

REPORT TO: Planning Committee

MEETING DATE: Tuesday 3 December 2013

BY: Depute Chief Executive
(Partnerships and Community Services)

SUBJECT: Application for Planning Permission for Consideration

Note - this application was called off the Scheme of Delegation List by Councillor McMillan for the following reason: To allow the Committee to explore the wider issues for the rural economy, and the opportunities within the local area.

Application No. **13/00712/P**

Proposal Erection of 1 wind turbine and associated works

Location **Nisbet Farm
Pencaitland
Tranent
East Lothian
EH34 5BH**

Applicant Fredoch Ltd

Per Realise Renewables

RECOMMENDATION Application Refused

PLANNING ASSESSMENT

Planning permission is sought for the erection of one wind turbine on agricultural land at Nisbet Farm, in the countryside to the northeast of Pencaitland. The proposed wind turbine would be sited in a field some 285 metres northeast of the farm buildings of Nisbet Farm. In its position it would be some 535 metres to the southeast of the A6093 public road.

The proposed wind turbine would consist of a supporting column measuring 22.6 metres in height from the ground to the centre of the rotor hub. The triple blades of the rotor would each have a length of 11.8 metres. The wind turbine would therefore have a height of 34.4 metres from ground level to blade tip. The diameter of its rotating blades would be 23.6 metres.

Under the provisions of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 the proposed development falls within the category of a Schedule 2 Development, being one that may require the submission of an Environmental Impact Assessment (EIA). Schedule 3 of The Town and Country

Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 sets out the selection criteria for screening whether a Schedule 2 development requires an EIA. On 13 July 2012 the Council gave a formal screening opinion. The screening opinion concludes that the proposed development is unlikely to have significant effects on the environment to the extent that expert and detailed study through EIA would be necessary to properly assess any effect. Therefore, there is no requirement for the proposed wind turbine to be the subject of an EIA.

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that the application be determined in accordance with the development plan, unless material considerations indicate otherwise.

The development plan is the approved South East Scotland Strategic Development Plan (SESPlan) and the adopted East Lothian Local Plan 2008.

Policies 1B (The Spatial Strategy: Development Principles) and 10 (Sustainable Energy Technologies) of the approved South East Scotland Strategic Development Plan (SESPlan) and Policies DC1 (Development in the Countryside and Undeveloped Coast), DP13 (Biodiversity and Development Sites), NRG3 (Wind Turbines) and T2 (General Transport Impact) of the adopted East Lothian Local Plan 2008 are relevant to the determination of the application.

Material to the determination of the application are:

1. The Scottish Government's policy on renewable energy given in Scottish Planning Policy: February 2010;
2. The Scottish Government web based renewables advice entitled "Onshore Wind Turbines", which has replaced Planning Advice Note 45: Renewable Energy Technologies;
3. The East Lothian Supplementary Landscape Capacity Study for Smaller Wind Turbines (December 2011);
4. The Council's Planning Guidance for Lowland Wind Turbines: June 2013.

Scottish Planning Policy on renewable energy states that the commitment to increase the amount of electricity generated from renewable sources is a vital part of the response to climate change. In this, there is potential for communities and small businesses in urban and rural areas to invest in ownership of renewable energy projects or to develop their own projects for local benefit. Planning authorities should support the development of a diverse range of renewable energy technologies whilst guiding development to appropriate locations. Factors relevant to the consideration of applications for planning permission will depend on the scale of the development and its relationship with the surrounding area, but are likely to include impact on the landscape, historic environment, natural heritage and water environment, amenity and communities, and any cumulative impacts that are likely to arise. When granting planning permission planning authorities should include conditions for the decommissioning of renewable energy developments including, where applicable ancillary infrastructure and site restoration.

The advice entitled "Onshore Wind Turbines" forms one section of the web based renewables advice that the Scottish Government have introduced to replace Planning Advice Note 45: Renewable energy technologies. It provides advice on, amongst other things, matters relating to landscape impact, wildlife and habitat, ecosystems and biodiversity, shadow flicker, noise, road traffic impacts, aviation, and cumulative effects.

In relation to landscape impact, the advice is that wind turbines can impact upon the landscape by virtue of their number, size or layout, how they impact on the skyline, their design and colour, any land form change, access tracks and ancillary components anemometers, substations and power lines. The ability of the landscape to absorb development often depends largely on features of landscape character such as landform, ridges, hills, valleys, and vegetation. Selecting an appropriate route for access, considering landform change, surfacing and vegetation can also influence to what extent proposals are integrated into the landscape setting. In relation to landscape impact, a cautious approach is necessary in relation to particular landscapes which are rare or valued. In assessing cumulative landscape and visual impacts, the scale and pattern of the turbines plus the tracks, power lines and ancillary development will be relevant considerations. It will also be necessary to consider the significance of the landscape and views, proximity and inter-visibility and the sensitivity of visual receptors. Planning authorities are more frequently having to consider turbines within lower-lying more populated areas, where design elements and cumulative impacts need to be managed.

Policy 10 of the approved South East Scotland Strategic Development Plan (SESPlan) seeks to promote sustainable energy sources.

It is stated in paragraph 9.6 of the adopted East Lothian Local Plan 2008 that the Council is supportive of Government policy to secure greater energy generation from renewable sources. The benefits will be weighed against the impact on the local environment and features of interest. With regard to wind turbines it is stated in paragraph 9.7 that because of the need for turbines to catch the wind it is not possible to hide them. The visual and landscape impact, both of the turbines themselves and associated infrastructure, is usually the main concern. In paragraph 9.8 it is stated that the Council wishes to protect valued landscape features, including North Berwick Law.

Policy NRG3 of the adopted East Lothian Local Plan 2008 states that subject to consistency with other plan policies, proposals for individual turbines or wind farms and associated access tracks and transmission lines will be supported where (i) they would not change the existing landscape character in an unacceptable way; (ii) they would not have an unacceptable visual impact on landscape or townscape including the impact on distinctive public views, landmark buildings or natural features, or routes; (iii) they would not have an unacceptable impact from noise at any noise sensitive property including the gardens of such properties however large; (iv) there would be no demonstrable nuisance from a shadow flicker effect; (v) they would have no unacceptable adverse impacts on hydrogeology or hydrology; (vi) alternative, better, sites are not available; and (vii) there are no unacceptable cumulative impacts. Policy NRG3 also requires that in assessing all proposals the Council will have regard to the findings and recommendations of the Landscape Capacity Study for Wind Turbine Development in East Lothian (May 2005).

The Council's East Lothian Supplementary Landscape Capacity Study for Smaller Wind Turbines (December 2011) is also relevant to the determination of this application. This Supplementary Landscape Capacity Study determines the capacity of the East Lothian lowland landscapes and the Lammermuir fringe to accommodate various scales of wind turbine development smaller than those considered in the Landscape Capacity Study for Wind Turbine Development in East Lothian (May 2005). In this regard four principal development typologies are considered in the study, namely, (i) Typology A: wind turbines between 65m and 120m high, (ii) Typology B: Single wind turbines between >42m and <65m high, (iii) typology C: wind turbines between 20m and up to and including 42m high, and (iv) typology D: wind turbines between 12m and <20m high, with all wind turbine heights being from ground level to blade tip.

The Council's Planning Guidance for Lowland Wind Turbines: June 2013 is relevant to the determination of this application. In setting out the policy framework, key considerations and capacity assessments for wind turbine development the purpose of this supplementary planning guidance is (i) to provide potential applicants for planning permission for smaller and medium sized turbines with guidance on the range of issue which they should consider when preparing wind turbine proposals, (ii) to indicate the matters which will be considered by the Council when assessing these applications, (iii) to set out the recommendations of the Council's East Lothian Supplementary Landscape Capacity Study for Smaller Wind Turbines (December 2011). It is focused primarily on turbines with a height to blade tip ranging from between 20 to 120 metres but is also applicable to single and small groups of turbines in excess of 120 metres to blade tip where the same design and policy issues would be relevant.

The Landscape Capacity Study for Wind Turbine Development in East Lothian (May 2005) is not material to the determination of this application as its findings are not based on an assessment of the effect on the landscape of East Lothian of a wind turbine(s) lower than 42 metres high.

One written representation has been received in respect of this planning application. The written representation makes objection to the proposed wind turbine on the grounds that it is too large for the proposed site and is not associated with any farm building.

The National Air Traffic Services (NATS), the Ministry of Defence (MOD) and the Civil Aviation Authority (CAA) have been consulted on the application and neither of these bodies raise objection to the proposed wind turbine on grounds of aircraft safety.

It is stated in Part 1(a) of Policy DC1 of the adopted East Lothian Local Plan 2008 that infrastructure type development will be acceptable in principle in the countryside of East Lothian provided it has a clear operational requirement for a countryside location that cannot reasonably be accommodated within an existing urban or allocated area.

With its purpose to generate and supply electricity a proposed wind turbine can reasonably be defined as being an infrastructure type development. A countryside location where wind power can be harnessed to generate electricity is a basis upon which the requirement to operate a wind turbine infrastructure type development in the countryside can in principle be justified.

The application site is in a countryside location where wind power can be harnessed to generate electricity and thus by its siting and operation in relation to the business use of Nisbet Farm the proposed wind turbine can, as a form of new build infrastructure development in the countryside of East Lothian, be justified. The proposed wind turbine is capable of providing the farm with a renewable energy source. On this consideration the proposed wind turbine is consistent with Policy DC1 of the adopted East Lothian Local Plan 2008.

Moreover, in its countryside location the proposed wind turbine would not involve any permanent development and furthermore would not preclude the reversal of the use of the land of the application site to agricultural use. On this consideration also the principle of the proposed development is consistent with Policy DC1 of the Local Plan.

Policy NRG3 of the adopted East Lothian Local Plan 2008 stipulates that a proposed wind turbine(s) should not have an unacceptable impact from noise at any noise sensitive property and Part 5 of Policy DC1 requires there to be no significant adverse impact on nearby uses.

Paragraph 5.20 of Planning Guidance for Lowland Wind Turbines: June 2013 states that the proximity of noise sensitive receptors (e.g. residential properties) will be a significant factor in the requirement for an assessment of the affect of noise from the turbine on such noise sensitive receptors. Paragraph 5.22 states that for single turbines in low noise environments the day time level measured as LA(10)10min should be 35 DB at nearest noise sensitive dwellings, up to wind speeds of 10m/s at 10 metres in height.

In this regard the Council's Environmental Protection Manager is satisfied that the external free-field noise levels associated with the operation of the proposed wind turbine would not exceed 35dBLA90 10min at any wind speed up to 10m/s at any nearby residential property. Subject to such control the proposed wind turbine would not have a harmful noise impact on the nearest residential properties.

Policy NRG3 of the adopted East Lothian Local Plan 2008 stipulates that a proposed wind turbine(s) should not demonstrably give rise to nuisance from a shadow flicker effect and Part 5 of Policy DC1 requires there to be no significant adverse impact on nearby uses.

The Scottish Government web based renewables advice entitled "Onshore Wind Turbines" advises that as a general rule the shadow flicker effect of an operating turbine should not be a problem where the distance between the turbine and a dwellinghouse exceeds 10 times the diameter of the rotor blades of the turbine.

In the case of the proposed wind turbine 10 times the diameter of its rotor blades would be 236 metres. The nearest dwelling, being Nisbet Farmhouse to the southwest, is some 350 metres away from where the proposed wind turbine would be sited. Thus, the proposed wind turbine passes the Scottish Government's general rule of shadow flicker effect.

Due to its height and distance from the nearest residential properties the proposed wind turbine would not be physically overbearing on any of them or in the outlook from them. On this count the proposed wind turbine would not harm the amenity of those residential properties.

Policy NRG3 of the adopted East Lothian Local Plan 2008 stipulates that a proposed wind turbine(s) should not have an unacceptable adverse impact on hydrogeology or hydrology.

There is no evidence on which to say that the proposed wind turbine would have an unacceptable adverse impact on the hydrogeology or hydrology of the area.

On these tests of noise and shadow flicker effect and considerations of dominance, outlook and impact on hydrology the proposed wind turbine is consistent with Policies NRG3 and DC1 (Part 5) of the adopted East Lothian Local Plan 2008, Policy 10 of the approved South East Scotland Strategic Development Plan (SESPlan), The Scottish Government web based renewables advice entitled "Onshore Wind Turbines" and Planning Guidance for Lowland Wind Turbines: June 2013.

On the matter of safety, paragraph 5.15 of Planning Guidance for Lowland Wind Turbines: June 2013 states that although wind turbines erected in accordance with best engineering practice should be stable structures, it is desirable to achieve a set back from roads, railways and public footpaths. The Scottish Government web based renewables advice entitled "Onshore Wind Turbines" gives advice on the siting of wind turbines in proximity to roads and railways and states that it may be advisable to achieve a set back from roads and railways of at least the height of the turbine proposed.

The proposed wind turbine would achieve such a set back distance in its relationship with the nearest public road to the west. The Council's Transportation service has been consulted on the application and raises no objection to the proposed wind turbine, being satisfied that due to its distance away from the public road it would have no significant adverse consequences for road safety.

On this consideration the proposed wind turbine is consistent with Policy T2 of the adopted East Lothian Local Plan 2008, The Scottish Government web based renewables advice entitled "Onshore Wind Turbines" and Planning Guidance for Lowland Wind Turbines: June 2013.

Policy DP13 of the adopted East Lothian Local Plan 2008 generally presumes against new development that would have an unacceptable impact on the biodiversity of an area. One of the key considerations set out in Planning Guidance for the Location and Design of Wind Turbines in the Lowland Areas of East Lothian: December 2010 is that sites or species designated or protected for their biodiversity or nature conservation interest will be protected in accordance with development plan policy. Proposals for wind turbines must have regard to both their site specific and wider impacts.

The Council's Biodiversity Officer is satisfied that the proposed wind turbine would not have any adverse biodiversity impacts.

Accordingly, the proposed wind turbine is not contrary to Policy DP13 of the adopted East Lothian Local Plan 2008 or Planning Guidance for Lowland Wind Turbines: June 2013.

Notwithstanding these foregoing conclusions it now has to be established whether or not the proposed wind turbine would be acceptable in terms of its landscape and visual impact.

On the matter of landscape impact, an important material consideration in the determination of this planning application is the Council approved East Lothian Supplementary Landscape Capacity Study for Smaller Wind Turbines (December 2011) which determines the capacity of the East Lothian lowland landscapes to accommodate various scales of wind turbine development.

The land of the application site is within the 'Agricultural Plain – Sub Area 3, South' landscape character area of the Supplementary Landscape Capacity Study for Smaller Wind Turbines (December 2011). The Study classifies this landscape character area as comprising of a gently undulating landscape of long broad ridges and shallow valleys which can have a medium to large scale where more open. The Study further classifies this landscape character area as being of medium-high sensitivity to Typology of wind turbine A and B, of medium sensitivity to Typology of wind turbine C and low sensitivity for Typology of wind turbine D.

The Study states that within the 'Agricultural Plain – Sub Area 3, South' landscape character area: (i) there are no opportunities to locate wind turbines of Typology A (between 65 metres and 120 metres high) or of Typology B (single wind turbines between more than 42 metres and less than 65 metres high); (ii) there are limited opportunities to accommodate wind turbines of Typology C, being wind turbines between 20 metres high and up to and including 42 metres high (subject to impact on key views); (iii) there are opportunities to locate wind turbines of Typology D, being wind turbines between 12 metres and less than 20 metres high, if visually associated with farms and buildings.

The proposed wind turbine, at a height of 34.4 metres from ground level to blade tip, is a Typology C wind turbine that the East Lothian Supplementary Landscape Capacity Study for Smaller Wind Turbines (December 2011) advises might be capable of being successfully accommodated within the 'Agricultural Plain – Sub Area 3, South' landscape character area.

In further regard to this it is necessary to determine, through a specific landscape and visual impact appraisal of its likely impact, whether or not the proposed wind turbine would be acceptable to its place. In this due regard has to be paid to the terms of Local Plan Policies DC1 and NRG3, Scottish Planning Policy: February 2010 and Planning Guidance for Lowland Wind Turbines: June 2013.

Part 5 of Policy DC1 of the adopted East Lothian Local Plan 2008 stipulates that new development must be sited so as to minimise visual intrusion and landscape impact within the open countryside. With regard to its nature and scale new development must be integrated into the landscape, reflect its character and quality of place, and be compatible with its surroundings.

As stipulated in Policy NRG3 of the adopted East Lothian Local Plan 2008 a proposed wind turbine(s) should not change the existing landscape character in an unacceptable way and should not have an unacceptable visual impact on landscape or townscape including the impact on distinctive public views, landmark buildings or natural features.

On the key considerations of landscape impact and impact on public views to and from landmark features Planning Guidance for Lowland Wind Turbines: June 2013 states:

(i) wind turbine development will only be supported where the overall integrity and setting of key public views to and from landmark features, both natural and man-made, will not be compromised. Developments which would harm the character, appearance and setting of significant natural landscape features, landmark buildings and structures will be resisted;

(ii) wind turbines must be sited and designed so that they relate to their setting; that any adverse effects on visual amenity and landscape are minimised and that areas which are valued for their landscapes and scenery are protected;

(iii) wind turbines must be acceptable in terms of scale and character for their proposed location and must be well integrated into the landscape, reflect its character and quality of place and be compatible with its surroundings;

(iv) wind turbines must not appear incongruous or dominate the local landscape when viewed from a range of public places. They must be capable of being accommodated within an open landscape without detriment to landscape character. They must not result in a change of landscape character from a predominantly agricultural landscape to one that is a landscape dominated by wind turbines: cumulative impact will be a particular issue here;

In relation to cumulative impact paragraph 4.34 of Planning Guidance for Lowland Wind Turbines: June 2013 states that individual wind turbine proposals must not be looked at in isolation. Cumulative visual impact, viz. the impact of the proposed turbine/s when viewed in association with other turbines already erected or in the planning process needs to be taken into account. A balance must be retained, so that wind turbines are integrated into their landscape setting and do not merge with other turbines to change the character of the landscape into a predominantly wind farm landscape where other significant landscape characteristics of an area become visually subservient to wind

turbines. On this matter Policy NRG3 of the local plan stipulates there should be no cumulative impacts from a proposed wind turbine(s).

On the matter of landscape impact the Council's Policy & Projects Manager advises that in longer distance views from the northeast the proposed wind turbine would be visible but would be positioned such that it would be absorbed into the landscape and thus there would be no harmful visual impacts in such views. Although there may be some intervisibility with a proposed wind turbine granted at East Mains Farm to the northeast the cumulative impact is low and thus would not harm any key views or have any harmful landscape impact. In closer views from the east and northeast the proposed wind turbine would either be obscured by the rising foreground terrain, or where it would be visible it would benefit from having higher ground behind it which would absorb its visual impact such that it would not appear visually intrusive. In views from the south the whole of the proposed wind turbine would be visible, but it would again benefit from having higher ground behind it which would absorb its visual impact such that it would not appear visually intrusive.

In views from the A6093 to the north the proposed wind turbine would be highly visible and the Policy & Projects Manager raises concern that the extent of countryside behind it does not have sufficient capacity to absorb the visual impact of the proposed wind turbine in this view. However only the very ends of the blade tips of the proposed wind turbine would break the skyline in this view, otherwise it would benefit from having expansive higher ground behind it which is capable of absorbing its visual impact to the extent that it would not appear harmfully intrusive or exposed.

On request the applicant's agent submitted a photomontage and wireframe of the proposed wind turbine as it would be seen in views from the crossroads at Pencaitland, to the southwest of the application site. The Policy & Projects Manager advises that in this view towards Traprain Law the proposed wind turbine would be visible above the surrounding landscape. It is likely the whole blade diameter of the proposed wind turbine would be visible against the sky, and thus it would appear as a very prominent and obtrusive skyline feature.

Moreover from this location there are fine panoramic views northeastwards that take in Traprain Law. The Law is a focal point in the panoramic views northeastwards. The landscape in which the proposed wind turbine is to be located is part of the visible wider setting of the Law. In the views from the Pencaitland crossroads the proposed wind turbine would be clearly visible. At a height of 34.4 metres from ground level to blade tip it would become the dominant landscape feature of its location. Visually, the proposed wind turbine would compete with what can be seen in the panoramic views and would draw from the focus of The Law, harmfully compromising the integrity of it as highly valued landmark natural feature within the countryside of East Lothian. This would harmfully detract from the landscape character of the 'Agricultural Plain – Sub Area 3, South' landscape character area.

The overall findings of the specific landscape appraisal is that the proposed wind turbine due to its positioning, form, height and scale would appear as a highly exposed and obtrusive feature in views of it from the southwest. It would also have a harmful visual impact on the appearance in the wider landscape of the highly valued landmark natural feature of Traprain Law. Such effects would harmfully detract from the landscape character of the 'Agricultural Plain – Sub Area 3, South' landscape character area.

The findings demonstrate that the proposed wind turbine cannot successfully be accommodated in its proposed location within the 'Agricultural Plain – Sub Area 3, South' landscape character area.

On the considerations of landscape appraisal it can be concluded from all of the above that the proposed wind turbine is contrary to Policy NRG3 and of the adopted East Lothian Local Plan 2008, Scottish Planning Policy: February 2010, the Scottish Government web based renewables advice entitled "Onshore Wind Turbines" and the key considerations of landscape impact of Planning Guidance for Lowland Wind Turbines: June 2013.

Finally, it is necessary to consider whether there are material considerations in this case that outweigh the above conclusions that the proposed wind turbine does not comply with relevant development plan policy and the Council's Planning Guidance for Lowland Wind Turbines: June 2013.

Scottish Planning Policy on renewable energy states that the commitment to increase the amount of electricity generated from renewable sources is a vital part of the response to climate change. However, Scottish Planning Policy advises that whilst planning authorities should support the development of a diverse range of renewable energy technologies, they should guide development to appropriate locations and that factors relevant to the consideration of applications for planning permission will depend on the scale of the development and its relationship with the surrounding area and include impact on the landscape, historic environment, natural heritage and water environment, amenity and communities, and any cumulative impacts that are likely to arise.

Development plan policy for East Lothian is supportive of Government policy to secure greater energy generation from renewable sources, but does require that the benefits of that have to be weighed against the impact of any such developments on the local environment and features of interest.

In the case of the wind turbine proposed in this application any benefit of it as a renewable source of electricity generation would not in itself outweigh the harmful impact it would have on the landscape character and appearance of the 'Agricultural Plain – Sub Area 3, South' landscape character area and on the highly valued landmark natural feature of Traprain Law.

REASON FOR REFUSAL:

- 1 The proposed wind turbine due to its positioning, form, height and scale would in views of it from the southwest appear as a highly exposed and obtrusive skyline feature. It would also have a harmful visual impact on the appearance in the wider landscape of the highly valued landmark natural feature of Traprain Law. Such effects would harmfully detract from the landscape character of the 'Agricultural Plain - Sub Area 3, South' landscape character area. Accordingly, the proposed wind turbine is contrary to Policy NRG3 and of the adopted East Lothian Local Plan 2008, Scottish Planning Policy: February 2010, the Scottish Government web based renewables advice entitled "Onshore Wind Turbines" and the key considerations of landscape impact of Planning Guidance for Lowland Wind Turbines: June 2013.