

No change to Proposed Modification or Environmental Report required as a consequence of comments.

T Jackson

Believe that the Scottish Government's policy on wind turbines (and windfarms) is fundamentally flawed. Recognise that East Lothian has taken a pragmatic approach in its Proposed Modification and supports this.

Recommended ELC Response

Support welcomed.

No change to Proposed Modification or Environmental Report required as a consequence of comments.

C McIntyre

Fully supports the proposed modification

Recommended ELC Response

Support welcomed.

No change to Proposed Modification or Environmental Report required as a consequence of comments.

R Simpson

Comments on the importance of having renewable power available to homes and businesses in rural East Lothian. Submits that wind power is clean and free and should be encouraged but considers that wind turbines should be restricted to a height of 20 metres with not too many in one place. Believes that there is potential for more turbines.

Recommended ELC Response

Comments noted.

No change to Proposed Modification or Environmental Report required as a consequence of comments.