

REPORT TO: Cabinet

MEETING DATE: 10 December 2013

BY: Depute Chief Executive - Partnerships and Community Services

SUBJECT: Planning Guidance for Wind Farms of or over 12MW

1 PURPOSE

- 1.1 To advise Cabinet of the consultation response to the draft *Guidance for Wind Farms of or over 12MW* approved for consultation in March 2013, and to recommend approval of the Guidance, with amendments.

2 RECOMMENDATION

- 2.1 It is recommended that:
- (i) Cabinet approve the attached report, *Guidance for Wind Farms of or over 12MW*, as a material consideration in the determination of planning applications, or in Section 36 consultation responses, for wind farms of 12MW or more.

3 BACKGROUND

The draft Guidance

- 3.1 The Scottish Government, through Scottish Planning Policy, requires Councils to produce a spatial framework for windfarms of over 20MW for their areas. There is scope to incorporate windfarms of less than this if it is considered appropriate.
- 3.2 The March 2013 Cabinet approved draft Guidance for consultation. This draft Guidance sought to define not just the Scottish Government's high level criteria against which the spatial framework should be prepared (SPAs, SSSIs, Green Belt and cumulative impact) but also criteria that were of particular local importance in an East Lothian context (such as the Landmark Hills, ie North Berwick Law, Traprain Law and the Garleton Hills). It was felt that this would give a fuller picture of the considerations

against which the Council would either (i) determine planning applications for wind farms of less than 50MW or (ii) respond to consultations from the Scottish Government on Section 36 Electricity Act consultations on wind farms of 50MW or greater output. 12MW was also taken as the lower limit of wind farm output covered by the Guidance.

3.3 Scottish Planning Policy states that planning authorities should support the development of windfarms in locations where they can operate efficiently and environmental and cumulative impacts can be satisfactorily addressed. It sets out a three-stage procedure for producing the spatial framework. The planning authority should identify:

- **Areas of Significant Protection** because they are designated for their national or international landscape or natural heritage value, are designated as green belt or are areas where the cumulative impact of existing and consented wind farms limits further development;
- **Areas with Potential Constraints** where proposals will be considered on their individual merits against identified criteria; and
- **Areas of Search** where appropriate proposals are likely to be supported subject to detailed consideration against identified criteria

3.4 The draft Guidance considered and approved by Cabinet in March 2013 concluded that the only Area of Search that could be identified for wind farm development of 12 MW or more was within the Monynut area: more specifically, it was that part within which the Council had expressed no objection to wind turbine development as part of the (now consented) Wester Dod wind farm application.

3.5 Elsewhere in the Lammermuir Plateau the cumulative landscape and visual issues were considered to be such that none of the remainder of this landscape character area was allocated as an Area of Search. In effect, other than the Monynut Area of Search, the draft Guidance proposed that the remainder of East Lothian be identified as an Area of Significant Restraint. This meant that in most of the area windfarm development over 12MW would not be supported. Furthermore, it was concluded that, within the Area of Search, it was unlikely that there would be any further capacity beyond the Wester Dod site for a windfarm of over 12MW. No Areas with Potential Constraints were identified.

The consultation

3.6 Consultation on the draft Guidance ran for a period between 2 April and 17 May 2013. This included an extensive mailing out to a wide range of community, environmental and renewable interests, the use of the Council's Consultation Hub and a survey questionnaire. The consultation response is summarised below.

Agency/Other Council Responses

Scottish Government planners were not comfortable that the modifications proposed complied with Scottish Planning Policy and because of this they would not expect Reporters to give it weight. They did, however, stress that it was for planning authorities to interpret SPP. The purpose of Spatial Frameworks is to provide a steer to where development might be acceptable. If the planning authority considers that a separation distance from properties is an appropriate criterion this should be in development management criteria and not the spatial framework.

The Spatial Framework should be clearly separate from other development management planning advice. Caravan sites were thought to have too large buffers around them. Wild land should not be included as SNH has now published maps of the areas so defined. The Guidance should make it clear what has been included in then three different assessment stages. Housing should be moved into the *section 'areas where developers should make their own enquiries'*.

Buffers around designations such as conservation areas should not be included, noting the setting of Traprain Law as one of these (although they did concede that setting was a part of the historic environment - relevant for Traprain)

Response

- 3.7 The Guidance has been restructured to separate out the national designations from the more local considerations that the Council will have regard to when considering wind turbine applications/consultations. The Spatial Framework, as required by and consistent with Scottish Planning Policy, is presented as Part 2, while Part 3 addresses more local development management matters. The caravan site buffer has been reduced to 500 metres. Wild land has been changed, although reference to the retention of some wilder land in looking at cumulative limits has been retained. A table has been included to indicate Spatial Framework Designations and Constraints. Housing has been moved to Part 3.
- 3.8 Scottish Natural Heritage (SNH) broadly agreed that the landscape capacity limits for large wind farms in and around East Lothian are close to being reached in relation to their likely cumulative impacts. They also supported the basic premise of the guidance applying to wind farms of over 12 MW (not 20 MW as per current Scottish Planning Policy) and agreed that this reinforces existing local guidance.
- 3.9 SNH generally agreed that there was little or no scope for large wind farms in the lowland and upland fringe areas of East Lothian without significant and potentially unacceptable impacts on landscape character and visual amenity. They also agreed that further development of large wind farms in the Lammermuir hills could be detrimental if it further affects the proportion of wind turbine development on the important

skyline or profile of the hills, as experienced from the more populated areas of East Lothian.

- 3.10 However, they did not agree with all the conclusions in the draft guidance. SNH considered there may be some remaining capacity for carefully designed wind farms, or more likely wind farm extensions, particularly in the immediate vicinity of existing schemes. Any further development should minimise or avoid the coalescence of existing large wind farm groups.

Response

Having SNH's unqualified support for the terms of this guidance would greatly assist its robustness, particularly in an appeal situation. Following several meetings with SNH, further site visits and modelling were undertaken. These allowed a rechecking of those areas considered to have reached cumulative landscape and visual capacity, resulting in some limited areas no longer being considered to be in that category. It was concluded that there may be limited scope to consider some additional wind turbine development as extensions to existing development at Crystal Rig and at Monynut. Accordingly it is proposed that the following limited areas be excluded from the Area of Significant Protection as detailed in the draft Guidance and identified instead as an Area of Potential Constraint:

- (i) An area approximately 500 metres in depth around the northern fringes of CR1 and CR2 wind farms
- (ii) a similar depth of land on the western edge of the consented Wester Dodd wind farm westward to the Council boundary at the Monynut Water

These areas are detailed in Map 4 of the attached Guidance. This does not imply that these limited areas are suitable for wind farm development. Any wind farm development here would need to satisfy local plan policy and other material considerations, including the terms of this Guidance.

SEPA welcomed that the guidance's recognition that peat might be a constraint and made some detailed technical comments about impacts on the water environment.

Response

Comments noted and appropriate additions to guidance made

- 3.11 Historic Scotland welcomed the guidance and the detail at which it considers the historic environment. They supported the mapping of the setting of Traprain Law and the inclusion of a policy for the protection of Historic Battlefields.

Response

Support for the guidance noted. While the setting of Traprain Law has been removed from the mapping of the Areas of Potential Constraints (in line with Scottish Government advice not to include 'buffers') it has been retained on the Historic Environment for information and would be taken into account at project level.

- 3.12 Transport Scotland advised that the Guidance should refer developers to them for further advice on matters such as setback distance from trunk road network. They also provided details of setback distance that should be included in the Guidance.

Response

Comments noted and suggested text included in revised guidance.

- 3.13 The City of Edinburgh Council noted that the inclusion of wind farms below 20MW was compatible with Scottish Planning Policy. They noted the inclusion of the Green Belt within the area of significant protection due to the effect which such large scale wind farm development would have on the landscape setting of the city.

Response

Comments noted.

- 3.14 Midlothian Council: report noted but no comments to make.
- 3.15 The Forestry Commission welcomed the Guidance and its emphasis on the environment and character of East Lothian landscapes. They also welcomed the identification of trees and woodland as potential constraints and supported statements about the strong presumption against the loss of woodland resources. They also welcomed the inclusion of forestry as a carbon store.

Response

Support welcomed. Trees and woodlands have not been included in mapping the Areas of Potential Constraint, in line with Scottish Government advice to only include designated areas. However, these areas have been shown for information and included in policy on control of woodland removal.

- 3.16 RSPB welcomed the Council's approach, its balance between addressing climate change while protecting the natural heritage and its coverage of matters such as impact on biodiversity, black grouse, peat and woodland.

Response

Support welcomed.

Community Council Responses

- 3.17 Dunpender Community Council confirmed their support for the adoption of the guidance.

Response

Support welcomed

- 3.18 Humbie East & West Saltoun and Bolton Community Council commented that, given the current level of completed development of windfarms on the Lammermuirs and those already consented at Pogbie and Keith Hill, there is no scope for further development on the Lammermuir Plateau. Given the current scale of smaller scale wind turbine development in lowland East Lothian and the growing cumulative impact of turbines we consider that there is no scope for development of windfarms over 12 MW elsewhere in East Lothian.

Response

Comments noted. The Guidance does agree that there is little scope for windfarms of over 12MW and no Areas of Search other than existing wind farms have been identified. However, it does not propose a complete ban on further wind turbine development in East Lothian as the Guidance recognises that there are some areas where the cumulative limits of development may not been reached. Local landscape and visual issues should not be included in the Spatial Framework to ensure consistency with SPP.

Renewables Industry Responses

- 3.19 Community Windpower strongly believes that the cumulative landscape and visual limits of wind farm development over 12MW have not been reached in East Lothian, particularly at the Monymut Edge area of search to the south east. They consider that it would make sense to concentrate large scale wind farms in one area by extending wind farm development to fit the Monymut area until the remaining area of search has fully reached its potential. There is no requirement for any further areas of significant protection.

Response

Cumulative landscape and visual limits were re-considered and, in the light of the Wester Dod decision and further modelling work, some alterations made, namely, removing the area around Wester Dod from the Area of Search, and removing some parts of the area to the west and north of Crystal Rig from the Area of Significant Restraint. The Scottish Government have made it clear that the approach to the Spatial Framework should be designation driven, so no further Areas of Significant Restraint were considered in their own right.

- 3.20 Scottish Renewables were concerned that the Guidance has the potential to stifle development as it fails to strike the right balance between maximising energy potential and minimising resources on inappropriately located proposals. The Guidance is contrary to Scottish Planning Policy in terms of its threshold for wind farms and its spatial framework. Locally designated sites are included within areas requiring significant protection, contrary to SPP. The 12 MW threshold is arbitrary, the Guidance is inconsistent with the previous Landscape Capacity Study and the approval of one wind farm in the Monynut Area of Search does not necessarily mean there is no further capacity.

Response

- 3.21 Regarding the 12MW lower threshold, SPP states that local variations will be supported with justification and the Scottish Government have made no comment on this aspect of the Guidance. On the matter of cumulative impacts, SPP requires Councils to prepare guidance taking into account where the limits of cumulative development have been reached so some judgement has to be made on this at a strategic level. The revised guidance does now include as an Area of Potential Constraint land at Monynut: any wind farm development here would require to meet criteria detailed in the Guidance.
- 3.22 Wind Prospect supported the 12MW threshold but disagreed that cumulative landscape and visual impacts of wind farm development have been reached. They did not support the Northern Coast as an Area of Significant protection nor did they support the inclusion of the Landmark Hills. No other areas should be included as Areas of Significant Protection, whereas the Lammermuir Plateau area should be allocated as an Area of Search. Consider that the Guidance's 'blanket approach' to cumulative development eliminates any further development in East Lothian. Suggest SW East Lothian, the Barns Ness Coast AGLV/Eastern Coastal Margin and the North Lammermuir Plateau areas should be additional Areas of Search.

Response

Most of SW East Lothian has potential constraints as shown in the maps within the Guidance. In practice, these are likely to be difficult to overcome; coupled with reduced wind speeds this makes this area unsuitable as an Area of Search. Cumulative issues also apply here. The Barns Ness Coast/Eastern Coastal Margin has potential constraints. These are likely to be difficult to overcome. Cumulative issues also apply here; not only with other windfarm development but also other industrial development (Torness, cement works, landfill) in what is essentially a rural area. The Lammermuir Plateau has not been allocated as an Area of Search following Scottish Government advice on the approach to the Spatial Framework being designation driven, as most of this area is AGLV, and parts are Local Biodiversity sites also. Existing windfarms have been shown as Areas of Search: while they are in AGLV's (which

would normally be within the Area of Potential Constraint) in these areas it has been demonstrated that this constraint can be overcome.

- 3.23 Natural Power Consultants consider that a 20MW threshold should have been used as this is relevant to 'major' planning applications. They do not accept that cumulative landscape and visual limits to wind farm development have been reached, particularly to the west and north of Crystal Rig. They suggest that discussions with SNH and ELC about the CR3 study area have not revealed any concerns regarding unacceptable harm here. The 'blanket approach' applied here cannot be substantiated and the guidance should be revised.

They consider that the Northern Coast should not be included as an Area of Significant Protection as it does not have the necessary designations or has reached cumulative limits: similarly with the Landmark Hills. No other Areas of Significant Protection should be included, unless justified as meeting SPP requirements.

The Lammermuir Plateau area should be designated as an Area of Search: the company are surprised, on their interpretation of previous discussions with ELC and SNH, that the Council is not supporting further wind farm development in the Crystal Rig 3 survey area.

Additional Areas of Search should be identified, particularly as extensions to existing wind farms, and notably the area of the proposed Crystal Rig Phase 3. Comparison with the Monymut search area does not appear to stand up to scrutiny. The Council has not followed the requirements of SPP and has not given proper weight to climate change issues. The significance of the Black Grouse and peat as constraints has been overestimated.

The submission reiterates the view that at no point in the last three years has there been an in principle objection to wind farm development occurring in the Phase 3 Crystal Rig area. The submission concludes that the Council's Guidance is not fit for purpose.

Response

Issue is taken with the assertion that there was an implied acceptance, from ELC at least, that an acceptable level of wind farm development could be accommodated in the Crystal Rig Phase 3 study area. At no time have Council officials ever given, or implied, such a position. Discussions with Natural Power Consultants on Crystal Rig 3 were on the basis of being without prejudice to the Council's consideration of any such application. Discussions were purely technical, relating to matters such as the choice of viewpoints on which to assess landscape and visual impact.

The Crystal Rig 3 site is within an AGLV and therefore, according to SPP methodology, it must be identified as an Area of Potential Constraint. However, it is accepted that there may be some capacity. Consequently, there is some amendment to the extent of the Area of Significant

Protection in this area. Wind farm development within this area, and those other nearby areas which are no longer considered to have reached their cumulative limits, will be assessed on their merits.

The Black Grouse in the western area is the last remaining viable population in East Lothian. They are already subject to impacts from wind development and lack further habitat they could potentially move to (even if they could be relied upon to use it) in that immediate area. Peat has not been mapped as a constraint, and policy reflects Scottish Government policy.

The 20MW 'major' application divide is a processing requirement. The Scottish Government have not raised the Council's approach in their response on the Guidance.

The format of the Guidance has been revised to take on board comments from Scottish Government planners that the Spatial Framework should be designation driven.

- 3.24 General public and amenity organisations, including survey questionnaire responses, were few in number and with no clear overall view. There was some comment about the subjectivity of cumulative landscape and visual limits and comments that additional areas, including the Landmark Hills, should be included within Areas of Significant Protection. SABEL commented that the Lammermuirs should not be included as an Area of Search. Some respondents did express the view that the Council should be more accommodating in its approach to wind farm development.

General Conclusions and Proposed Changes to the Guidance

- 3.25 To ensure consistency with Scottish Planning Policy, the Guidance has been restructured. It is now clear that the Spatial Framework (Part 2 of the Revised Guidance) is based on the designations detailed in Scottish Planning Policy. Part 3 of the Guidance contains more general development management advice, mainly applicable at the project level.
- 3.26 Following discussions with SNH, consideration of other consultation responses and further site visits and modelling, it has been accepted that there may be limited opportunity for some additional wind farm capacity. This lies at the edges of existing wind farms at Crystal Rig 1 and 2 and at Wester Dod, between the consented wind farm and the Monynut Water. Subject to more detailed assessment at project level, some limited wind turbine development may be possible here without raising issues of cumulative landscape and visual impact.
- 3.27 The impact of this for the amended Guidance is that the Area of Significant Protection has been pulled back by approximately 500 metres from the boundary of a revised Area of Search in the Crystal Rig/Wester Dod area which defines the limits of the existing and consented wind farms in this area. This leaves a new area now identified as an Area of Potential Constraint, defined in Map 4 of the attached Guidance.

- 3.28 The Area of Search as detailed in the draft Guidance has been extended to include existing wind farms on the grounds that they could be re-provided there in the future. It has also been reduced on its north eastern boundary to reflect the Wester Dod inquiry decision to remove three turbines, and also to recognise the potential impacts of consented schemes at Hoprigshiels and Fernylea.
- 3.29 A draft of the amended Guidance was considered by SNH. They confirmed their support for the landscape narrative and the guidance message and made a number of helpful suggestions. All SNH's comments have been included in the revised Guidance. These comments related to points of detail: SNH now have no issue with the Area of Search, the Area of Potential Constraint or the Area of Significant Protection, as detailed in Map 4 of the Guidance.
- 3.30 Finally, the Guidance is supported by a Strategic Environmental Assessment (ELC, November 2013) and by an Appropriate Assessment under the Habitats Regulations for Guidance for Wind Farms of or Over 12MW (ELC, November 2013). Both these documents have been placed in the Members Library Service.
- 3.31 The amended Planning Guidance for Wind Farms of or over 12MW is appended to this report.

4 POLICY IMPLICATIONS

- 4.1 This guidance will be a material consideration in the Council's determination of planning applications for wind farms of between 12 and 50 MW, and for its response to Scottish Ministers on consultations for wind farms of over 50 MW.
- 4.2 Single Outcome Agreement Outcome 11: *East Lothian has a high quality natural and built environment that supports the well being of the local community* is supported.
- 4.3 Single Outcome Agreement Outcome 12; *East Lothian is less dependent on finite resources by moving to a more localised, low carbon economy and reducing its ecological and carbon footprints by 2050*. This indicator may be affected by restricting windfarm development, although any windfarm built in the next 12 years would likely be decommissioned before 2050.
- 4.4 Coastal Tourism Strategy; supports this by restricting windfarm development in coastal areas.

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 Report to 12 March 2013 Cabinet by Executive Director, Services for Communities, *Consultation on Planning Guidance for Wind Farms of Over 12MW*
- 7.2 Strategic Environmental Assessment of Guidance for Windfarms Over 12MW: Environmental Report, ELC, March 2013
- 7.3 Strategic Environmental Assessment of Guidance for Windfarms Over 12MW: Environmental Report, ELC, November 2013
- 7.4 Appropriate Assessment under the Habitats Regulations for Guidance for Wind Farms of or Over 12MW, ELC, November 2013
- 7.5 Scottish Planning Policy
- 7.6 Scottish Governments Web based guidance on Spatial Frameworks
- 7.7 East Lothian Local Plan 2008
- 7.8 SESplan Strategic Development Plan 2013
- 7.9 Landscape Capacity Study for Wind Turbine Development in East Lothian 2005
- 7.10 East Lothian Supplementary Landscape Capacity Study for Smaller Wind Turbines 2011
- 7.11 Planning Guidance for Lowland Wind Turbines, June 2013
- 7.12 Consultation responses to the draft Guidelines

APPENDIX: Guidance for Wind Farms of or over 12MW

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