

Members' Library Service Request Form

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Document Title	Consultation by the Scottish Government on a Section 36 application for the Crystal Rig Wind Farm (phase 3), 10 km south of Dunbar

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Designation	Depute Chief Executive
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REPORT TO: Members' Library Service

MEETING DATE:

BY: Depute Chief Executive (Partnerships 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, with addendum dated February 2014

1 PURPOSE

- 1.1 To advise Members 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 the Members note the terms of the response to Scottish Ministers on this application, annexed below. The response objected to the application on the grounds of adverse landscape and visual impacts, contrary to the East Lothian Local Plan (ELLP) Policy NRG3: Wind Turbines and ELLP NH4: Areas of Great Landscape value. However, officers recommended that the proposal would be acceptable subject to the imposition of conditions and mitigation of the landscape and visual effect. The conditions are listed in the response annexed, while the mitigation would comprise the removal of one borrow pit; the re-routing of access tracks; the reduction in height of 3 of the turbines and the removal of one turbine

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 an extension to the existing Crystal Rig wind farm. The site is currently used for rough grazing and is in the East Lammermuir Plateau landscape character area in the Lammermuir Hills, adjacent to and generally north of the existing Crystal Rig windfarm. This application was originally for 11 turbines and associated infrastructure, and has now been reduced to 7 by Supplementary Environmental Information (SEI) to the application. The wind turbines now proposed are to be of different heights; 1 turbine with an overall height to blade tip not exceeding 100m, and 3 of each of turbines with an overall height of 110m and 125m. The rated capacity appears to be between 2-2.5MW per turbine (ES 9A-168). The application also includes approximately 6.5km of site tracks.
- 3.3 Other infrastructure includes external transformer housing, 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, and following minor public roads past Thurston for 4.5km to a point midway between Upperhall Farm and Elmscleugh farm, then joining the private track adjacent to the 400kV power line to the existing Crystal Rig windfarm.

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 sources by 2020. In 2012 just over the equivalent of 40% of Scotland's electricity consumption was 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; Policy ENV7 requiring archaeological work in certain situations; and Policy T2 on general transport impact.
- 3.12 Since the original application, the Council has approved Guidance for Wind Farms over 12MW. This is not part of the development plan however it is a material consideration as a statement of Council policy. This Guidance contains a Spatial Framework, as required by the Scottish Government, showing Areas of Search, Areas of Potential Constraint, and Areas of Significant Restraint for large windfarms. The turbines of this application are within the Area of Potential Constraint, however some other parts of the application, including some parts of the access tracks, a possible site for the construction compound and one of three borrow pits, are in the Area of Significant Restraint. The turbines of the proposal do not breach the Area of Significant Restraint in the Guidance for Windfarms of 12MW or Over which includes the area where the cumulative limits of development have been reached.
- 3.13 The Landscape Officer notes the following relevant parts of this policy. Section 3.19, sets out guidance on the the Lammermuir Skyline from the north: *“The principle for siting of any additional wind turbines is to maintain the current extent and pattern of wind farm development and to ensure that the landscape character of this skyline is protected.”* Section 3.22 of the aforementioned document states that *“Any further wind turbine development should avoid reducing the space between these clusters of wind farms, and the spread of turbines along the Lammermuir skyline into the areas of hillside where there are no turbines at present.”* Section 3.15 of the aforementioned document states that; *“It is this Council’s view that the Lammermuir Hills are now reaching the limits of landscape and visual capacity to absorb further wind farm development without further significant adverse cumulative effects.”*

Representations

3.14 Representations are made to Scottish Ministers and it is for them to take these into consideration. On the original application, 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 (this turbine remains part of the revised application).

No representations have been made to the Council on the SEI.

3.15 The MOD objected to the original proposal on grounds of unacceptable interference with radar. The applicant states that a mitigation report is now being drawn up, and they are confident this will allow the MOD to remove their objection.

3.16 On the original application, Marine Scotland requested conditions on water quality surveys and monitoring (in respect of their interest in fisheries) and noted that details of proposed surveys and monitoring work have not been submitted. SNH objected to the proposal due to its landscape and visual impact, and potential to affect the River Tweed SAC unless it is made subject to the mitigation set out in the ES which has now been agreed. SEPA objected 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 requested conditions on signage and abnormal loads. Visit Scotland noted the importance of scenery to tourism in Scotland. 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. The RSPB requested conditions to protect breeding curlew, avoidance of peat through micro-siting, and drawing up of a Habitat Management Plan. Scotways objected 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 noted 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.

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- 3.17 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. The applicant has responded to this.
- 3.18 SEPA and SNH will withdraw their objection on the grounds of impact on water quality and the River Tweed SAC subject to appropriate planning conditions being placed on any consent.

Benefits of the project

- 3.19 No information has been given on how the benefits of the project given in the original application will be altered by the changes in the SEI. The applicant states that employee hours will be reduced but this will not be proportional to the number of turbines. The construction time would be similar.
- 3.20 For the original application, 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.
- 3.21 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. SEPA are content with the assessment.
- 3.22 The original project is expected to generate somewhere between 40-70,000 MW/year depending on turbine specification (Torness was 9,000,000MWh in 2011). The applicant states the revised figures would be estimated at 37,375 MW in year one, with minimum and maximum potential outputs at 26,613 MW and 45,377 MW.

Landscape and Visual Impact

- 3.23 An Officer's Report was prepared for the previous application but not adopted by Council due to the applicant's notification of submission of

the SEI. The report proposed objecting to the original proposal on the grounds of its adverse landscape and visual impact. SNH also objected to the original application on landscape and visual grounds. They do not object to the SEI however they do note that “from certain viewpoints the additional turbines will sit more prominently on the skyline than those already existing, while also from some locations appearing to “fill the gap” of undeveloped skyline and thereby visually linking the Aikengall and Crystal Rig developments. SNH further advise Scottish Ministers that further measures to achieve visual coherence between the proposal and the existing adjacent windfarm development should be secured should they be minded to approve the application. They also advise that this Council should seek to put in place policy and spatial strategy which seeks to define acceptable limits for further northern extensions to the Crystal Rig and Aikengall windfarm arrays. The Council has in fact done this already with the approval of Guidance for Wind Turbines of or over 12MW. Local landscape issues are not within SNH’s remit.

3.24 The Council's Landscape Officer does not support the revised scheme for similar reasons to the original scheme namely:

- 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 (AK/WD) 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 AK/WD 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 but 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.
- e) From some viewpoints the proposed turbine layout appears sporadic with at least one proposed turbine visually isolated on the western skyline.

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- f) Paragraph 4.29 of SNH's guidance on Siting and Designing Wind farms in the Landscape (2009) states the following "Given the prominence of skylines, it is particularly important that a wind farm is sited and designed to relate to this feature. If the skyline is 'simple' in nature, for example over moorland and hills, it is important that wind turbines possess a simple visual relationship to this feature, avoiding variable height, spacing and overlapping of turbines and, also, visibility of blade tips intermittently 'breaking' the skyline. The Landscape Officer advises that that should the Scottish Government be minded to approve this application, the overall appearance of the development could be improved and serious consideration should be given to the removal or re-positioning of low lying turbines, with particular focus on the effects arising from turbines, 1, 2, 5 and 6.
- 3.25 The report on the original application set out a consideration of the viewpoints supplied in the Environment Statement which illustrated some of these points. Revised visual information has been submitted as part of the SEI for some of the viewpoints originally submitted. Discussion of individual viewpoints is contained in the response to Scottish Ministers appended below.
- 3.26 From a range of sensitive viewpoints the proposal increases the prominence of turbines on the Lammermuir skyline and edge; introduces and extends views of windfarm development into areas where there were none previously; has cumulative visual impact in particular on merging of Crystal Rig and Aikengall windfarms; has a detrimental impact on the landscape character of some areas.
- 3.27 At the site, access tracks are proposed which form a long loop from the existing main access track to the windfarm, and which are on the northeast/east face of Bransly Hill. These tracks are disproportionate in length and will have a harmful visual impact on the Lammermuir AGLV. There are 3 borrow pits. One of these is located near the top of Bransly Hill, and this would also have an adverse visual impact on the AGLV. Turbine 1, by its placing on the slopes and towards the summit of Bransly hill, is coming out of the 'bowl' of Dunbar Common. A harmful effect on the Lammermuir AGLV is contrary to ELLP Plan Policy NH4. These tracks and the borrow pit on Bransly Hill are within the Area of Significant Restraint in the Spatial Framework contained within the Guidance for Windfarms of or Over 12MW.
- 3.28 The applicant has submitted further wirelines showing the effect of lowering turbines 1,2, 5 and 6 to 100m. This shows that the some of the visual and landscape impact detailed above is reduced, by lowering the turbines so that some of the hubs are not visible above the skyline from many of the key viewpoints above. This would reduce the visual impact of the proposal and the cumulative effect of coalescence. The hub of Turbine 1 would still be visible however.

Biodiversity Impact

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- 3.29 Ecology and ornithology are addressed in Sections 7 and 8 respectively of the ES. The most significant potential impact is that dust from the scheme has the potential to effect the River Tweed Special Area of Conservation through pollution or siltation of tributary watercourses. Mitigation has been proposed for this which the applicant has agreed can be secured by condition (for further discussion see the response to Scottish Ministers appended).

Cultural Heritage

- 3.30 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. Subject to conditions, the Council's Heritage Officer does not object to the proposal (see Appendix 1 for further discussion).

Roads and Traffic

- 3.31 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

- 3.32 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.
- 3.33 The site is predominantly underlain by peaty soils of <0.5m, although some deeper areas of peat exist. The Environment Statement 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.
- 3.34 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 objected to the original proposal unless new water course crossings were designed to avoid flood risk; they will accept a condition imposed by Scottish Ministers to address this.

Noise

3.35 The Environment Statement 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. Advice from Environmental Health and Protection is that noise will not be an issue from this proposal.

Recreation

3.36 Turbines 9, 10 and 11 of the proposal will affect the northern part of the Herring Road. This is a historic right of way as well as a core path, which was a wild remote route, but which now runs through a wind farm for more a considerable part of its length. The Access Officer comments that further wind farm development here will have a have a considerable impact on this route, from both visual impact, and from the service tracks crossing the route. Mitigation should include clear waymarking.

Conclusion

3.37 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. The proposal is acceptable in environmental terms other than the potential for an impact on water quality and consequently the River Tweed SAC, for which the applicant will accept a condition securing mitigation, and its landscape and visual impact.

3.38 The proposal as it stands has unacceptable landscape and visual impacts, contrary to ELLP NRG3, *Wind Turbines* and ELLP Policy NH4, Areas of Great Landscape Value. This is not outweighed by the desirability of generating renewable energy.

3.39 However, given the importance of renewable energy generation in terms of national policy, it is considered that alterations to the scheme, while still having some adverse landscape, visual and other impacts, would be acceptable. The landscape and visual mitigation suggested is:

- a) deletion of Turbine 1; this turbine comes out of the 'bowl' of Dunbar Common, affecting the AGLV and contrary to guidance contained within the GWOTM and LCS; it also has in combination with others, an adverse impact on views in particular from the north and as such is unacceptable;
- b) the reduction in height to 100m of Turbines 2,5 and 6; this, along with the deletion of Turbine 1 would mean that new hubs are not for the most part visible in views from the north, reducing the visual impact to an acceptable level;

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- c) relocation of the access tracks other than those connecting turbines 2,5 and 6 to each other, and Turbines 9, 10 and 11 to take access from the south or south east; this would avoid visual impact of the tracks in views from the north and the landscape impact on the Lammermuir AGLV and reduce the impact on the AGLV to an acceptable level;
 - d) deletion of the borrow pit towards the summit of Bransly Hill; this would avoid an adverse impact on the Lammermuir AGLV

The applicant states that reducing the height would reduce the output of the project by about 4%. Deletion of Turbine 1 would also reduce the output of the project. Prior to submission of the response, the agent for the applicant states that the applicant was likely to accept the mitigation as regards the track and borrow pit, but was not able to confirm whether alterations to the turbines would be acceptable.

- 3.40 The response as appended below was submitted objecting to the proposal but stating that the Council would remove its objection subject to the mitigation recommended above and certain other conditions as detailed.

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 applicant does not accept the mitigation proposed our objection will stand and there would then be 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, as amended by addendum of February and additional information supplied March 2014
- 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

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- 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
- 7.8 Guidance for Windfarms of 12MW or over

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DATE	4 June 2014

Appendix One; Submission to Scottish Ministers via the Energy Consents Unit

Dear Mr Brown

Addendum to Application for windfarm known as Crystal Rig 3

I refer to your consultation of this Council, requesting comments by 28 March 2014 with an agreed extension of time until 14 March 2014. This Council **objects** to this proposal as there are adverse landscape and visual impacts, and harm to the Lammermuir Area of Great Landscape Value contrary to East Lothian Local Plan 2008 policies NRG3: Wind Turbines and Policy NH4 Areas of Great Landscape Value. Reasons for this are given in detail in the Appendix, along with further comments.

The Council would withdraw this objection subject to alterations in the scheme as mitigation for the landscape and visual effects (subject to other conditions similar to those detailed being placed on the consent). The mitigation would include the removal of one turbine and one borrow pit; the reduction in height of 3 other turbines, and alterations to access tracks, as detailed in the Appendix. If this is agreed, it is for you to decide if this would be possible through a condition or if the Environmental Impact Assessment process would require to be re-visited.

If you wish to discuss the contents of this letter please contact in the first instance Jean Squires, Planner, by telephone 01620 827370, or email policy&projects@eastlothian.gov.uk .

Yours sincerely,

J Squires

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Richard Jennings
Head of Development

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Enc. Appendix

Background

1. 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.

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2. SESplan, the strategic plan including East Lothian, has as aims “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 that 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 international and national built or cultural heritage sites, as well as to contribute to the response to climate change through mitigation.
 3. The East Lothian Local Plan 2008 (ELLP) applies to this 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 AGLVs. The ELLP also contains topic specific policy NRG3 Wind Turbines, and NRG4 Wind Power Sites – Restoration, giving criteria for wind development; 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; Policy ENV7 requires archaeological work in certain situations; and Policy T2 covers general transport impact. Use of conditions would make the proposal acceptable under policies on archaeology, transport and biodiversity.
 4. 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 where any potential detrimental impact is outweighed by its social and economic benefits. The principle of use of windfarm development in the countryside has previously been accepted under this policy.
 5. Policy NRG3: Wind Turbines states that proposals for windfarms will be supported subject to meeting criteria on landscape character, visual impact, noise, shadow flicker, hydrogeology or hydrology, and if 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.
 6. The LCS states 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 Crystal Rig 3 in relation to existing and approved wind farms in the Lammermuirs.

7. Since the original application, the Council has approved Guidance for Wind Farms over 12MW. This Guidance is not part of the development plan, however, it is a material consideration as a statement of Council policy. The Guidance contains a Spatial Framework for large windfarms, as required by the Scottish Government, showing Areas of Search, Areas of Potential Constraint, and Areas of Significant Restraint. The turbines of this application are within the Area of Potential Constraint, however, some other parts of the application, including some parts of the access tracks, a possible site for the construction compound and one of three borrow pits, are in the Area of Significant Restraint.

8. On the original application, two objections were received by this Council, the 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

*It is incompatible with Area of Great Landscape Value status of the area

*The 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 (this turbine remains part of the revised application).

The Council has also received copies of representations from statutory consultees and other parties, which we understand Scottish Ministers will take into consideration.

9. SNH have advised that further measures to achieve visual coherence between the proposal and the existing adjacent windfarm development should be secured should the application be approved. They also advise that this Council should seek to put in place policy and spatial strategy which seeks to define acceptable limits for further northern extensions to the Crystal Rig and Aikengall windfarm arrays. The Council has in fact done this already with the approval of Guidance for Wind Turbines of or over 12MW.

Landscape and Visual

10. There are adverse landscape and visual impacts arising from the proposal, namely:

- g) 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.
- h) The proposed turbines of Crystal Rig 3 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.
- i) 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 the 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.

- j) From some viewpoints Crystal Rig 3 does not appear as an extension to the existing wind farm at Crystal Rig but rather would be visually unrelated, resulting in visual intrusion of wind farm development into areas of Lammermuir hillside which are largely free of wind turbine development. This would be to the detriment of the existing landscape character of such areas.
 - k) From some viewpoints the proposed turbine layout appears sporadic, with at least one proposed turbine visually isolated on the western skyline.
11. Paragraph 4.29 of SNH's guidance on Siting and Designing Wind farms in the Landscape (2009) states the following "Given the prominence of skylines, it is particularly important that a wind farm is sited and designed to relate to this feature. If the skyline is 'simple' in nature, for example over moorland and hills, it is important that wind turbines possess a simple visual relationship to this feature, avoiding variable height, spacing and overlapping of turbines and, also, visibility of blade tips intermittently 'breaking' the skyline". The overall appearance of the development could be improved and serious consideration should be given to the removal or re-positioning of low lying turbines, with particular focus on the effects arising from turbines, 1, 2, 5 and 6.
12. The report on the original application set out a consideration of the viewpoints supplied in the Environment Statement, which illustrated some of these points. Revised visual information has been submitted as part of the SEI for some of the viewpoints originally submitted.

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 Crystal Rig 1 and 2 are visible to the west, these are much less prominent, as those turbines were set back from the Lammermuir edge, thereby reducing their prominence on the skyline. Turbines 1, 2, 5 and 6 of the proposed Crystal Rig 3 turbines would be more visually prominent on higher areas of the skyline and extend the visibility of hubs westwards along the skyline. This would result in a noticeable increase of prominent, dominant, linear and visually combined wind farm development along this part of the Lammermuir skyline than is currently experienced. It would infill an area of the skyline that is currently clear of development. This is generally adverse in terms of landscape character and visual amenity.

VP2 West Steel Wind turbine development would be spread along the skyline. Three indicative turbine heights and dimensions are proposed. From this location, design consistency and compatibility of the proposed 3 turbine heights with other existing turbines is an important issue.

VP13 West Mains (by Whitekirk) From this view there is extensive visibility of existing and consented wind turbine development. On the Lammermuir skyline there is space between the Aikengall/Wester Dod and Crystal Rig 1 and 2 (albeit with some tips from existing wind turbines barely visible), which separates these two groups of wind farms.

The proposed turbines at Crystal Rig 3 would have the undesirable effect of reducing the undeveloped skyline between Aikengall/Wester Dod and Crystal Rig windfarms. There would no longer be any visual break for the eye from the wind farm development on the Lammermuir edge. The column, nacelle and rotor of Turbines 1,2 5 and 6 would appear over the Lammermuir skyline and are more prominent than the existing Crystal Rig 1 and 2 turbines.

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 Crystal Rig 1 and 2 to the west, with an undeveloped gap between the two wind farms. The elevated skyline which separates these two groups is clear of turbines. The proposed extension would infill this gap giving the effect of continuous development along the ridge. This would result in the linking of the more prominent Aikengall with Crystal Rig 3 and would introduce wind turbines into that area of skyline where there are none at present. This would result in the visual coalescence of these two wind farm groups and 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 change would be detrimental to the existing landscape character.

Further west along this skyline, the tips of existing turbines are barely visible. However, proposed Crystal Rig 3 Turbine 9 is conspicuous as its nacelle and blades break the skyline. This would appear as an incongruous feature on this skyline.

VP15 Pitcox to Halls Road The baseline view on the Lammermuir skyline show the Aikengall and Wester Dod turbines as a distinct grouping. The existing Crystal Rig 1 and 2 turbines are hardly visible with the exception of one small blade tip. Proposed turbines 1, 2 and 5 would be visible to hub height, extending the area of skyline containing hubs westwards (an area where there are virtually none visible at present), with the blades of 6 and 9 also visible. This would result in the linking of the more prominent Aikengall/Wester Dod with the currently less prominent Crystal Rig 1 and 2. The resultant effect on the skyline would be to extend development into an area where there is virtually none at present, with a detrimental impact on the existing landscape character of this area. The blade of proposed turbine 9 is at some distance from the remainder of the development.

VP 17 West Barns to Thistly Cross Layby The existing baseline photograph shows the Lammermuir skyline is currently virtually free of wind turbines. Hubs and blades from proposed turbines 1 and 2 would be visible where currently no hubs are visible. Blades from turbines 5, 6, 9, and 10 would be visible in areas which already have some visibility of blades. The additional visibility of hubs would make the windfarm more noticeable and change the landscape character of the area affected. The appearance of these hubs would mean the development would not appear as an extension to an existing wind farm but as an intrusion of wind farm development into a landscape and view which is currently largely free of wind turbines.

VP22 Dunbar Library The photomontage of existing and consented wind turbines show two distinct groups of wind turbines, Aikengall to the east and Crystal Rig 1 and 2 to the west, separated by elevated hillside. Hubs of proposed turbines 1, 2 and 5, and blades of Turbine 6, would be visible on the skyline between the two windfarms. The hub and blades of Turbine 9, and blades of Turbines 10 and 11, along with existing blades are also visible on the skyline.

Crystal Rig 3 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 reduction of spacing between the windfarms, and increased visual coalescence of these two groups of wind farms.

VP30 South of Easter Broomhouse Crystal Rig 3 would not read in this view as an extension to Crystal Rig 1 and 2 (which are not visible). Rather, it would introduce development into an area where, with the exception of 2 Aikengall blade tips, there is virtually none at present. This would impact on the existing landscape character of this area, consequent on the proposed Crystal Rig 3 spreading wind turbine development north towards the front edge of the Lammermuirs, into an area where there is virtually none at present. Although at this point the view is partly obscured by trees this effect is likely to occur in this general area.

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.

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.

Hubs and blades of proposed Turbines 1, 2, and 5 and blades of Turbine 6 are predicted to appear on the skyline behind 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.

The existing wind turbines at Crystal Rig are set back from the Lammermuir edge. Crystal Rig 3 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 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.

VP32 Rangely Kip. The majority of the turbines would be viewed interwoven with the existing and consented turbines. However, there are 3 proposed turbines which would be visually detached from the main Crystal Rig 3 group of turbines. These would spread wind farm development further west along the Lammermuir skyline into an area where there are no turbines at present.

13. From a range of sensitive viewpoints therefore, the proposal would increase the prominence of turbines on the Lammermuir skyline and edge; introduce and extend views of windfarm development into areas where there were none previously; would

have cumulative visual impact in particular by merging Crystal Rig and Aikengall windfarms; and would have a detrimental impact on the landscape character of some areas.

14. At the site, access tracks are proposed which would form a long loop from the existing main access track to the windfarm, on the northeast/east face of Bransly Hill. These tracks are disproportionate in length and would have a harmful visual impact on the Lammermuir AGLV. There are 3 borrow pits. One of these would be located near the top of Bransly Hill, and this would also have an adverse visual impact on the AGLV. Proposed turbine 1, by its placing on the slopes of Bransly Hill, would be coming out of the 'bowl' of Dunbar Common. A harmful effect on the Lammermuir AGLV is contrary to ELLP Plan Policy NH4. These tracks and the borrow pit on Bransly Hill would be within the Area of Significant Restraint in the Spatial Framework contained within the Guidance for Windfarms of or Over 12MW.
15. The applicant has submitted further wireline diagrams showing the effect of lowering turbines 1,2, 5 and 6 to 100m. This shows that some of the visual and landscape impact detailed above would be reduced, by lowering the turbines so that some of the hubs are not visible above the skyline from many of the key viewpoints. This would reduce the visual impact of the proposal and the cumulative effect of coalescence. The hub of Turbine 1 would still be visible however.
16. Given the importance of renewable energy generation in terms of national policy, it is considered that alterations to the scheme, while still having some landscape, visual and other impacts, would make the scheme acceptable. The landscape and visual mitigation suggested is:
 - A) deletion of Turbine 1; this turbine comes out of the 'bowl' of Dunbar Common, affecting the AGLV and contrary to guidance contained within the Guidance for Windfarms of 12MW and over, and the Landscape Capacity Study for Wind Turbine Development in East Lothian; it also has in combination with others, an adverse impact on views in particular from the north and as such is unacceptable;
 - B) the reduction in height to 100m of Turbines 2,5 and 6; this, along with the deletion of Turbine 1 would mean that new hubs are not for the most part visible in views from the north, reducing the visual impact;
 - C) relocation of the access tracks other than those connecting Turbines 9, 10 and 11, and turbines 2, 5 and 6 to each other, to take access instead from the south or south east; this would avoid visual impact of the tracks in views from the north and the landscape impact on the Lammermuir AGLV and reduce the impact on the AGLV to an acceptable level;
 - D) deletion of the borrow pit towards the summit of Bransly Hill; this would avoid an adverse impact on the Lammermuir AGLV
17. The applicant states that reducing the height would reduce the output of the project by about 4%. Deletion of Turbine 1 would also reduce the output of the project. The agent for the applicant states that he considers the applicant would be amenable to the deletion of the borrow pit and re-routing of the access tracks, but is unable to confirm that the alterations to the turbines would be accepted.

Biodiversity Impact

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18. SNH noted the original scheme has the potential to affect the River Tweed Special Area of Conservation (SAC) 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 objected to the original 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. Provided conditions related to the River Tweed SAC are secured, they withdraw their objection on this ground. They also support conditions to protect other natural heritage interests.
 19. SEPA noted that watercourses within the footprint of the development are feeder streams to the Whiteadder water, which is part of the River Tweed SAC. Increased sedimentation of these rivers, from sediments dislodged through construction and use could lead to the possible degradation of these rivers and adverse impacts on the SAC and SSSI. They suggest that the applicant demonstrates, prior to consent, that the design, construction and use of water crossings would not lead to increased sedimentation in the Tweed and its tributaries and this demonstrated design is agreed as a condition. The Council supports such a condition.
 20. 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.
 21. 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) would cross a section of this habitat and would have a significant impact on this section of bog, to which damage should be avoided where possible. Juniper has been recorded in three 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.
 22. For bird interest, the three 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. The Council supports the mitigation proposed.
 23. 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. Risk of silting and direct habitat loss for the tracks would 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 (this is not the

case with damage to the River Tweed SAC). Mitigation has been proposed in the Environment Statement. This has been noted by SNH and SEPA and a condition proposed. 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. A Land Management Plan should be agreed as detailed in the conditions below.

Cultural Heritage

24. 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 three category C listed buildings within 5km of the windfarm with predicted views. The Environment Statement does not consider the settings of any of these to be significantly affected by the construction and operation of the proposed development.
25. 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 discussed above.
26. The Council considers an expansion of the mitigation strategy is required. The Council 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 Council 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 Council therefore requests a programme of Watching Brief carried out on all groundworks associated with the development as shown in the conditions below.

Roads and Traffic

27. The Council is satisfied with the applicant's proposed means of access, subject to conditions as detailed below.

Noise

28. Noise is not expected to be an issue for this project.

Recreation

29. Proposed turbines 9, 10 and 11 would affect the northern part of the Herring Road. This is a historic right of way as well as a core path, which was a wild remote route, but which now runs through a wind farm for more of a considerable part of its length. Further wind farm development here would have a considerable impact on this route,

from both visual impact and from the service tracks crossing the route. Mitigation should include clear waymarking.

Suggested Conditions

The following are suggested as conditions that would be required should the development go ahead.

- A. The consent is for a period from the date of this consent until the date occurring 25 years after the date of the commissioning of the development. Written confirmation of the date of the commissioning of the development shall be provided to the Planning Authorities and to Scottish Ministers within 1 month after the commissioning of the development

Reason; to protect the visual amenity of the area

Construction

- B. The development shall be carried out in accordance with the application and approved scheme of working detailed in the Environmental Statement and supplementary statements provided by the Company which accompanied the Application, except in so far as the approved scheme of working is amended by any of the following conditions.

Reason: to ensure compliance with Planning Authority conditions.

- C. Each turbine shall be erected in the position indicated on Table 4.1 of the SEI. A variation of more than 50 metres in turbine location shall not be permitted. A variation of less than 50 metres in turbine location may only be permitted following the approval of the location of both the turbine and the access road and site tracks by the Scottish Ministers after consultation with the relevant Planning Authority. No variation that would result in the placement of any turbine within 50m from a watercourse will be accepted.

Reason; to protect biodiversity and the visual amenity of the area

- D. No later than one month prior to the commencement of the development, the Company shall nominate an independent contractor, whose appointment shall be approved by the Planning Authorities to ensure compliance with the conditions contained in this consent.

Reason: To ensure the satisfactory development of the site and in the interests of the amenity of the area.

- E. At least one month prior to any work commencing on site, a site-specific Construction Method Statement shall be submitted to and require the approval in writing of the Planning Authorities after consultation with SNH, the Scottish Environment Protection Agency. This Construction Method Statement shall detail the following matters in particular:-

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- detailed and scaled map(s) of the layout showing tracks, cable routing, turbine bases, crane standings, site storage compound, substation, the anemometry mast, borrow pits and any other ancillary structures;
 - methods of all the main construction activities;
 - Detail of all delivery vehicles and loads to and from the site including number of trips.
 - Detail of all site traffic (i.e. employees) including construction traffic and delivery of equipment for onsite works (i.e. cranes, excavators etc.).
 - Method for providing off road and on road improvements for routing of large loads to site.
 - 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.
 - Number and type of vehicle movements for day-to-day operation of the windfarm following completion of on site works.
 - Routing of all delivery/construction traffic site to and from the site.
 - Decommissioning of site and potential for unforeseen events such as replacements of turbines/blades etc.
 - the routes of any proposed temporary diversion of rights of way during the construction period;
 - the location and specification of temporary signs necessary for navigation through the windfarm site by rights of way users during the construction period;
 - the methodology and measures to be employed in order to safeguard areas of archaeological interest on the site;
 - personnel to be employed in order to ensure that construction proceeds in accordance with planning conditions and commitment outlined in the Environmental Statement;
 - storage of fuel and oils.
 - Methods of monitoring, auditing, reporting and communication of environmental management on site and with the client, planning authority and other relevant parties.
 - The updated Schedule of Mitigation (SM) including all mitigation proposed in support of the planning application, other relevant agreed mitigation (e.g. as required by agencies) and relevant planning conditions.
 - Processes to control / action changes from the agreed Schedule of Mitigation
 - Statement of responsibility to 'stop the job / activity' if in potential breach of a mitigation or legislation occurs.
 - Specific mitigation plans and associated documents as relevant, e.g. species, surface water, waste, watercourse crossings, private water supplies, access arrangements, peat management, pollution prevention, borrow pits, dust

Thereafter, the approved Construction Method Statement shall be implemented by the Company in its entirety.

Reason: To minimise environmental impacts.

Decommissioning

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- F. The commencement of the development and the substantial commencement of all material operations relevant to the development shall be no later than 5 years from the date of this consent or such other period as the Scottish Ministers may hereafter direct. If this does not occur by the end of such period, then by no later than the date occurring 6 months after the end of the period, the site and the ground shall be fully reinstated by the Company to the specification and satisfaction of the Scottish Ministers in consultation with the Planning Authorities.

Reason; to ensure adequate decommissioning of the project

- G. No later than 18 months prior to the end of the period of this consent, or by such later date as may be agreed by the Scottish Ministers after consultation with the Planning Authorities, the Company shall submit a method statement for the decommissioning of the windfarm and the restoration of the site for the approval of the Scottish Ministers. Prior to approving the decommissioning method statement, the Scottish Ministers shall consult the Planning Authorities and Scottish Natural Heritage ("SNH"). Decommissioning in accordance with the approved method statement shall be completed within the period of consent and shall include the dismantling and removal from the site of all turbines, buildings and ancillary development.

Reason; to ensure adequate decommissioning of the project

- H. At least one month prior to any work commencing on the site, the Company shall provide to the Planning Authorities written details of the bond or other financial provision which it proposes to put in place to cover all site restoration costs on the expiry of this consent. No work shall commence on site until written confirmation has been given by the Planning Authorities to the Company to the effect that the proposed bond or other financial arrangement is satisfactory and has been put in place.

Reason: To ensure that adequate provision is made for restoration costs once the windfarm has reached the end of its operational life.

- I. In the event that any wind turbine installed and commissioned fails to produce electricity on a commercial basis to the public network for a continuous period of 6 months, then, unless otherwise agreed in writing with the Scottish Ministers in consultation with the Planning Authority, it shall be deemed to have ceased to be required. If it is deemed to have ceased to be required the wind turbine and its ancillary equipment shall be dismantled and removed from the site by the Company by no later than the date occurring 6 months after the end of the said continuous 6 months period, and the ground fully reinstated to the specification and satisfaction of the Scottish Ministers in consultation with the Planning Authority.

Reason; to protect the visual amenity of the area

Design

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- J. Prior to the delivery of any turbine, the Details of the specific turbines to be used must be submitted to and approved by the Planning Authority in consultation with SNH, and thereafter this turbine design to be used. Details should include direction and speed of rotation, start up and shut down windspeeds, shape, form and colour of turbines.

Reason; to protect the visual amenity of the area

- K. No symbols, signs, logos or other lettering shall be displayed on any part of the turbines nor any other building or structures without the written consent of the Planning Authorities, except for over-riding reasons of health and safety.

Reason; to protect the visual amenity of the area

Reason: to protect the visual amenity of the area

- L. Prior to delivery of any turbine, ancillary equipment or buildings, the design, materials, colour and finish of all ancillary equipment and buildings shall be submitted to and approved by the Planning Authorities after consultation with SNH, and thereafter the development to be constructed and maintained in accordance with the agreed design.

Reason; to protect the visual amenity of the area

Landscape and Visual Mitigation

- M. The Company shall not be permitted to build the Turbine 1, its ancillary equipment and access tracks, shown on SEI Table 1.4, and the heights of Turbines 2, 5, and 6 will be limited to a maximum height of 100m.

Reason; to protect the visual and landscape amenity of the area

- N. The turbine tracks shall not be built as shown other than where they connect Turbines 9, 10, 11 to the existing tracks, and where they connect turbines 2, 5 and 6 to each other. No development of tracks connecting Turbines 2, 5 and 6 to the remainder of the windfarm shall take place until a revised layout of the tracks has been submitted and approved by the Planning Authority in consultation with SEPA and SNH, thereafter the tracks to be constructed in accordance with this revised layout.

Reason; to protect the visual and landscape amenity of the area

- O. The borrow pit nearest the spot height on Bransly Hill shall be deleted from the proposal.

Reason; to protect the visual and landscape amenity of the area

Roads and traffic management

- P. 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.

Reason; to secure restoration of any damage to the public road

- Q. 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.

Reason; in the interests of road safety

- R. 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 East Lothian Council 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.
- S. 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.

Reason; in the interest of road safety

- T. 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.

Reason; in the interest of road safety

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- U. Any works within or affecting the public road including works on verges must be authorised in advance by East Lothian 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.

Reason; in the interest of road safety

Recreation

- V. All existing rights of way on site, including the exact route of the right of way known as Herring Road and depicted in the maps are to be retained after the construction period. The commissioning of the development shall not occur until details of signage to aid in the navigation of persons through the windfarm shall be submitted by the Company for the approval in writing of the Planning Authority and the Planning Authorities have approved the proposals. The approved signage shall thereafter be implemented.

Reason: To safeguard the established recreational amenity of the area

- W. In the event that sections of rights of way require to be closed or diverted temporarily during construction for reasons of public safety, before such routes are closed or diverted the Company shall submit a plan for the approval of the Planning Authority which outlines a case for the measures including details of why this necessary and confirming that the Company has obtained any relevant permits required to temporarily close or divert the right of way. The plan submitted by the Company shall include a methodology to ensure that:

- a suitable diversion route for the section of the right of way affected is formed and is open for public use during the construction period where the right of way cannot be used by the public;
- this period is kept as short as possible and the original route reopened within 1 month of the commissioning of the development; and
- no works are undertaken that would prevent the use of any right of way until a suitable diversion route was open to the public.

Reason: To safeguard the established rights of way in the area

Archaeology

- X. Prior to the any groundworks commencing, the applicant shall, through the employ of an archaeologist or archaeological organisation, secure the implementation of a programme of archaeological work (Evaluation and Watching brief) on the development in accordance with a written scheme of investigation which the applicant will submit to and have approved in advance by the Planning Authority. Additionally sites identified for avoidance should be clearly fenced or marked prior to groundworks

starting. This archaeological work must be undertaken and reported on to the requisite standards in order to satisfy the condition.

Reason: In the interests of archaeological conservation

Biodiversity

Y. At least one month prior to any work commencing on site, a site-specific Land Management Plan ("LMP") to cover the long term management of the site shall be submitted for the approval of the Planning Authorities after consultation with SNH, the Scottish Environment Protection Agency, The Forestry Commission, the Royal Society for the Protection of Birds and the landowners. This "LMP" shall detail the following matters in particular:-

- restoration of ground conditions and vegetation cover;
- post-construction management of vegetation;
- the details of long-term ornithological or other such ecology monitoring as may be required; and
- management of wetland and grassland habitat

Thereafter approved LMP shall be implemented in its entirety. No work shall commence on site until the LMP is approved.

Reason; to protect the established biodiversity interest of the area

Miscellaneous

Z. Reinstatement of any temporary works shall be performed within the 6 month period from the commissioning of the development. The replacement of top soil or peat (to a minimum thickness of 200mm) shall be carried out in accordance with the written approval of the Planning Authorities after consultation with SNH.

Reason: to protect the visual amenity and biodiversity of the area

AA. The site compound shall be reinstated within 6 months from the commissioning of the development by the replacement of top-soil or peat to a minimum depth of 200mm and re-vegetation in accordance with details to be approved agreed with East Lothian Council and in consultation with SNH.

Reason: To minimise environmental impacts

BB. The Company shall provide an 'as built' drawing to the Planning Authorities within six months of commissioning of the development.

Reason: To have a complete record of the final development

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