

REPORT TO: Cabinet

MEETING DATE: 12 November 2013

BY: Depute Chief Executive (Partnership and Services for Communities)

SUBJECT: Consultation by the Scottish Government on a Section 36 Application for the Crystal Rig Wind Farm (Phase 3), 10 km South of Dunbar

1 PURPOSE

- 1.1 To advise Cabinet that the Council has been consulted by the Scottish Government Energy Consents Unit (ECU) on an application made under Section 36 of the Electricity Act by Fred Olsen Renewables Limited for an extension to Crystal Rig windfarm (Crystal Rig 3) and to recommend a response to this consultation.

2 RECOMMENDATIONS

- 2.1 It is recommended that:
- (i) The terms of this report be submitted as the Council's formal response to this consultation
 - (ii) The Council **objects** to the application on the grounds:
 - that there are adverse landscape and visual impacts, contrary to East Lothian Local Plan (ELLP) Policy NRG3: Wind Turbines;
 - that the development fails or potentially fails to preserve fauna and flora due to potential impacts on the River Tweed SAC, unless consent is made subject to mitigation as requested by SNH; this is contrary to East Lothian Local Plan Policy NH1a Internationally Protected Areas.
 - (iii) If Scottish Ministers are minded to approve the application then the negotiation of appropriate planning conditions should be delegated to officers.

3 BACKGROUND

Statutory Procedures

- 3.1 Fred Olsen Renewables Limited has made application under Section 36 of the Electricity Act 1989 for an extension to Crystal Rig windfarm. Scottish Ministers are the decision makers for Section 36 applications, but are required to consult the Council for the area in which the site lies, in this case this Council and Scottish Borders Council. If either of these Councils objects and does not subsequently withdraw their objection, a Public Inquiry must be held; if they do not object, Scottish Ministers may at their discretion order a Public Inquiry but they are not obliged to do so. In either case, the ultimate decision on the project rests with Scottish Ministers. Consent under this Act allows Scottish Ministers to direct that planning permission for the project be deemed to be granted, subject to such conditions as they see fit.

The Proposed Development

- 3.2 The application is to develop a wind farm comprising up to 11 turbines and associated infrastructure, at a site currently used for rough grazing in the East Lammermuir Plateau in the Lammermuir Hills, adjacent to and generally north of the existing Crystal Rig windfarm. The wind turbines will be of different heights; 2 turbines with an overall height to blade tip not exceeding 100m, 5 turbines with an overall height of 110m and 4 turbines with a height not exceeding 125m. The rated capacity appears to be between 2-2.5MW per turbine (ES 9A-168).
- 3.3 Other infrastructure includes external transformer housing, site, tracks, foundations, underground electricity cables, borrow pits, anemometry masts, crane pads, temporary construction and storage compounds and associated works/infrastructure. The proposed development will make use of the existing substation and control building. Some of the existing infrastructure is proposed to be used, and some of this is located within Scottish Borders area. Some additional cabling to connect the proposed turbines to the existing substation may also be required in Scottish Borders. The remainder of the development, including all the turbines, are located in East Lothian. The operational period would be 25 years.
- 3.4 Access to the site would follow the same route as used for the existing Crystal Rig, namely leaving the A1 at the Innerwick junction, going via Thurston, following unclassified roads to the existing track alongside the pylon line to Crystal Rig.

Policy Context

- 3.5 The Climate Change (Scotland) Act requires public bodies, when exercising their functions, to act in the way best calculated to contribute to the Act's emissions reduction targets, and to do this in the way it considers most sustainable. Scotland's national targets include an 80% reduction on 1990 levels of emissions by 2050 and an interim target of 42% by 2020. The 2020 Renewable Energy Routemap sets a target of

the equivalent of 100% of Scotland's electricity needs to come from renewable by 2020. Provisional figures for 2012 show almost 40% of electricity needs were met by renewables. Looking at renewable installations which are constructed, consented or in planning, if all the consented applications and around 2/3 of the applications currently in planning were constructed, the target would be met. The Scottish Government are clear that the target should not be seen as a cap.

- 3.6 Scottish Planning Policy (SPP) requires planning authorities to support the development of windfarms in locations where the technology can operate efficiently and environmental and cumulative impacts can be satisfactorily addressed. It also contains policy on protecting various aspects of the built and natural heritage.
- 3.7 SESplan, the strategic part of the development plan, has as an aim "to conserve and enhance the natural and built environment" and to "contribute to the response to climate change through mitigation, and adaptation and promote high quality design/development". Policy 10 states the Strategic Development Plan seeks to promote sustainable energy sources and gives direction to Local Development Plans to set a framework to encourage renewable energy proposals that aim to contribute to achieving national targets for electricity and heat. Policy 1B directs Local Plans to ensure there are no significant adverse impacts on the integrity of the international and national built or cultural heritage sites, as well as to contribute to the response to climate change through mitigation.
- 3.8 The East Lothian Local Plan 2008 (ELLP) applies to this site the site specific policies DC1: *Development in the Countryside and Undeveloped Coast*, which seeks to protect the countryside from inappropriate development, and Policy NH4: *Areas of Great Landscape Value (AGLV)*, which aims to prevent harm to the AGLV. Policy DC1 gives circumstances where new development is acceptable in principle, including infrastructure proposals where they have a clear operational requirement that cannot be met in an urban or allocated area, and any potential detrimental impact is outweighed by its social and economic benefits. The principle of use of windfarm development has previously been accepted under this policy.
- 3.9 ELLP contains specific policy on wind turbines in Policy NRG3: *Wind Turbines*. This states that proposals for windfarms will be supported subject to meeting criteria on landscape character, visual impact, noise, shadow flicker, hydrogeology or hydrology, and there are no unacceptable cumulative impacts. It further states that the recommendations of the Landscape Capacity Study for Wind Turbine Development in East Lothian 2005 (LCS) will be taken into account. The LCS defines Landscape Character Areas across East Lothian. This application is in the East Lammermuir Plateau Character area. The LCS states that there is low capacity for development within this landscape character area. It advises that development on higher ground would not accord with existing wind farm development in slacker areas of landform.

It also advises that scope to accommodate extensions to existing wind farms is severely limited due to impacts on the sense of remoteness and expansiveness of Dunbar Common.

- 3.10 The LCS advised that wind farm development would have to be judged against proposed extensions to Crystal Rig wind farm proposed at that time. As there have been further extensions to the wind farm at Crystal Rig, and new wind farms constructed and approved, it is therefore appropriate to consider CR3 in relation to existing and approved wind farms in the Lammermuirs.
- 3.11 The ELLP also contains topic specific policy NH1a: *Internationally Protected Areas*, protecting Natura 2000 sites, and NH3: *Important Local Biodiversity Sites*, NH2: *Wildlife and Geological Areas* and DP13: *Biodiversity and Development Sites*, protecting local biodiversity and requiring mitigation for impacts.

Representations

- 3.12 Representations are made to Scottish Ministers and it is for them to take these into consideration. Two objections were received by this Council, their grounds being:
- In terms of the Supplementary Landscape Capacity Study, there is no capacity for the proposed turbines
 - Existing slight visual turbine prominence would become dominant
 - Incompatible with Area of Great Landscape Value status of the area
 - Turbine 1 on Fig 1.3 of the Non- Technical Summary is too close to an existing turbine at Aikengall and could therefore affect the electricity generation and reliability of this turbine.
- 3.13 The MOD have objected on grounds of unacceptable interference with radar, though suggest the applicant may be able to overcome this. Marine Scotland request conditions on water quality surveys and monitoring (in respect of their interest in fisheries) and note that details of proposed surveys and monitoring work have not been submitted. SNH object to the proposal due to its potential to affect the River Tweed SAC unless it is made subject to the mitigation set out in the ES through inclusion of site water management in the Construction and Environmental Management Plan, and the appointment of an Ecological Clerk of Works. River Tweed Commission and Association of Salmon Fishery Boards also note no specific fisheries or water ecology assessments have been made and requests appropriate monitoring and mitigation.
- 3.14 SEPA object to the proposal, but would remove the objection with further information and amendments to the application prior to determination and conditions place on any consent. Their concerns are in respect of siting and micro-siting, flood risk, water course crossings, ecology, peat,

sustainable urban drainage (SUDS) and carbon. Transport Scotland request conditions on signage and abnormal loads. Visit Scotland note the importance of scenery to tourism in Scotland.

- 3.15 The RSPB request conditions to protect breeding curlew, avoidance of peat through micro-siting, and drawing up of a Habitat Management Plan. Scotways object to the proposal due to turbine proximity to right of ways including the Herring Road (40m setback) and insufficient regard for impact on amenity and cultural heritage. In particular, they consider there is a significant impact on walkers/riders on footpaths/bridleways from operation of the windfarm. Scottish Water notes that the proposal does not impact on the catchment for the Whiteadder reservoir, but that there is a Scottish Water abstraction source, which is designated as a Drinking Water Protection Area, which must be protected from the risk of contamination and damage.
- 3.16 Scottish Ministers have sought a peat stability assessment from Halcrow, which concludes that the ES does not currently provide a sufficiently robust assessment of the peat landslide risk at the site, although the necessary survey work has been carried out.

Benefits of the project

- 3.17 In terms of employment during construction, which is expected to last around 12 months, contractors would employ around 30-40 workers. There would be some anticipated indirect benefits to local businesses such as B&B's, hire of local plant, temporary employment of local work force and potential hiring of local sub-contractors. Following this, the majority of the operation of the windfarm would be automatic. The turbines at Phase 3 would be included within a wider portfolio of operational wind turbines. For the first few years, there would be roughly 4-6 technicians dedicated to the site, as well as a site manager based in the local area. Other personnel would attend as required.
- 3.18 Windfarms are generally expected to produce carbon savings. The amount of these savings is calculated with reference to a Scottish Government calculator which takes into account the CO₂ gains from not having to generate electricity by other means, minus the CO₂ costs of construction of the windfarm (manufacture of the turbine, construction of the site, de-commissioning, transport, etc as well as its impact on peat). The Environment Statement submits figures for carbon savings of differing percentages of East Lothian's carbon emissions: 4.7% (compared to coal fired generation), 2.2% (compared to grid mix generation) or 3.1% (compared to generation by a mix of fossil fuels) of East Lothian's CO₂ emissions. However, SEPA have submitted a carbon assessment validation which states that there is not sufficient confidence in the carbon payback figure for it to be used by Scottish Ministers as a material consideration in their decision making.
- 3.19 The project is expected to generate somewhere between 40-70,000 MW/year depending on turbine specification (Torness was 9,000,000MWh in 2011).

Landscape and Visual Impact

3.20 The Council's Principal Landscape and Projects Officer does not support the Crystal Rig 3 (CR3) application on landscape and visual amenity grounds, for the following reasons:

- a. the proposed wind farm extension would have a detrimental visual impact on the landscape setting of the Dunbar Conservation Area and part of the Lammermuir skyline when viewed from Dunbar Harbour. It would compete visually with, and detract from, the importance of Dunbar Parish Church as a focal point in key views from Dunbar Harbour;
- b. The proposed turbines of CR3 will be much more visually prominent in views from the north than existing and consented development, and bring the Crystal Rig group of turbines forward towards the Lammermuir edge. This would result in a noticeable increase and intensification of prominent wind farm development along the Lammermuir skyline in views from the north, to the detriment of the existing landscape character. There would be a noticeable increase in cumulative visual impact between the Aikengall/Wester Dod and Crystal Rig groups of wind turbines;
- c. The proposal would result in the spread of wind turbines along the Lammermuir skyline into areas of hillside where there are no turbines at present, with wind turbine development in the gap between two wind farms groups, resulting in the visual coalescence of the Aikengall/Wester Dod and Crystal Rig groups of wind farms in views from the north;
- d. From some viewpoints CR 3 does not appear as an extension to the existing wind farm at Crystal Rig. Rather, it would appear visually unrelated, resulting in visual intrusion of wind farm development into areas of Lammermuir hillside which are largely free of wind turbine development, to the detriment of the existing landscape character of such areas; and
- e. From some viewpoints the proposed turbine layout appears sporadic with at least one proposed turbine visually isolated on the western skyline.

3.21 The applicant's agent has undertaken a Landscape and Visual Impact Assessment (LVIA) of the proposed development which includes wire line visualisations and photomontages from selected viewpoints. The Principal Landscape and Projects Officer makes the following comments on individual viewpoints.

3.22 VP31: Dunbar Harbour. This is a panoramic view across part of the historic Cromwell harbour, part of the Dunbar Conservation Area and skyline to the Lammermuir skyline in the backdrop of this view. Though some existing turbines are visible on the skyline, the majority of existing and consented turbines at Aikengall / Wester Dod are partially screened

by woodland which significantly reduces their prominence along the skyline. The visual impact of turbines forming part of the Crystal Rig group to the west is mitigated by the spires and chimneys of the town

- 3.23 The photomontage of the existing consented turbines shows that the elevated Lammermuir skyline west of the Church is virtually clear of wind turbines and that the tower of Dunbar Parish Church is a visual focal point which is located within the Dunbar Conservation Area.
- 3.24 The proposed CR3 would appear very prominent along the skyline to the west of the Dunbar Parish Church. The rotating turbine blades would compete visually with the church in this view and detract from its importance as a focal point in this view.
- 3.25 The existing wind turbines at Crystal Rig are set back from the Lammermuir edge. The CR3 turbines would be prominent towards the front edge of the Lammermuir skyline. They would spread wind turbine development into an area of prominent skyline which provides an important part of the visual backdrop and landscape setting for the Dunbar Parish Church, which is a local landmark, and the Dunbar Conservation Area. The proposed CR3 turbines would have a detrimental effect on the landscape character of that part of the hillside from this viewpoint and on the landscape setting of Dunbar Parish Church tower and the Dunbar Conservation Area.
- 3.26 VP1 and VP33 John Muir Country Park. The existing and consented wind turbines at Aikengall / Wester Dod comprise a distinct grouping on the Lammermuir skyline. Though some turbine blades at CR1 and 2 are visible to the west, these are much less prominent as these turbines were set back from the Lammermuir edge, thereby reducing their prominence on the skyline. The proposed CR3 turbines would be much more visually prominent on higher areas of the skyline and bring that wind farm forward towards the Lammermuir edge. This would result in a noticeable increase and intensification of prominent wind farm development along this part of the Lammermuir skyline. The proposed development would result in a noticeable increase in cumulative visual impact and visual coalescence of these two groups of wind farms on the Lammermuir skyline.
- 3.27 VP22 Dunbar Library The photomontage of existing and consented wind turbines show two distinct groups of wind turbines, Aikengall to the east and CR1 and 2 to the west separated by elevated hillside. CR3 would result in the spread of wind turbines along the skyline into areas of hillside where there are none at present. This would result in the visual coalescence of these two groups of wind farms, resulting in a continuous line of wind turbine development along this part of the Lammermuir skyline.
- 3.28 At present CR1 and 2 are set back from the Lammermuir edge and are therefore less prominent. The CR3 extension would bring the wind farm forward towards the Lammermuir edge where it would make this wind

farm more prominent and increase the cumulative visual impact of the Aikengall/Wester Dod and Crystal Rig wind farms on the skyline.

- 3.29 VP 17 West Barns to Thistly Cross Layby The existing baseline photograph shows the Lammermuir skyline is currently virtually free of wind turbines. The wire line visualisation shows that a small part of the tips of existing / consented turbines are visible at a distance of 7.2 km. Wirelines for CR3 show that it would be prominent on the skyline and introduce wind turbines into an area of hillside which is largely free of wind farm developments. This would change the landscape character of this part of the hillside affected by the proposed wind turbines. The photomontages illustrate that CR3 does not appear as an extension to an existing wind farm but an intrusion of wind farm development into a landscape and view which is currently largely free of wind turbines.
- 3.30 The before and after photomontages show an isolated outlying wind turbine on the skyline above left of the farm buildings. This appears isolated and unrelated to the proposed CR3 turbines.
- 3.31 The ES mentions the impact of 2 previously proposed wind turbines at South Belton. It should be noted that these turbines are contrary to the guidelines and recommendations in ELC "*Planning Guidance for Lowland Wind Turbines*, June 2013".
- 3.32 VP30 South of Easter Broomhouse. The Cumulative 180⁰ Visualisation shows clearly that CR3 does not read in this view as an extension to CR1 and 2 (which are not visible). Rather, it introduces development into an area where, with the exception of 2 Aikengall blade tips, there is virtually none at present. This impacts on the existing landscape character of this area, consequent on the proposed CR3 spreading wind turbine development north towards the front edge of the Lammermuirs.
- 3.33 VP13 West Mains (by Whitekirk) On the Lammermuir skyline there is space between the Aikengall / Wester Dod and CR1 and 2 (albeit with some tips from existing wind turbines barely visible) which separates these two groups of wind farms. The proposed turbines at CR3 would largely fill this space between wind farm groups and result in a continuous spread of turbines along this part of the Lammermuir skyline.
- 3.34 VP15 Pitcox to Halls Road The Cumulative 360⁰ Visualisation shows the existing and consented baseline view on the Lammermuir skyline comprising Aikengall and Wester Dod turbines as a distinct grouping. The existing CR1 and 2 turbines are hardly visible with the exception of one small blade tip. The CR3 turbines would extend the existing CR1 and 2 wind farm north so that the proposed turbines of CR3 would be prominent on the Lammermuir skyline. This would result in the linking of the more prominent Aikengall / Wester Dod with the currently less prominent CR1 and 2. It would spread wind turbine development into an area of hillside skyline where there is virtually none visible at present. The resultant effect on the skyline would be to extend and intensify development along the skyline in a sporadic fashion with one wind turbine visually isolated on the western skyline, resulting in a detrimental

impact on the existing landscape character of this area of Lammermuir skyline.

- 3.35 VP14 South of Spott The baseline photomontage of existing and consented wind farms shows two distinct and separate groupings with Aikengall/Wester Dod to the east and CR1 and 2 to the west. The elevated skyline which separates these two groups is clear of turbines. CR3 would introduce wind turbines into that area of skyline where there are none at present and result in the visual coalescence of these two wind farm groups. This would change the landscape character and view of this part of the Lammermuir skyline from that of a combination of open hill and wind farms to a skyline which is dominated by wind turbines: this would be detrimental to the existing landscape character.
- 3.36 Further west along this skyline, the tips of existing turbines are barely visible. However, CR3 proposes a turbine which appears conspicuous as the nacelle and blades break the skyline. This appears as an incongruous feature on this skyline.
- 3.37 VP32 Rangely Kip. The majority of the turbines are viewed interwoven with the existing and consented turbines. However, there are 3 proposed turbines which are visually detached from the main CR3 group of turbines. These spread wind farm development further west along the Lammermuir skyline into an area where there are no turbines at present.
- 3.38 VP2 West Steel Wind turbine development would be spread along the skyline. Three indicative turbine heights and dimensions are proposed. From this location, less than 1 kilometre from the nearest turbine, design consistency and compatibility of the proposed 3 turbine heights with other existing turbines is an important issue. However details relating to turbine rotation speeds, turbine design, and start up and shut down thresholds are still to be confirmed.
- 3.39 SNH have concerns over the landscape and visual impacts of this proposal. They note the scheme raises issues of cumulative landscape and visual impacts and the siting and design relationship of the proposed turbines to the existing Crystal Rig and Aikengall developments. They note that the development would bring turbines to more prominent positions towards the northern scarp of the Lammermuir Hills. They comment that this would further remove the overall Crystal Rig development from its original principles of siting and design. This had intended to deliver a large development which was set back from the northern edge and was visually accommodated 'within' the hills and on lower lying ground.
- 3.40 The proposal would intensify the nature of the landscape and visual effects arising from wind development in the area. It infills an area of less intensively developed skyline that currently exists between Crystal Rig and Aikengall, and 'brings forward' the overall Aikengall and Crystal Rig turbine array as it appears over the Lammermuir Hills. This would create a more dominant, linear and visually combined development than is currently experienced. From certain areas within East Lothian, and

particularly within 10km of the site, SNH consider that these new or additional effects will be generally adverse in terms of both landscape character and visual amenity. The addition of more prominent turbines may serve to draw attention to those already there. Some of the proposed turbines sit very prominently on the elevated sections of skyline. SNH give further advice on design and possible mitigation.

Biodiversity Impact

- 3.41 Ecology and ornithology are addressed in Sections 7 and 8 respectively of the ES. SNH note the scheme has the potential to affect the River Tweed Special Area of Conservation through pollution or siltation of tributary watercourses. This could have a significant effect on the qualifying interest of the site (which falls within Scottish Borders Council area) through affecting the water quality. SNH therefore object to the proposal unless it is made subject to mitigation comprising that described in Section 9 of the ES along with approval of a site specific Construction and Environmental Management Plan, and appointment of an Ecological Clerk of Works to secure its implementation. Development which has the potential to harm the SAC, is contrary to ELLP Policy NH1a.
- 3.42 SEPA note that watercourses within the footprint of the development are feeder streams to the Whiteadder water, which is part of the River Tweed SAC. They object to the possible degradation of the watercourse due to sedimentation being released through construction and lack of sediment management. SEPA request a pre- and post-consent invertebrate study to monitor water condition, along with provision for mitigation if there has been degradation. SEPA also object to the application as there is insufficient information provided on Groundwater Dependent Terrestrial Ecosystems, in particular mapping of wetland habitats.
- 3.43 SNH are content that the ES assessment of impacts on national and international designated sites, protected species, habitats and vegetation is adequate, and support the conclusions and mitigation set out in the ES, other than as noted above. They suggest conditions to secure the mitigation.
- 3.44 For protected species, otter and adder are both known to be on the site, as well as possibly red squirrel. Mitigation is offered for these species by the developer.
- 3.45 For habitats and vegetation, the turbines and tracks would cause minor losses of some habitats, namely blanket bog, flushes, marshy grassland and unimproved aced grassland. The most important habitat within the study area is blanket bog (a priority habitat). The ES states that the design of the windfarm ensures that only a small loss of this habitat would occur, so the direct loss of this habitat and its fragmentation is assessed as very low with little or no significant impact. East Lothian Council's Biodiversity Officer notes that access tracks can be very effective drains. One of these (the track to Turbine 10) crosses a section of this habitat and this will have a big impact on this section of bog, to which damage should be avoided where possible. Juniper has been

recorded in 3 locations within the site boundary, remnants of what would have been a greater extent of scrub in the area but land management has resulted in its degradation. Enhancing this habitat would be an alternative to direct compensation for the minor loss of habitats noted above.

- 3.46 For bird interest, the 3 main areas of potential risk from windfarms are direct habitat loss, displacement due to disturbance and death by collision. The ES considered the protected birds and those of conservation concern (red list) as well as those in the UK and Scottish Biodiversity Action Plan, focussing on those known to be susceptible to impacts from windfarms. Though some displacement of some species was expected, no significant residual effect, including cumulatively, is predicted. SNH are content with the assessment in the ES, and mitigation proposed.
- 3.47 East Lothian Council's Biodiversity Officer suggests the re-routing of a track to avoid damage to a section of blanket bog, as well as the agreement of a Habitat Management Plan. If the bog is damaged, suitable mitigation could be agreed. There are two Local Wildlife Sites which the site drains into, namely Mossy Burn and Monynut Water. These could be impacted by silt run-off, and any impact will be as a result of this. Mitigation has been proposed in the ES (silt traps). Tracks cross four of the tributaries of the Mossy Burn, and one track directly crosses it. A track also crosses the Monynut Burn. Risk of silting and direct habitat loss for the tracks harm the Wildlife Site, although ELLP Policy NH3 allows for this where the harm to the natural heritage interest is outweighed by the public benefits of the development, in this case renewable energy production. ELLP Policy NH2 requires mitigation for harm to any designated site, and this includes the River Tweed SAC as well as the Local Wildlife Sites.

Cultural Heritage

- 3.48 The ES gives information on cultural heritage in Section 11. There are no Scheduled Monuments, Listed Buildings, Gardens or Designed Landscapes, Battlefields or Conservation areas within the survey area. Thirty-four cultural heritage constraints were identified within the proposed development area, with one, an area of rig and furrow cultivation, predicted to have a direct impact of moderate significance. Mitigation is proposed for this impact. As regards indirect impacts, 88 Scheduled Monuments, 1 candidate site for scheduling, 20 Category A listed buildings, 7 Inventory status Gardens/Designed Landscapes, 8 Conservation Areas, 2 Battlefields, and 186 Category B Listed Buildings have been identified within 10km from which there are predicted views of the proposed windfarm, and 3 category C listed buildings within 5km of the windfarm with predicted views. The ES does not consider the settings of any of these to be significantly affected by the construction and operation of the proposed development.

- 3.49 The one issue with which there is disagreement over this assessment is in relation to the proposed development's impact on the landscape setting of Dunbar Parish Church tower and the Dunbar Conservation Area. This is previously discussed in paragraphs 3.22 to 3.25 above.
- 3.50 The Council's Heritage Officer in general accepts the findings of the ES, subject to an expansion of the mitigation strategy. If Scottish Ministers are minded to grant the application then this should be secured by condition. In addition, the Heritage Officer accepts that there is a moderate to good potential for unknown archaeological remains to be present, particularly but not exclusively prehistoric and medieval or later. However, the Heritage Officer disagrees that the potential for impacts on these is low. The potential for the survival and location of any remains is unknown therefore the potential to impact upon any remains present must remain as moderate. The Heritage Officer therefore requests a programme of Watching Brief carried out on all groundworks associated with the development. Historic Scotland do not object to the proposal.

Roads and Traffic

- 3.51 The Council's Head of Infrastructure is satisfied with the applicant's proposed means of access, subject to conditions. These conditions are detailed in Appendix One to this report.

Hydrology and Geology

- 3.52 There are 2 private water supplies within the catchments occupied by the windfarm infrastructure, and therefore there is potential for contaminants and disruption to these supplies associated with wind farm construction and operation. The applicant states the impact, following the implementation of a site specific Environmental Management Plan, Drainage Management Plan and Private Water Supply Management Plan, would be minor to negligible.
- 3.53 The site is predominantly underlain by peaty soils of <0.5m, although some deeper areas of peat exist. The ES states that infrastructure has, as far as possible, taken into account other constraints and has been sited outside areas of deeper peat and hydrologically sensitive areas, with buffer areas adopted for natural watercourses. Where access necessitates water crossings, tracks have infringed on these buffers. SEPA notes the siting of turbines, tracks and other infrastructure appears to avoid deep peat where possible.
- 3.54 SEPA notes some issues with the ES assessment of flood risk. They also note that the micro-siting allowance potentially brings some turbines within the 1 in 200 year flood envelope, and therefore object to the application. This objection would be removed if the micro-siting allowance did not allow for turbines within 50m of the watercourse. SEPA also object to the proposal unless new water course crossings are designed to avoid flood risk.

Noise

- 3.55 The ES states that predicted noise levels from the proposal are below the 35dB LA90 simplified noise limit recommended in ETSU-R-97, at all neighbouring residential properties. The predicted increase in noise level (from the addition of the proposed scheme to the existing and consented schemes) in the immediate area show an increase of less than 1dB at all neighbouring residential properties, and therefore states the noise impact from the Phase III can be considered negligible.

Conclusion

- 3.56 Maximising the generation of electricity from renewable sources is a national objective. Planning authorities should support the development of wind farms in locations where the technology can operate efficiently and environmental and cumulative impacts can be satisfactorily addressed. In the case of the proposed CR3, it is considered that its landscape and visual impacts are of such significance as to outweigh any other benefits. Accordingly, the proposed development is contrary to East Lothian Local Plan Policy NRG3, *Wind Turbines*.
- 3.57 The development fails, or potentially fails, to preserve fauna and flora due to potential impacts on River Tweed SAC. This is contrary to East Lothian Local Plan Policy NH1a, *Internationally Protected Areas*.
- 3.58 It is noted that the proposal has the potential to affect military radar, unless a solution can be found agreeable to the MOD. It is also noted that that uncertainty over the location of turbines through micro-siting allowance could impact on flood risk, ecology and peat in the areas identified by SEPA in their response to Scottish Ministers.

4 POLICY IMPLICATIONS

- 4.1 None

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 directly; however if the Council objects to the proposal it is likely there will be costs for participation in a Public Inquiry
- 6.2 Personnel - none directly; however staff time is likely to be required for preparing and appearing at a Public Inquiry

6.3 Other - None

7 BACKGROUND PAPERS

- 7.1 Application and Environment Statement for Crystal Rig 3 windfarm submitted to Scottish Ministers
- 7.2 SESplan Strategic Development Plan, June 2013
- 7.3 The East Lothian Local Plan 2008
- 7.4 Landscape Capacity Study for Wind Turbine Development in East Lothian
- 7.5 Scottish Planning Policy
- 7.6 2020 Renewable Energy Routemap
- 7.7 Representations to Scottish Ministers from: Scottish Natural Heritage, Scottish Water, Transport Scotland, Visit Scotland, Scottish Environmental Protection Agency, Historic Scotland, Prestwick Airport, Civil Aviation Authority, Airwave, Association of Salmon Fishery Boards, BT, BT Exploration, Crown Estate, Edinburgh Airport, Halcrow Peat, Horse Society, Marine Scotland, MOD, Mountaineering Council, NATS, RSPB, River Tweed Commission, Scotways, Vodafone, Arqiva.

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Appendix One

Crystal Rig - Phase 3 – Section 36 application Comments by East Lothian Council's Head of Infrastructure

It is recommended that the following conditions be attached to any planning permission that may be granted:-

- 1) A detailed condition survey of the road shall be undertaken by the developer to cover the full route from/to the A1. Damage to the route during the period of construction shall be repaired by the applicant at no expense to the Council as Roads Authority. The existing public road from the A1 (and in particular from the junction leading to Thurston Mains) is showing signs of deformation particularly when heavy vehicles are running along the carriageway. Therefore as part of the condition survey a full/non destructive assessment of the existing pavement shall be undertaken to include a deflectograph analysis. Detail shall be submitted for approval.
- 2) A detailed and accurate swept path/vehicle track of the above route (i.e. to/from the A1) shall be provided to include the vertical and horizontal alignments of the existing public road. This will identify areas of the existing public road that require remedial works or off road works for the routing of vehicles. It is normally assumed that the "worst case" scenario vehicle would be that for deliveries of turbine blades. For completeness, however, the applicant should undertake vehicle tracking for other delivery vehicles to the site to ensure that the tracking for delivery of other large components, such as turbines or steelwork for towers etc, do not create additional issues.
- 3) As a result of the above swept path/vehicle track assessment all works to be carried out on the public road and/or off road works shall be detailed and submitted for approval by the planning authority in consultation with the roads authority. Details shall include accurate layout plans with longitudinal sections and construction specification. It shall also be noted that the design of structures, if required, will require appropriate approval in accordance with ELC Standards for Development Roads. The applicant shall note that a Road Construction Consent will be required for any off road improvements that will result in the permanent realignment of the existing public road. Off road widening works carried out as part of planning applications 01/00963/FUL and 01/00964/FUL were undertaken for previous phases of the Crystal Rig site. These have in, several cases, been soiled over and landscaped and are now unavailable without the potential for new planning approvals. This also requires localised alterations at the "S" bend at Birky Bog Plantation.
- 4) The site access shall be detailed and supported by a swept path assessment of the junction. The first 15 metres, in length, of the access shall be constructed to ELC Standards for Development Roads. In addition all vehicles must be able to access/egress the site in a forward gear.

- 5) A detailed Construction Method Statement shall be undertaken by the applicant to include the following:-
 - a. Detail of all delivery vehicles and loads to and from the site including number of trips.
 - b. Detail of all site traffic (i.e. employees) including construction traffic and delivery of equipment for onsite works (i.e. cranes, excavators etc.).
 - c. Method for providing off road and on road improvements for routing of large loads to site.
 - d. Timescales and construction period for works and management of extraordinary loads including traffic management on the public road and preventing access to non-site traffic for off road improvements.
 - e. Number and type of vehicle movements for day-to-day operation of the windfarm following completion of on site works.
 - f. Routing of all delivery/construction traffic site to and from the site.
 - g. Decommissioning of site and potential for unforeseen events such as replacements of turbines/blades etc.

- 6) Wheel washing facilities must be provided and maintained in working order during the period of operation of the site. All vehicles must use the wheel washing facilities to prevent deleterious materials being carried onto the public road on vehicle tyres.

Any works within or affecting the public road including works on verges must be authorised in advance by this Council as roads authority. Further, any proposals that include new or extended roads will also require a road construction consent prior to carrying out any works and for which application should be made to The Head of Infrastructure.

Finally it is confirmed that the applicant has provided a section within the "Written Statement" (Section 12) on Traffic and Transport. This is adequate at this time but the above information/conditions are still required for the proposal if it is approved.

**Head of Infrastructure
Partnerships and Services for Communities
East Lothian Council**

28 October 2013