



**MINUTES OF THE MEETING OF THE
PLANNING COMMITTEE**

**TUESDAY 4 JUNE 2024
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON
& HYBRID MEETING FACILITY**

1a

Committee Members Present:

Councillor N Hampshire (Convener)
Councillor C Cassini
Councillor D Collins
Councillor J Findlay
Councillor A Forrest
Councillor N Gilbert
Councillor C McGinn
Councillor S McIntosh
Councillor K McLeod
Councillor C Yorkston

Other Councillors Present:

Councillor S Akhtar

Council Officials Present:

Mr K Dingwall, Service Manager – Planning
Mr C Grilli, Service Manager – Governance
Ms E Taylor, Team Manager – Planning Delivery
Ms J McLair, Planner
Mr M Mackowiak, Planner
Ms S Cheyne, Projects Officer – Landscape
Mr C Clark, Senior Environmental Health Officer
Mr J Canty, Transportation Planning Officer
Mr A Hussain, Transportation Planning Officer
Ms M Haddow, Transportation Planning Officer
Ms P Gray, Communications Adviser
Mr J Baker, Service Manager – Economic Development

Clerk:

Ms B Crichton

Visitors Present/Addressing the Committee:

Item 3: Mr T Thomas, Mr J Brand, Mr N De Freitas, Mr S Winpenny, Ms S Renton, Mr J Carson, Mr M Davies, and Ms L Shaw Stewart
Item 4: Mr J Scott, Mr B Hall, and Mr B Hickman
Item 5: M G Burborough, Ms J Bell, and Mr D Campbell

Apologies:

Councillor L Allan
Councillor J McMillan

Declarations of Interest:

None

Before the first item of business, Keith Dingwall, Service Manager – Planning, advised the meeting that the Planning Authority had become aware that an incorrect statement had been made regarding ownership of the land in the application site for Items 6 and 7. As the proper ownership notification had not been carried out, the applications could not be heard.

1. MINUTES FOR APPROVAL
a. Planning Committee, 7 May 2024

The minutes were agreed as an accurate record of the meeting.

2. MINUTES FOR NOTING
a. Local Review Body (Planning), 29 February 2024

The Committee agreed to note the minutes.

b. Local Review Body (Planning), 21 March 2024

The Committee agreed to note the minutes.

3. PLANNING APPLICATION NO. 23/00753/PM: RELOCATION OF EAST LINKS FAMILY PARK TO EAST FORTUNE FARM AND ASSOCIATED WORKS, EAST FORTUNE FARM, EAST FORTUNE, ATHELSTANEFORD

A report had been submitted in relation to Planning Application No. 23/00754/PM. Julie McLair, Planner, presented the report, highlighting the salient points. She also stated that the current park could remain in authorised planning use, but not under the business name of East Links Family Park. She confirmed that the application was for an additional family park site and not for a replacement. The report recommendation was to refuse consent.

Officers responded to questions from Councillor Findlay. Ms McLair advised that the Council had sought legal advice, which had confirmed that a Section 75 legal agreement would have to be entered into if the applicant wished to secure the loss of any further agricultural land. She also confirmed that there had been no application or pre-application enquiry made regarding development of the East Fortune Hospital site. Mr Dingwall added that the hospital site was not allocated for development within the adopted East Lothian Local Development Plan 2018 (LDP), but was covered by Policy DC1, which was the countryside policy.

Responding to questions from Councillor McLeod, Ms McLair, along with Jon Canty and Morag Haddow, Transportation Planning Officers, explained that existing businesses such as Merryhatton Garden Centre and the Museum of Flight had been determined under previous policies. Although visitors to these attractions mainly travelled by car, these attractions had

not been subject to current assessment; concerns were raised about this application under current policies due to a lack of facilities for public transport access. Ms Haddow added that Merryhatton Garden Centre and the Museum of Flight were on a bus route, whereas the proposed family park site was a greater distance from the closest bus stop.

Grant Bell, managing director and business owner of East Links Family Park, spoke to the application. He said the business was about giving families access to farms, and there had been many farms considered for the move of the business from East Links. He reported there had been a good deal of involvement from various Council departments, and pointed out that the application was acceptable on all fronts other than transportation. He also pointed out that the LDP encouraged development proposals which contributed to sustainability, and he felt that LDP Policy 29 outweighed the first recommended reason for refusal. He also explained that 300,000 car miles per year would be saved by moving the premises closer to the centre of East Lothian. He felt the new family park would give East Fortune a sense of identity. He was content to accept planning conditions relating to speed controls. Addressing the fourth recommended reason for refusal, he advised that Lothian Buses passengers could ask to be set down or picked up anywhere along this route, and said the existing path could be updated and formalised. He advised that Hedderwick Hill bus stop was used rarely, but there would be a bus turning circle within the car park. He highlighted that there was a positive officer report, and he had been able to offer solutions to all recommended reasons for refusal. He said that the current site was recognised as one of the top farm attractions in the country, and 350 owner delegates had visited to learn from the running of the family park. He asked Members to allow him to continue with his commitment to, and investment in, the area.

Mr Bell answered questions from Councillor Collins. He advised that the area outside of the railway line would continue to have agricultural activities, with livestock, cropping, demonstrations, grazing, and experiences such as a 'potato week'. Responding to a question about safety, he said that agricultural machinery would not be taken out during agricultural hours, or if it had to be, a banksman would follow to ensure safety. He advised that the land would be sprayed before the park was opened. He stated that there were no badger sets on the land. He also advised that the railway line would run between the new sheds to allow visitors to view the livestock.

Responding to questions from Councillor McLeod regarding traffic and safety improvements, Mr Bell said that a 40mph speed limit had been considered at the pre-application stage. He advised that it would be possible to move the entrance to the east, which would give full 60mph visibility splays; he noted that this would be a positive for the park, but the existing caravan park entrance had been used to save farmland. He thought there would be advantages to there being signage and flower boxes at all three entries, giving a good sense of identity and improving safety. Tony Thomas, the applicant's agent, added that the speed survey at the caravan site showed that the average speed was below 30mph, and yet the applicant was being asked to meet standards for 60mph in terms of visibility splays. He added that road features meant cars travelled much more slowly than this around the main access at the east. He advised that there had been communication with Eve and Lothian Buses to try to deliver a better solution, since the existing bus stop for the X7 was half a mile from the front door and there was no existing footpath; he reported that a dedicated stop was being offered.

Mr Dingwall pointed out that Roads Services had specific requirements when moving down to a 40mph limit; the Council's position was that this site did not meet these requirements and a reduction in speed to 40mph was not supported.

Responding to a question from Councillor Findlay, Mr Bell said he was not aware of what would happen to the existing site. He advised that the quoted figure of 300,000 fewer car miles per year had been produced by a Sweco transport analysis to account for a shorter journey for visitors coming from Edinburgh and because the site would be close to the town.

Responding to questions from Councillor Akhtar, Mr Bell listed other farms considered and gave some of the reasons they had been unsuitable. He noted that other parts of the Council accepted the proposals, particularly Economic Development. Mr Bell said he was prepared to work with the Council to find solutions, and encouraged the Committee to consider which policies and aspects of the proposals outweighed specific policies and reasons for refusal. Mr Thomas added that a comprehensive traffic assessment showed there would be no traffic or safety issues, and that there would be no reason for visitors to travel through Athelstaneford to the farm. He said that there would be fewer than 200-300 visitors to the farm on most days.

Responding to Councillor McGinn's concerns about road safety, Mr Bell advised that the difference in the distance between the current and new sites and their nearest bus stops was only 10 metres. He also reiterated that the bus would be allowed to stop directly at the East Fortune entrance.

Jamie Brand spoke in favour of the application. He said that diversification had been required in increasingly difficult circumstances in his family's 92-year history at the farm. He highlighted that the farm's achievements continued to be recognised, and said the family had integrity and took pride in the stock they produced. He felt that the farm's operations formed stark contrast to an intensive style of farming; he said this was worthy of preservation when considering the food miles involved in many people's weekly food shopping. He drew attention to educational benefits, including offering young people the opportunity to enjoy time in the countryside. He recalled East Fortune as a busy and vibrant community when he was growing up, without noticeable holdups or difficulty travelling. He commented on the current bus route as being a new modification which avoided the residential hub of East Fortune. He noted the importance of innovative approaches to teaching and learning to ensure young people did not lose connection with where food came from; he said the site could provide field-to-fork education, time spent outdoors, and accessibility to multiple facets of society. He said the new family park had the opportunity and potential to contribute to the rural economy.

Nico De Freitas spoke in favour of the application. He gave an account of his work in East Lothian representing tourism, golf, the Business Association, and licensing. Mr De Freitas said the park had brought families together, and described it as being at the core of East Lothian tourism. Although the family park had not brought in the revenue associated with golf and so on, he said it had still introduced families to the area and provided positive experiences. He felt that the site at East Links Family Park had been a great thing for East Lothian. Although there had been issues initially with transport and access, he said Mr Bell had made the project happen for East Lothian. Mr De Freitas said it would be a great loss to East Lothian if there were no family park. He expressed that if the current landlord wished to keep running the park on its current site, then this would only open more areas for people to enjoy East Lothian.

Simon Winpenny spoke against the application. He asked the Planning Committee to reject the plans which would rip up hundreds of metres of hedgerows and see the loss of prime agricultural land. He said that the plans did not constitute a relocation because there would be two near-identical facilities competing for business. He took issue with the idea that buses could be flagged down on the verge, and said that the Transport Assessment had been misleading as it had not been conducted in the summer. He highlighted that Transport Scotland's guidance said that one decibel would be added for every additional 100 cars, and he felt the assessments also ignored this issue. He raised concerns with road safety due to there being two blind S-bends and a blind junction. He spoke of family experience with a serious accident on this road and implored Members not to make the road more dangerous.

Susan Renton spoke against the proposals on behalf of Carol Leslie. Ms Renton said Ms Leslie had the Brands at East Fortune Farm as her neighbours, and had admired their farm shop. However, the new family park, which aimed to attract 100,000 visitors each year, would also attract an additional 60,000 car journeys each year. Ms Leslie wanted to point out that access to her house was already dangerous, and that it would be almost impossible for her to

get out of her car at peak periods. She felt the park should instead be sited on the edge of a town or city. Ms Leslie's home was just beyond the railway line and would suffer noise pollution from the park attractions and its visitors, particularly the entertainment area, which had been designed as a party and wedding venue. Ms Leslie felt the Council should prioritise the development of the brown field site, and highlighted some social problems since the introduction of free bus passes for young people. Ms Renton said that Ms Leslie was relying on Councillors to support the officer recommendation to refuse consent.

John Carson spoke against the application. He welcomed the officer recommendation for refusal. He said the serious concerns of Road Services about overreliance on the private car, road safety, and the lack of access by sustainable modes of transport were aligned with the views of the local community, but it was also felt that reasons for refusal should be wider than only transport issues. He reported that local people were horrified that prime agricultural land might be turned into park attractions and parking. He said that none of the circumstances highlighted by National Planning Framework 4 (NPF4) Policy 5 applied to the development. He felt the applicant had misled the Council into believing that Policy 29, relating to diversification of an existing rural business, applied. Mr Carson felt that the application should also be refused on the basis of protection of soils. He highlighted that no report detailing ecological and wildlife mitigations had been prepared; Mr Carson said this was due to a flawed Ecological Assessment Report, which claimed that there was little wildlife and no protected species in the area. He reported that local wildlife enthusiasts were incensed and had provided evidence of the presence of protected species, including badgers and water voles. He felt that the absence of a plan to deal with this wildlife, as well as the bats and birds using the site, was a serious omission. He noted that the report admitted a lack of Biodiversity Enhancement Plan. He felt that the wrongful use of prime agricultural land and failure to have meaningful ecological plans were clear breaches of NPF4 and should be added as reasons for refusal. Mr Carson also added that he had read James Findlay KC's opinion, which suggested the application was fatally flawed due to the material understatement of the area of land which would be subject to a change of use. He acknowledged that the Council had received legal advice to say that the application was valid, and he understood that the change of use was highly nuanced, but stated that this was one of two legal challenges the Council could face.

Morgwyn Davies spoke against the application on behalf of Haddington and District Community Council (H&DCC). He reported that many people had contacted H&DCC regarding the application, and all of them had been against the proposal. He highlighted some objections made to H&DCC, including that the railway would be very close to existing properties, and that rural farmland would be taken out of use. He noted that there would not be a great number of visitors outwith school holiday times. H&DCC also raised concerns about the development causing an increased reliance on car use, as only one bus currently went near East Fortune; he also pointed out that the bus stop was a 13-minute walk along a B-road with no pavement. He noted a discrepancy in the number of parking spaces, stated variously as 200 and 250 spaces. He questioned how realistic it would be to expect families to take two or three legs of public transport, and asserted that most would arrive by car. H&DCC were concerned with the local road network of B-roads, and the junction from the B1347 to the A199 was of particular concern to residents of Athlestaneford. He felt the application should be refused based on these travel concerns alone.

Linda Shaw Stewart spoke against the application on behalf on Dunspey Community Council (DCC). She said residents were concerned that the development would impact the area significantly, and were particularly alarmed about the impact this would have on East Linton and its connecting roads. She noted various pinch points which allowed only single-file traffic, and also advised that any parking restrictions necessitated by the development would be unpopular with residents. It was felt that returning traffic was likely to travel through East Linton. She said DCC was not persuaded by the Traffic Assessment, which did not consider overflow facilities. She asked Members to refuse the application and consider the traffic flow through East Linton.

Councillor Akhtar, Local Member, said she had attended two public meetings about the proposals and had listened to both sides of the argument. She said that the family park would not meet road safety requirements, and the proposals were therefore unacceptable on road safety grounds. She highlighted an increase in vehicle movements and an increased risk to cyclists, pedestrians, and vehicles, contrary to LDP policies T1, T2, 13b(1-2) and 13d. She also highlighted the significant level of local objection to the application, and the impact on the site itself and the surrounding villages. She highlighted that 461 of the 552 representations had been objections. She thought the increased car journeys would have a significant impact on residents, and she encouraged the Planning Committee to refuse the application on road safety grounds.

Councillor Findlay felt that the noise impact on residents had been underestimated. He also would not support the loss of further prime agricultural land. He was in favour of farm diversification, but felt this project constituted a change of use rather than diversification, and he would support the officer recommendation to refuse consent.

Councillor McLeod had received emails from constituents both in support of and against the family park relocation. He felt that the park's national awards and economic benefits were great advantages to East Lothian, and he would vote against the officer recommendation to refuse consent.

Councillor Collins commented that the relocated park looked the same as the current East Links Family Park. She raised concerns about the loss of 14.5 hectares of agricultural land; she advised that this land could not be used for crops as it would be impossible to spray the land around the family park. She also felt that there would be safety issues associated with the park being half a mile away from the bus stop at Merryhatton; she compared this with the current East Links site, where there were no blind corners or other safety concerns between the bus stop and the family park entrance. She felt that agricultural uses of the roads in conjunction with the family park uses could lead to safety issues, and would support the officer recommendation to refuse consent.

Councillor McIntosh agreed with the line in the report that it was “not normal practice for speed limit reductions to be implemented solely in order to mitigate a substandard development proposal”. She was also concerned about carbon emissions, and noted the proposals were not a relocation in planning terms and must be seen as an additional attraction. She said the development would encourage car dependency and had a significant number of car parking spaces. She also highlighted that East Lothian was quickly moving through its remaining carbon allowance; she felt such a development was one where the Council could change this trajectory, and said the Council must not permit development which would encourage further emissions. She asked whether protection of soils could be added as a further reason for refusal. She formally proposed Mr Dingwall's suggested wording for a fifth reason for refusal, noted below.

Councillor Cassini was in favour of diversification, but was unconvinced that the benefits of the project outweighed the drawbacks. She thought the educational uses were admirable, but also pointed out that the railway would impact on the privacy of local residents. She felt there was too great a loss of prime agricultural land, and highlighted the lack of plans for the management of existing wildlife. She would support the officer recommendation for refusal.

Councillor Forrest felt diversification was worthwhile, but said this project went too far. He was aware of farms which had diversified to include farm-to-fork education, but felt the proposals constituted an entirely new business. He would support the officer recommendation.

Councillor McGinn would also support the officer recommendation to refuse consent. He liked the concept of taking young people into working farms, but had too many safety concerns about the proposed area to be able to support the project.

The Convener said he understood the Brand family's desire to diversify their business, but said there was already a successful business in place. He felt the scale of the family farm was a huge step up compared to what was already on the proposed site. He could have supported a smaller tourism venture, but felt the traffic associated with the family park would have a significant impact on the local community, as visitors would have to travel long distances on the rural road network. For this reason, as well as reasons of safety relating to access and egress, he would support the officer recommendation.

Councillor Findlay seconded Councillor McIntosh's previously proposed additional reason for refusal, noted below. The Convener checked with all Members, and no one objected to this additional reason for refusal being added.

The Convener moved to a roll call vote on the officer recommendation to refuse consent. Councillor McLeod voted against the officer recommendation to refuse consent, and all other Members voted in support of the officer recommendation.

Decision

The Planning Committee refused planning permission for the following reasons:

- 1 The proposed family park would be a significant traffic generating use located in the countryside which would not be capable of being conveniently and safely accessed on foot, by cycle or by public transport and would increase reliance on the private car. Given all of this the proposal is contrary to Policies 13b(i), 13b(ii), 13d, 29(b) and 30(b) (iv) of National Planning Framework 4 and Policies T1 and T2 of the adopted East Lothian Local Development Plan 2018.
- 2 The proposed vehicular site access onto the B1377 to serve the proposed family park element of the scheme of development proposed cannot achieve the required visibility splay and as such would present an unacceptable road safety risk. Given this the proposal is contrary to Policy T2 of the adopted East Lothian Local Development Plan 2018.
- 3 The proposed vehicular site access onto the B1377 to serve the proposed caravan site element of the scheme of development proposed cannot achieve the required visibility splay and as such would present an unacceptable road safety risk. Given this the proposal is contrary to Policy T2 of the adopted East Lothian Local Development Plan 2018.
- 4 The proposed Family Park would be located within a rural location not well served by public transport. It would be a major development that would generate significant private car movements, with a consequential increase in carbon emissions. As such the proposal is contrary to Policy 30 part b) iv) of National Planning Framework 4.
- 5 The proposal would result in an unacceptable loss of prime agricultural land, contrary to Policy 5 of National Planning Framework 4, and Policy NH7 of the adopted East Lothian Local Development Plan 2018.

4. CONSULTATION 23/00005/SGC: ENERGY CONSENTS UNIT (ECU) CONSULTATION: PROPOSED BATTERY ENERGY STORAGE SYSTEM ON LAND SOUTH-WEST OF INGLIS FARM, COCKENZIE – EAST LOTHIAN COUNCIL'S RESPONSE

A report had been submitted in relation to East Lothian Council's response to consultation 23/00005/SGC for a 342MW battery energy storage system (BESS) measuring 15.2 hectares.

Marek Mackowiak, Planner, began by outlining a change to recommended Condition 16, outlined below. He then presented the report, highlighting the salient points. The report recommendation was to approve the Council's consultation response as outlined in the report.

Responding to a question from the Convener, Mr Mackowiak confirmed that the Scottish Fire & Rescue Service (SFRS) were not statutory consultees to these applications, and he had not heard of any movement on this matter. Mr Dingwall added that two of the most recent decision notices for BESS consents issued by the Energy Consents Unit (ECU) did not mention the issue of fire safety. He was not aware of discussion on this topic from the Scottish Government, but there had been some consideration through the Houses of Parliament that redefinition as a hazardous substance would require statutory consultation with health and safety, fire and rescue, and so on. The Convener added that the SFRS in this area had indicated it did not have some of the equipment needed to douse an onsite fire with cooling material; the Convener responded that we would have to ensure this was purchased.

Responding to a question from Councillor Gilbert, Mr Mackowiak advised that a House of Commons library paper from April 2024 confirmed that there had been one documented incident of BESS fire in the UK, when one of three battery containers had caught fire in Liverpool in 2020.

Councillor McIntosh asked whether it would be possible for the concern about fire to be one of the grounds for objection so that the onus would be on the applicant to address the risk. Mr Dingwall responded that the Planning Authority could only advise on material planning considerations in the assessment of such an application. He reiterated that the last two decisions he had read had not addressed fire risk, and recommended that it was not competent to recommend this as a reason for refusal. However, it was recommended that this be raised with the ECU, and that they must be satisfied that, (a) it is a material consideration and therefore the SFRS would be consulted and any recommendations taken in account, or (b) if the ECU concluded this was not a material consideration, they would have to be satisfied that it was covered by other legislation.

Councillor Yorkston felt the information in the report was somewhat scant, particularly when residents were so concerned about the development's proximity to the school and housing. He asked whether there would be scope to raise a condition to try to seek assurances with regards to fire risk. The Convener agreed and felt that the ECU should be satisfied that the SFRS had the ability to deal with any fire, and this advice to the ECU should be strengthened.

Councillor Yorkston said the community had strongly raised the issue of noise and the potential impact the development may have on the health of those living nearby. He asked about operational noise. Colin Clark, Senior Environmental Health Officer, advised that the report on noise would have considered the manufacturer-specified noise level. He noted that background noise varied through the day and was lower at night due to an absence of peak traffic; it was possible to do a statistical analysis based on the most frequent background noise.

Mr Clark responded to further questions on noise and other environmental health issues from Councillor Gilbert, and from Councillor Findlay on behalf of Councillor Bruce. He advised that the cumulative impact of the number of batteries had been taken into account, and noise reduction measures had also been factored in. He advised that details would need to be provided in a specific noise report, including how the noise level indicated would be achieved. He advised that in general, the maximum noise level would be to facilitate sleeping.

Councillor McGinn asked about the physical barriers between the first row of batteries and the playground. Mr Mackowiak advised that there would be two earth bunds between the facility and the playground, and a smaller earth bund would be slightly north of the first battery compound. An acoustic fence was also proposed on the boundary of the compound to provide screening against noise from the batteries.

Jamie Scott, Planning Director for Pegasus Group, spoke to the application. He explained that the site would be a key piece of infrastructure supporting renewable energy development and improvement of the energy transmission network. He highlighted that almost the entire site had been allocated to support renewable energy related investment. He noted that the report acknowledged that all matters relating to biodiversity, landscape and visual impact, heritage, noise, flood risk, transport, roads and access, and fire safety had been addressed, or could be addressed, through planning conditions; he also pointed out that the ECU consultation had not received any objections on these matters. He said the applicant had worked hard to be a good and considerate neighbour, and gave an account of some of their engagement with the Planning Authority through the pre-application inquiry. The applicant was confident that the proposals would accommodate the link road without adverse effects on the trees or pedestrian safety, and he advised that the new road's design had been integral to the choices made. He said the applicant would be amenable to a condition to secure tree protection and mitigation. He stated that the proposed development did not encroach on the link road's footway. The applicant considered that any amendments required to landscaping plans could be addressed through a planning condition, and was willing to work with officers on this matter. He said concerns on design and safety grounds were recognised; the applicant had been proactive to ensure the design was appropriate, particularly in respect to the houses to the north. He also advised that detailed assessment of landscape, noise, and safety issues had been undertaken to evidence the compatibility of the scheme with the neighbouring land uses. He described the tree-planted bund and landscaping, along with the acoustic screening measures. He said the applicant agreed with the report recommendation that the ECU satisfy itself on the matter of safety, but he also highlighted agencies that had been consulted on safety, including the SFRS; there had been no objections on safety grounds to the Section 36 application. He gave reassurance that the applicant took safety seriously; he highlighted that the Battery Storage Safety Management Plan would provide a site-specific assessment and detail active detection for fire and thermal runaway, with active in-container water suppression if necessary to wholly contain fire risk. He summarised that all outstanding matters could be addressed, and asked Members to support the development, or, if they did support the officer recommendation, that the Chief Planning Officer be authorised to resolve these issues with the ECU.

Responding to a question from the Convener, Mr Scott advised that the Battery Storage Safety Management Plan detailed the measures for detection and in-container incident solutions. He reassured Members that this was a well-used and tested system. Should these measures fail, there was a safety plan in place, and the site had been designed for safe access for the SFRS and had an active water supply on site.

Responding to questions from Councillor McIntosh, Mr Scott said that battery storage was required across Scotland, and the main driver was grid capacity on the transmission network for electricity. There must be capacity to take electricity off and put back on, and Cockenzie had an accessible supply. He said that a site had to be found as close as possible to the grid connection to maximise the efficiency of the site to minimise electricity loss, thus providing the electricity at a lower cost. He summarised that this site was identified as being the most practical site. On the matter of research into the requirement for BESS sites, he advised that energy and electricity was considered primarily at a UK level, and the Scottish Government had their own policies for land use and planning. He advised that the UK transmission network could not currently operate to take in all renewables, and Cockenzie hosted the onshoring of two offshore wind farms. Therefore, the BESS facility was required so that the use of turbines did not have to be curtailed, and he was familiar with dozens of sites requiring a BESS facility. He agreed that both the Emergency Response Plan and a Safety Management Plan were required, but felt that integration of the documents allowed the issues to be connected.

Responding to questions from Councillor McGinn, Mr Scott advised that the facility would offtake energy from the network whenever there was a surplus in the system, and the energy could be recharged back to the grid when needed. He advised that there would be unclimbable

security fencing, as well as a CCTV network and detection system in place. There would also be acoustic fencing for containment of noise, and a bund with tree planting and other shrubs would assist integration into the locality. He advised that some work may be required to replace battery containers, but the lifespan could increase with further investment. Mr Scott could follow up with information detailing units would be used and their expected lifespan.

Responding to a question from Councillor McLeod, Mr Scott advised that no concerns had been raised with the ECU over the proximity of the site to the overhead lines. He advised that the Emergency Plan considered this and other technical safety points.

Responding to a question from Councillor Cassini, Mr Scott confirmed that the site was within a settlement boundary for energy related use. The construction of the site would incur a social and economic benefit, and the applicant was open to a planning condition requiring an appraisal of how local benefits could be derived from site construction and operation.

Responding to questions from Councillors Findlay and Yorkston, Mr Scott advised that the facility would not be an actively manned site, but the site would be constantly monitored, and incident response would be quick. He advised that lithium-ion batteries were the most used type of battery, with sites also in Angus and Dundee. The technology developer had committed to using lithium-ion batteries and technology would only improve over time.

Brian Hall spoke against the application. He lived at the southern end of Cedar Drive, and was concerned that the proposals would have an impact on a family member's health issues due to noise sensitivity. He noted that the Acoustic Design Report had been measured from the centre of the development, and not from the nearest point or the nearest source of noise. He said the 1120 air conditioning units would make the loudest noise and were also closest to residents. He asserted that the report should have considered distances from the highest source of disruptive noise. He also highlighted that the noise sensitive receptor had been placed at the most distant end of Cedar Drive from the units. He highlighted another company which kept BESS sites 250m from residential areas, even with noise mitigation. Mr Hall estimated that the distance of the edge of the facility to the school, houses, and so on, to be 50-100m, and he felt that the report did not reflect how noisy the facility would be. Mr Hall was concerned to report that SFRS representatives had indicated that they had learned a lot from a conversation he held with them. He noted that the application stated that any fire risk would be dealt with by aqueous suppression, but he stated that the mixing of water and hydrofluoric acid became very corrosive, could attack brickwork, and produced acid rain if ignited; he firmly stated that this could not be permitted to enter the environment. He felt that lessons learned from the BESS fire in Liverpool in 2020 had not been considered. From this specific type of battery, runoff water from such an incident would contain cobalt, and it was important that cobalt and hydrofluoric acid did not end up in the sewer system. He provided information on his background as an environmental chemist. He further noted that other facilities which had caused serious problems with fire had been only around 6% of the size of this proposed facility. He recommended that Planning Committee withheld their approval insofar as they were able.

Bryan Hickman spoke against the proposals on behalf of Cockenzie and Port Seton Community Council (C&PSCC). He said the community was against the BESS unit on the site, and felt that any community would object to such a facility being in the heart of their community. He reported that the Pegasus Group as part of their consultation had stated that they had wanted to build the BESS within the coal field, but had been directed by the Council to build on this site. Mr Hickman raised concern over risk management and emergency planning, which he described as generic documents which did not consider the site's specific risks. He said that C&PSCC wished to see an emergency evacuation plan; he was concerned that fumes generated could impact on the community, as the site was close to houses, a playground, businesses, a school, and a medical practice, and felt that there had been no consideration given to the setting should something go wrong. He said the proposals did not meet the requirements of NPF4 in terms of the impact on communities and individual

dwelling, including residential amenity, visual impact, noise, and shadow flicker. Mr Hickman referred to evidence from other BESS developers who would not have considered this site suitable for this type of development due to its proximity to housing and so on, and he highlighted their guidance that the development should be at a distance of 250m. He said that a fire involving lithium-ion batteries would affect housing, with the entire village having to be evacuated. He also raised concern over the loss of agricultural land, and felt that there was a more suitable brown field site within the coal field, which had the benefit of already being surrounded by bunds. He also raised concern over a lack of controls relating to explosion vents, fire detection and monitoring, and adequate spacing between containers. C&PSC considered the technology to be hazardous and outdated, and saw no benefit to the development.

Responding to a question from Councillor Findlay, the Convener said that the coal yard would require several years' worth of work before it would be suitable for businesses to locate there.

Following on from a question raised by Councillor Yorkston, the Convener and Mr Dingwall discussed additional wording to take account of local concerns over fire safety. Mr Dingwall reminded Members that the Council was not the competent authority in this case; Planning Committee was being consulted on the Council's consultee response, and Scottish Ministers would make the final decision. He highlighted the report recommendation to object to the proposals on the basis of the impact on trees and the footway, and advised that the ECU would give the applicant opportunity to resolve the issues. It was recommended that the Chief Planning Officer negotiate the issues with the applicant. He noted Members' concerns over fire risk and suggested a possible route to make the ECU aware of the strong concerns of the local community. He confirmed that the ECU was open with consultation responses, and it was the ECU's responsibility to decide what actions to take on the matter of fire safety.

Councillor Gilbert felt that fire risk was the crux of the matter, particularly given the proximity to housing. Responding to Councillor Gilbert's further points, Mr Dingwall suggested ways in which the Council could amend its response. He suggested that the strong concerns of local residents and the Planning Committee could be added to the recommendation that the ECU satisfy itself in the matter of fire risk. Mr Dingwall had asked the applicant whether the development could be moved further away, and reported that the development could not be moved because the proposed level of battery storage was required to conform to the terms of the licence. Councillor Gilbert responded that he would wish that fire risk and proximity to housing be made the primary concerns.

Councillor Collins raised concerns about the impact of a potential fire, citing the fire at the facility in Liverpool, and asked whether an emergency plan could be requested. She asked whether there was a safe space identified for evacuation, and thought that the Council should recommend this be put in place before the development commenced.

Councillor McGinn asked about noise monitoring, and enquired whether consideration of such sites could form part of future iterations of the LDP. He also commented that the Council had little agency over these decisions. The Convener responded that noise monitoring would be undertaken if there were complaints, and action would be taken if there were a breach in acceptable noise levels. He agreed that the next iteration of the LDP should consider the capacity of the countryside to facilitate these sites. Mr Dingwall mentioned that another issue being considered was the repowering of windfarms because of proposals with significantly higher turbines; he advised that a strategic approach would be taken to possibly commissioning another study, but acknowledged issues of cost and timescales when there were several proposals before us.

Councillor Findlay appreciated the need for this type of development, but felt it was much too close to housing in terms of noise and fire risk. He conveyed a condition Councillor Bruce wished to be added, which was that the UK National Fire Chiefs Battery Energy Store

Guidance be fully implemented. Mr Mackowiak responded that this guidance was referred to throughout the application, but it would be possible to recommend that the ECU was satisfied that the guidance was being complied with. Mr Dingwall added that it would be the decision of the ECU as to whether this was material, but the Council could signpost to the ECU that the Council recommended that the development complied with the standards in this guidance.

Councillor McIntosh expressed that she felt conflicted on some of these decisions, and thought there was a lack of a UK-wide plan to indicate how many BESS facilities would be needed, where they would be, or if such proximity to housing should be legal. She felt national-level strategic direction was missing, and that it would be useful to highlight to the ECU that there should be greater local agency in choosing sites and a greater energy strategy direction. She highlighted NPF4 Policy 11(c), which said that development proposals would only be supported where they maximised net economic impact. She acknowledged that the site was designated to support renewable energy under the LDP, but thought that battery storage was the least economically beneficial in terms of jobs. She commented that this development was too close to houses, particularly in light of guidance that such a development should be 250m from houses, and suggested that this be added as grounds for objection.

Responding to some of Councillor McIntosh's comments, Mr Dingwall pointed out that the applicant had offered to try to maximise local job opportunities, which would mainly come through the construction period. He suggested a further condition whereby details of the measures to try to seek to maximise local employment opportunities would be submitted to the Planning Authority. Regarding distances, Mr Dingwall referred to the National Fire Chiefs Council Grid Scale Battery Energy Storage System Planning Guidance for fire rescue services, and highlighted the section which said that distances between occupied buildings and BESS units would vary. The document stated that proposed distances should account for risk and mitigation, an initial minimum distance of 25m was proposed prior to any mitigation, and, if possible, buildings should be located upwind. On this basis, Councillor McIntosh was willing to withdraw her suggestion to add this as grounds for objection.

The Convener reminded Members that the ECU would take this decision, and while he understood there were concerns about this application, he pointed out that similar batteries were now being fitted to homes. He also pointed out that this type of energy storage was essential for renewable energy.

Mr Dingwall summarised the proposed changes suggested throughout the discussion. All changes are noted below at Recommendation 1 and Condition 17. The Convener formally proposed these amendments, and they were seconded by Councillor Yorkston.

The Convener moved to a roll call vote and Members unanimously agreed to approve Appendix 1 as the Council's consultation response, as amended by the proposal made by the Convener.

Decision

The Planning Committee agreed to approve Appendix 1 as the Council's consultation response, as follows:

1. Planning Committee noted the concerns of local residents on the matter of fire risk. East Lothian Council therefore recommends that the ECU should satisfy themselves that either:
 - a. the proposed BESS would not result in an unacceptable fire safety risk; or
 - b. that the matter of fire risk is competently dealt with under legislation.

East Lothian Council further recommends that a Safety Management Plan is required and that the Council recommends that prior consultation on this matter with the Health & Safety Executive is undertaken.

2. That the Scottish Government Energy Consents Unit is informed that East Lothian Council objects to the granting of consent under Section 36 of the Electricity Act 1989 for the reasons set out in the report.
3. That the East Lothian Chief Planning Officer be authorised to undertake any discussions with the Scottish Government Energy Consents Unit to resolve these objections and conditions to be attached to the consent if required.
4. That if consent is granted then it be subject to the following conditions:

REQUIRED CONDITIONS

- 1 The development hereby approved shall begin before the expiration of 3 years from the date of this permission.

Reason:
To ensure that the development is commenced within a reasonable period.
- 2 Prior to the commencement of development details of the finishing colours for all of the components of development shall be submitted to and approved in writing by the Planning Authority. Development shall thereafter be carried out in accordance with the details so approved.

Reason:
In the interests of the visual amenity of the area.
- 3 Prior to the commencement of any development a report on the actions to be taken to reduce the Carbon Emissions from the completed development shall be submitted to and approved in writing by the Planning Authority. This shall include the provision of renewable technology for all new buildings including the consideration of any opportunities for heat recovery systems, where feasible and appropriate in design terms. The details shall include a timetable for implementation.

Development shall thereafter be carried out in accordance with the report so approved.

Reason:
To minimise the environmental impact of the development.
- 4 Unless otherwise agreed in writing by the Planning Authority through the submission and approval of a Species Protection Plan prior to the commencement of development, no removal of hedgerow, trees or clearance of vegetation within the site shall take place during bird breeding season (which is March- August inclusive).

Reason:
In the interests of safeguarding biodiversity interests.
- 5 A Landscape and Ecological Mitigation and Management Plan (LEMMP) covering a 30 year period should be produced to detail enhancements for landscape and biodiversity mitigation and enhancement. This should be informed by the ecological survey work and consider the ongoing long-term management of biodiversity enhancement measures. To include:
 - a. A full planting plan and planting schedule and specification
 - b. A program of management, replacement planting, thinning and pruning with a typical 12 month cycle showing the detail and frequency of when different aspects of the landscape maintenance specification occur on site
Reason:
In the interests of safeguarding biodiversity interests.
- 6 Prior to the commencement of development a Public Access Management Plan shall be submitted to and approved in writing by the Planning Authority. The Public Access Management Plan shall include the following details:

- (i) Measures to manage and control the speeds of construction traffic, including advisory speed limit signage on the local road network; and
- (iii) Details of any temporary and permanent infrastructure that will be delivered to ensure the safe and convenient active travel routes in the local area, including a timetable for the implementation of the measures.

Thereafter, the Public Access Management Plan shall be implemented and complied with in accordance with the approved details, unless otherwise approved in writing by the Planning Authority.

Reason:

To ensure the safe continuation of public access and amenity.

- 7 No external lighting shall be installed on site unless and until details of it have been submitted to and approved by the Planning Authority.

Reason:

In the interests of the visual amenity of the area.

- 8 Prior to the commencement of development, a Construction Traffic Management and Routing Plan (CTMRP) for the construction phase of the development shall be submitted to and approved in writing by the Planning Authority in consultation with Transport Scotland. The CTMRP shall, unless otherwise approved in writing by the Planning Authority, include the following details:

(i) All vehicles likely to access the site must have room to turn within the site to avoid the need for reversing out onto the public road (existing and proposed public road)

(ii) a dilapidation survey of the construction traffic access route

(iii) The core paths and permissive route shown on the Landscaping plan must remain accessible at all times or an appropriate alternative pedestrian route provided.

(iv) As noted by Transport Scotland the Abnormal Loads Assessment Report is outstanding and will be required for approval prior to commencement of development

(v) Prior to the movement of any abnormal load, any accommodation measures required on the local road network, including the removal of street furniture, junction widening and traffic management must be the subject of a Road Safety Audit, and subsequently approved and implemented to the satisfaction of the Planning Authority. Any resultant reinstatement works should be approved at the same time and be implemented within the agreed timeframe.

(vi) Temporary measures will be necessary to deal with surface water run-off during construction of the site, in accordance with the requirements of the Water Environment (Controlled Activities) (Scotland) Regulations 2005 and General Binding Rules.

(vii) details of temporary signage in the vicinity of the site warning of construction traffic;

(viii) details of wheel washing facilities which must be provided and maintained in working order during the period of construction and/or decommissioning of the site. All vehicles must use the wheel washing facilities to prevent deleterious materials being carried onto the public road on vehicle wheels;

(ix) details of how the behaviour of contractor and subcontractor drivers will be monitored and enforced with particular regards to vehicle speeds; and

(x) a Staff Travel Plan to include measures to minimise dependency on the private car to and from the construction compounds.

The development shall thereafter be carried out in accordance with the approved CTMRP unless otherwise approved in writing by the Planning Authority.

Thereafter the approved programme of monitoring shall be implemented. Any remedial works required to those public and trunk roads shown by the monitoring as arising from the construction of the development shall be undertaken by the applicant within 3 months of the completion of the final monitoring undertaken, unless an alternative means of securing the works is approved in writing by the Planning Authority. Any damage to the road surface as a direct result of the construction process of the development that is identified during the monitoring which could result in a significant risk to road safety shall be repaired immediately.

Reason:

In the interests of road safety and in the interest of the promotion of sustainable modes of transportation.

9 Prior to the commencement of development, the following details shall be submitted to and approved by the Planning Authority:

- The submission of Micro Drainage or similar calculations; and
- clarification that the new drainage can tie into the existing drain on the southern side of the site.

Development shall thereafter be carried out in accordance with the details so approved.

Reason:

To ensure the development is appropriately protected against flood risk and does not give rise to increased flood risk elsewhere.

10 There shall be no commencement of development until the applicant has undertaken and reported upon a Programme of Archaeological Work (5% Evaluation by archaeological trial trench) of the area of the development which lies outside the former coal store with a written scheme of investigation which has been submitted by the applicant (or their agent) and approved by the Planning Authority.

Reason:

In the interests of archaeological and natural heritage.

11 The Development will disconnect from the grid and cease to import or export electricity no later than the date falling forty years from the date of Final Commissioning. The total period for operation of the Development, decommissioning and restoration of the Site in accordance with this condition shall not exceed forty-one years and six months from the date of Final Commissioning without prior written approval of the Scottish Ministers in consultation with the Planning Authority.

Reason:

To ensure the development only operates within its designed and planning lifespan.

12 If the Development fails to export electricity via the grid connection for a continuous period of twelve months, then it shall be deemed to be redundant and unless otherwise agreed in writing with the Planning Authority, the Company shall undertake the decommissioning, restoration and aftercare of the Site as required by other stated conditions.

Reason:

To ensure that if the Development becomes redundant the equipment is removed from the site, in the interests of safety, amenity and environmental protection.

13 No development shall commence unless and until a Decommissioning, Restoration and Aftercare Strategy has been submitted to, and approved in writing by, the Planning Authority. The strategy shall include measures for the decommissioning of the Development and restoration and aftercare of the site, and shall include, without limitation, proposals for the removal of the above ground elements of the Development, confirmation of the status of subterranean elements of the Development (retention, removal, or other such proposal), the treatment of ground surfaces, the management and timing of the works and environmental management provisions.

Unless the Development has been deemed to be redundant under condition 12, no later than twelve months prior to decommissioning of the Development or the expiry of the section 36 consent (whichever is the earlier) a Detailed Decommissioning, Restoration and Aftercare Plan, based upon the principles of the approved Decommissioning, Restoration and Aftercare Strategy, shall be submitted for the written approval of the Planning Authority.

If the Development has been deemed to be redundant under condition 12, no later than twelve months from the date the Development has been deemed to be redundant, a Detailed Decommissioning, Restoration and Aftercare Plan, based upon the principles of the approved Decommissioning, Restoration and Aftercare Strategy, shall be submitted for the written approval of the Planning Authority.

The Detailed Decommissioning, Restoration and Aftercare Plan shall provide updated and detailed proposals, in accordance with relevant guidance at that time, for the removal of above ground elements of the Development, the treatment of ground surfaces, confirmation of the status of subterranean elements of the Development (retention, removal, or other such proposal), the management and timing of the works and environment management provisions which shall include (but is not limited to):

- (a) a site waste management plan (dealing with all aspects of waste produced during the decommissioning, restoration and aftercare phases);
- (b) details of the formation of any construction compounds, welfare facilities, any areas of hardstanding, turning areas, internal access tracks, car parking, material stockpiles, oil storage, lighting columns, and any construction compound boundary fencing;
- (c) a dust management plan;
- (d) details of measures to be taken to prevent loose or deleterious material being deposited on the local road network, including wheel cleaning and lorry sheeting facilities, and measures to clean the site entrances and the adjacent local road network;
- (e) a pollution prevention and control method statement, including arrangements for the storage and management of oil and fuel on the site;
- (f) details of measures for soil storage and management;
- (g) a surface water and groundwater management and treatment plan, including details of the separation of clean and dirty water drains, and location of settlement lagoons for silt laden water;
- (h) details of measures for sewage disposal and treatment;
- (i) temporary site illumination;
- (j) the construction of any temporary access into the site and the creation and maintenance of associated visibility splays;
- (k) details of watercourse crossings; and
- (l) a species protection plan based on surveys for protected species carried out no longer than eighteen months prior to submission of the plan.

The Development shall be decommissioned, the site restored, and aftercare undertaken in accordance with the approved Detailed Decommissioning, Restoration and Aftercare Plan, unless and until otherwise agreed in writing in advance with the Planning Authority.

Reason:

To ensure the decommissioning and removal of the Development in an appropriate and environmentally acceptable manner and the restoration and aftercare of the site, in the interests of safety, amenity and environmental protection.

- 15 No development shall commence unless and until a bond or other form of financial guarantee in terms reasonably acceptable to the Planning Authority which secures the cost of performance of all decommissioning, restoration and aftercare obligations are submitted to the Planning Authority.

The value of the financial guarantee shall be agreed between the Company

and the Planning Authority or, failing agreement, determined (on application by either party) by a suitably qualified independent professional as being sufficient to meet the costs of all decommissioning, restoration and aftercare obligations.

The financial guarantee shall be maintained in favour of the Planning Authority until the date of completion of all decommissioning, restoration and aftercare obligations.

The value of the financial guarantee shall be reviewed by agreement between the Company and the Planning Authority or, failing agreement, determined (on application by either party) by a suitably qualified independent professional no less than every five years and increased or decreased to take account of any variation in costs of compliance with decommissioning, restoration and aftercare obligations and best practice prevailing at the time of each review.

Reason:

To ensure that there are sufficient funds to secure performance of the decommissioning, restoration and aftercare conditions attached to this deemed planning permission in the event of default by the Company.

- 16 Prior to the commencement of development, a further noise report shall be submitted to and approved by the Planning Authority. The further noise report shall:
- a) Specify the detailed engineering that is required to provide the following levels of attenuation:
 - Battery Containers: -30 dB,
 - Inverters: -16 dB,
 - Transformers: - 4 dB,
 - Substation Transformers: 0 dB;
 - b) Provide details of a 4m high bund that will be installed to the north boundary of the compound to provide further attenuation to the houses of Inglis Farm, The Chimneys and Cedar Drive. All perimeter fencing around the equipment compounds will be 4m acoustic fencing as outlined in Figure 6 of Ian Sharland Ltd's Noise Report of 14th January 2024; and
 - c) Demonstrate that the following noise limits can be met:
 - For operational noise, the Rating Level, L_{ArTr}, of noise associated with the operation of the proposed facility when measured at least 3.5m from the façade of any neighbouring residential property in freefield conditions, shall be no more than 5dB (A) above the background noise level, LA_{90,T}. All measurements to be made in accordance with BS 4142: 2014+A1:2019 "Methods for Rating and Assessing Industrial and Commercial Sound".

The further noise report shall also contain a timetable for the implementation of all necessary mitigation measures.

Development shall thereafter be carried out in accordance with the further noise report so approved, and operational noise from the battery energy storage system shall comply with the noise limits set out above.

Reason:

To safeguard the amenity of nearby noise sensitive properties.

- 17 Prior to the commencement of development details of the measures to seek to maximise local employment opportunities shall be submitted to and approved by the Planning Authority. Those measures shall include a timetable for implementation. The development shall thereafter be carried out in accordance with the details so approved.

Reason:

In the interests of maximising local employment opportunities.

Sederunt: Councillor Gilbert left the meeting.

5. PLANNING APPLICATION NO. 23/01477/P: ERECTION OF ONE HOUSE, WIDENING OF VEHICULAR ACCESS, AND ASSOCIATED WORKS, BONARD, BELHAVEN ROAD, DUNBAR

A report had been submitted in relation to Planning Application No. 23/01477/PP. Emma Taylor, Team Manager – Planning Delivery, presented the report, highlighting the salient points. The report recommendation was to grant consent.

Responding to questions from Councillor McIntosh, Ms Taylor highlighted difficulties with policy which said that developments should seek to use materials, in that planning authorities had no way to understand which materials from an existing building might be reused. However, she noted that a number of other measures designed to reduce the carbon footprint of the development had been added to the recommended conditions. She explained that it would be difficult to measure how much material was reused and whether this was the best possible solution. She advised that a discussion had been held with the applicant regarding retaining the existing building, which would have been the Planning Authority's preference. The applicant had responded that retaining the existing building was not feasible, and had submitted a cost analysis. She noted that the Scottish Government had acknowledged that there was no way to measure embodied carbon, and said that planning authorities would have to be educated and trained in how to implement this guidance.

Georgia Burborough, the applicant's agent, spoke to the application. She provided background information on the existing house, which she said had been built in the early 1900s and purchased by the current owner in 2021 in a state of severe disrepair. She listed some of the issues making the house uninhabitable, such as damp, black mould, and a compromised roof. She described the proposed new home and associated works, which she said would improve the aesthetic appeal of the site and represented sustainable and considered use of the land. She noted that justification was not required for demolition of the existing house because it was neither in a conservation area nor a listed building, but the applicant had nevertheless considered retention and refurbishment; a cost plan had been submitted which showed that refurbishment would be prohibitively expensive, and she noted that viability was a material planning consideration. She also noted that operational benefits would result in greater carbon efficiency. She said the applicant and contractors were committed to sustainable practices, including reuse of materials from the demolished building, where feasible. She highlighted features of the Belhaven Conservation Area Character Statement which had been incorporated into the development. She advised that the new building would be set back in line with the original building and with the neighbouring house to the east; this would allow for generous gardens on all sides, landscaping to provide aesthetic value, habitat for local wildlife, and would meet requirements for preserving residential amenity of the neighbouring sites. She advised that the design had taken cues from nearby houses. She also advised that the stone boundary wall would be slightly altered to improve access, but the stone features would be retained and rebuilt. She summarised that the building would make a positive visual impact on the character of the Belhaven Road area.

Responding to questions from Councillor Collins, Ms Burborough advised that restoration cost would be significantly higher than three- and four-bedroom newbuilds in Dunbar were selling for, and said the existing property would not qualify for any kind of grant to help with these costs. She also described the extent of the restoration required for the derelict building.

Jacque Bell spoke against the application. She reported that people had contacted her about the future of Bonard and they felt it was important that the future of the historic building should be decided by Planning Committee. She felt that Bonard, with its prominent position, had value

to the conservation area, despite its setting not being within the conservation area. She said that community members with architectural restoration experience disagreed with the applicant's position that it should be demolished because it would not be financially viable to renovate the property. However, should it not be feasible to restore the house, it was felt that the new building should reflect the architecture of the original building; it was not felt that the proposals fit the genius loci of the surroundings. She noted that there were some modern dwellings near the conservation area, but that they were not as prominent as Bonard. She also felt that it would be beneficial for any newbuild to make provision for bat and bird boxes. She questioned whether the access gate had to be altered since it matched the cobbled area on the external pavement. She said the determination should retain as many trees as possible and replant with native species. She also raised the possibility of a hedgehog highway on the site. She thought conditions would be required to protect residential amenity and school pupils from lorry movements on this busy section of road during construction. She also asked that the trees' root systems be protected from the works.

Sederunt: *Councillors McIntosh and McLeod left the meeting.*

David Campbell spoke against the application on behalf of the Architectural Heritage Society of Scotland (AHSS). He commented that the AHSS felt it had been a thorough report, but which did not do justice to the quality of the existing house. He explained that the house was Georgian gothic in spirit and had to be older than the stated year of 1907. He felt that the pictures made the house look to be in a poorer state than was the case. He said that relevant policies showed that Scotland wanted to be famous for good design, for conservation areas to be preserved and improved, and for design to reinforce Scottish design and identity. He felt the design for the new house could have done better than only some stonework around the front door. He felt that the proposals constituted the loss of a great asset and replaced it with something ordinary. He felt the demolition of the historic house had been treated blandly in the report, and asserted that it was worth preserving. He highlighted various issues with the existing house he felt could be addressed, such as water ingress where the original house met the extension. He said the AHSS felt the plans were objectionable.

Councillor Collins asked how the AHSS would suggest the restoration would be funded when Bonard was not a listed building and would therefore not qualify for any grants. Mr Campbell pointed out that the demolition would also have significant cost, and this money could have gone towards the deferred maintenance costs. He asserted that an old house could be made efficient.

Councillor Collins reported having received several emails requesting she call in the application. She had felt conflicted because the house had been a part of Dunbar for such a long time. She pointed out that there was extensive damage to the building, and it had been neglected for at least ten years. The use of non-breathable concrete had also not helped, and the sandstone had absorbed water and begun to crumble. She described the extensive damage to the interior and exterior of the house, and acknowledged that it would cost a great deal of money to restore. She noted that there was also subsidence from the extension, and felt there was not enough there to make restoration of the property worthwhile. She agreed that the applicant would have to demolish and rebuild.

Councillor Forrest felt that a line had to be drawn at work that was not economically viable. If the property was only demolished, then a gap would sit on the site. He would support the officer recommendation to grant consent.

The Convener understood the community's wish to save the old building, but Bonard was in very poor condition after years of neglect. He said that the building could be saved, but would cost such a great deal of money that no one would be willing to invest in the building. He agreed that it would cost more to restore than the house would be worth. On the site visit, he

had also noticed indications that young people had accessed the building. He would be willing to allow demolition of the existing building.

The Convener then moved to roll call vote on the officer recommendation to grant consent, and Members unanimously voted in support of the officer recommendation.

Decision

The Planning Committee agreed to grant consent, subject to the following:

- 1 The development hereby approved shall begin before the expiration of 3 years from the date of this permission.

Reason:

Pursuant to Section 58 of the Town and Country Planning (Scotland) Act 1997 as amended.

- 2 No development shall take place on site unless and until final site setting out details have been submitted to and approved by the Planning Authority.

The above mentioned details shall include a final site setting-out drawing to a scale of not less than 1:200, giving:

- a. the position within the application site of all elements of the proposed development and position of adjoining land and buildings;
- b. finished ground and floor levels of the development relative to existing ground levels of the site and of adjoining land and building(s). The levels shall be shown in relation to an Ordnance Bench Mark or Temporary Bench Mark from which the Planning Authority can take measurements and shall be shown on the drawing; and
- c. the ridge height of the proposed shown in relation to the finished ground and floor levels on the site.

Reason:

To enable the Planning Authority to control the development of the site in the interests of the amenity of the area.

- 3 In the event of the presence of any previously unsuspected or unforeseen ground conditions (contamination) of the land on the application site being found at any time when carrying out the development hereby approved, work on site shall not begin, or shall cease to continue, until a scheme to deal with contamination on the site has been submitted to and approved in advance in writing by the Planning Authority. The scheme shall contain details of the proposals to deal with contamination to include:

- 1 the nature, extent and type(s) of contamination on the site,
- 2 measures to treat/remove contamination to ensure the site is fit for the use proposed,
- 3 measures to deal with contamination during construction works,
- 4 condition of the site on completion of decontamination measures.

The scheme to deal with contamination shall include a Site Investigation and subsequent Risk Assessment, a Remediation Strategy and Verification Report, if relevant.

Before any one of the flats is occupied the measures to decontaminate the site shall be fully implemented as approved by the Planning Authority.

If no previously unsuspected or unforeseen ground conditions (contamination) are encountered during the development works, then this should be confirmed to the Planning Authority prior to occupation of the new dwellings.

Reason:

To ensure that the site is clear of contamination prior to the occupation of the building.

- 4 Noise associated with the operation of the air source heat pump hereby approved shall not exceed Noise Rating curve NR20 at any octave band frequency between the hours of 2300 -

0700 and Noise Rating curve NR25 at any octave band frequency between the hours of 0700 - 2300 within any existing residential property. All measurements to be made with windows open at least 50mm.

Reason:

In the interests of safeguarding the amenity of the occupiers of the neighbouring residential properties from noise associated with the air source heat pump.

- 5 Prior to the occupation of the house hereby approved, the access, parking and turning areas shown on docketed drawing no. 5765 PH3 rev G shall have been formed and made available for use, and thereafter the access, parking and turning areas shall be retained for such uses unless otherwise approved in advance in writing by the Planning Authority.

On-site parking spaces for 2 vehicles shall be provided within the site and each parking space shall have minimum dimensions of 2.5 metres by 5.0 metres.

On-site turning space for vehicles shall be provided within the site to enable vehicles to access and egress the site in a forward gear.

The first 2 metres of the altered vehicular access hereby approved measured from the edge of the public road shall be hard formed over the full width of the vehicular access and driveway,

Any gates installed at the altered vehicular access hereby approved shall not open over the public footway.

Reason:

To ensure that adequate and satisfactory provision is made for access, parking and turning in the interests of road safety.

- 6 Prior to the occupation of the house hereby approved a 7kW rated Type 2 electric vehicle charging point for at least one car and infrastructure for it shall be installed and available for use and thereafter shall be retained for use, unless otherwise agreed by the Planning Authority.

Reason:

To minimise the environmental impact of the development.

- 7 Prior to commencement of development, details of measures to protect and enhance biodiversity on the application site shall be submitted to and approved by the Planning Authority. The measures as so approved shall be implemented prior to any use being made of the agricultural building hereby approved and shall thereafter be retained, unless otherwise approved in writing by the Planning Authority.

Reason:

In the interests of protecting and enhancing biodiversity on the site and within the surrounding area.

- 8 Prior to commencement of development on the site, a survey for breeding birds, including an assessment of the structures and any mature trees, shall be submitted to and approved in writing in advance by the Planning Authority. Where the survey establishes that there is a breeding bird interest, no development shall be carried out during the bird breeding / nesting season (March-August, inclusive) unless it is implemented wholly in accordance with a Species Protection Plan which shall be submitted to and approved in writing in advance by the Planning Authority, and thereafter, the development shall be carried out in accordance with the Species Protection Plan so approved.

Reason:

To ensure the protection of wildlife and biodiversity from significant disturbance arising from the demolition and construction associated with the development hereby approved.

- 9 Only the trees identified for removal in the (as revised) Tree Survey and Arboricultural Impact Assessment - Tagged 518, 521, 522, 526, 533 and 534 - appended to this planning permission shall be felled. No trees detailed in this Tree Survey and Arboricultural Impact Assessment to

be retained on the site, shall be damaged or uprooted, felled, topped, lopped or interfered with in any manner without the previous written consent of the Planning Authority. If any tree to be retained on the site is damaged or dies within 10 years of first planting then replacement planting will be required.

All site works must be undertaken in accordance with the requirements of the Method Statement (as revised) of the Tree Survey and Arboricultural Impact Assessment appended to this planning permission.

Reason

In the interests of safeguarding the landscape character of the area.

- 10 A scheme of landscaping shall be submitted to and approved in writing by the Planning Authority. The scheme shall provide details of tree and shrub sizes, species, habitat, siting, planting distances and a programme of planting. The scheme shall include five number small species trees along the northern site boundary such as rowan, cherry and hawthorn. The scheme shall include indications of all existing trees and hedgerows on the land, details of any to be retained, and measures for their protection in the course of development.

All planting, seeding or turfing comprised in the approved scheme of landscaping shall be carried out in the first planting and seeding season following the completion of the development or occupation of the house hereby approved, whichever is the sooner in accordance with the approved scheme of landscaping. Any trees, hedges or plants which die, are removed or become seriously damaged or diseased within ten years shall be replaced in the next planting season with others of similar species and final size, unless the Planning Authority gives written consent to any variation.

Reason:

In the interest of the landscape setting of the house.

- 11 All site works must be undertaken in accordance with the requirements of the Method Statement (as revised) of the Tree Survey and Arboricultural Impact Assessment appended to this planning permission.

No development shall take place on site until temporary protective fencing in accordance with Figure 2 of British Standard 5837_2012 "Trees in relation to design, demolition and construction" and ground protection has been installed, approved by the arboriculturist and confirmed in writing by the Planning Authority. The fencing must be fixed in to the ground to withstand accidental impact from machinery, erected prior to site start and retained on site and intact through to completion of development. The position of this fencing and ground protection must be as indicated on the drawing 'Tree Protection Plan' numbered 23_5837_08_32 rev 2 (as revised) of the Tree Survey and Arboricultural Impact Assessment as defined by BS5837:2012 for all trees.

All weather notices should be erected on said fencing with words such as "Construction exclusion zone - Keep out". Within the fenced off areas creating the Construction Exclusion Zones the following prohibitions must apply:-

- _ No vehicular or plant access
- _ No raising or lowering of the existing ground level
- _ No mechanical digging or scraping
- _ No storage of temporary buildings, plant, equipment, materials or soil
- _ No hand digging
- _ No lighting of fires
- _ No handling discharge or spillage of any chemical substance, including cement washings

Planning of site operations should take sufficient account of wide loads, tall loads and plant with booms, jibs and counterweights (including drilling rigs), in order that they can operate without coming into contact with retained trees.

Reason

In order to form Construction Exclusion Zones around retained trees and protect retained trees from damage.

6. PLANNING APPLICATION NO. 24/00237/P: INSTALLATION OF VENT AND AIR CONDITIONING UNIT (RETROSPECTIVE), 84 HIGH STREET, MUSSELBURGH

An incorrect statement had been made regarding ownership of the land in the application site. As the proper ownership notification had not been carried out, the application could not be heard.

7. PLANNING APPLICATION NO. 24/00238/LBC: INSTALLATION OF VENT, AIR CONDITIONING UNIT, ERECTION OF SIGNAGE AND PAINTING OF FRONTAGE OF BUILDING (PART RETROSPECTIVE), 84 HIGH STREET, MUSSELBURGH

An incorrect statement had been made regarding ownership of the land in the application site. As the proper ownership notification had not been carried out, the application could not be heard.

Signed

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Councillor Norman Hampshire
Convener of the Planning Committee



**MINUTES OF THE MEETING OF THE
PLANNING COMMITTEE**

**TUESDAY 25 JUNE 2024
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON
& HYBRID MEETING FACILITY**

1b

Committee Members Present:

Councillor N Hampshire (Convener)
Councillor L Allan
Councillor D Collins
Councillor J Findlay
Councillor A Forrest
Councillor N Gilbert
Councillor C McGinn
Councillor K McLeod
Councillor J McMillan
Councillor C Yorkston

Other Councillors Present:

Councillor L-A Menzies

Council Officials Present:

Mr K Dingwall, Service Manager – Planning
Ms E Taylor, Team Manager – Planning Delivery
Mr C Grilli, Service Manager – Governance
Ms A Law, Planner
Mr C Clark, Senior Environmental Health Officer
Mr R Montgomery, Head of Development
Ms J Hargreaves, Team Manager – Countryside
Mr G Marsden, Project Manager – Growth & Sustainability
Mr R Miller, Transportation Planning Officer
Mr G McLeod, Transportation Planning Officer
Ms M Haddow, Transportation Planning Officer
Ms P Gray, Communications Adviser

Clerk:

Ms B Crichton

Visitors Present/Addressing the Committee:

Item 1: Mr C McNiven, Mr J Stinson, Ms N Tyrrell, Ms S Boocock, Ms L Doherty, Mr B Hall,
Mr G Jones, Mr B Hickman
Item 2: Mr D McNeill
Item 3: Ms P McKeown, Mr P Cooper

Apologies:

Councillor A Cassini
Councillor S McIntosh

Declarations of Interest:

Item 2: Councillors McMillan and Gilbert, due to being East Lothian Licensing Board Members.

1. PLANNING APPLICATION NO. 24/00324/PM: ENABLING WORKS COMPRISING THE RELOCATION AND REGRADING OF MATERIALS FROM ON-SITE EARTHWORK BUNDS FOR THE CREATION OF DEVELOPABLE PLATFORMS AND ASSOCIATED WORKS, LAND AT FORMER COCKENZIE POWER STATION AND COAL STORE, PRESTONPANS

A report had been submitted in relation to Planning Application No. 24/00324/PM. Emma Taylor, Team Manager – Planning Delivery, presented the report, highlighting the salient points. The report recommendation was to grant consent.

Responding to a question from Councillor Findlay, Ms Taylor reiterated the two roles of the Council in this application and in the development. Due this being a major-type application, she explained that there had been a requirement for consultation in the pre-application stage. She acknowledged that the public may have felt that they had not been consulted on options to be brought forward, but she advised that the Planning Authority could only consider the application that came before it; applicants were not expected to go to public consultation on a number of different options.

Councillor Yorkston highlighted public concern over levels of contaminants, heavy metals, and asbestos. Ms Taylor responded that the Contaminated Land Officer had been satisfied with the reports submitted, including assessments of land quality and water environment risk. Subject to conditions which required remediation statements, such as asbestos remediation/removal, the officer did not raise objection to the proposals and had been satisfied that proposals did not pose a risk to public safety.

Responding to further questions from Councillors Yorkston and Gilbert, Ms Taylor confirmed that land from the bunds would be used on the two sites to infill the void and then regrade the land within the coal store. The bund material was mainly the soils and the land within the coal store. She advised that the first phase to take the material to the void in the power station site was expected to take five months, and the second phase was expected to take nine months, dependant on weather.

Graeme Marsden, Project Manager – Growth & Sustainability, spoke to the application on behalf of East Lothian Council. He explained that the proposal was to make the remaining areas of the site ready for development, using bund material to infill a void in the power station site to allow the creation of a 10-hectare developable area. Removal of the bund material and redundant concrete structures would increase the accessibility of the coal store, which was currently only accessible under the former railway line. He highlighted Section 8 of the 2017 Cockenzie Masterplan (the Masterplan), which stated that the existing bund walls and disused railway infrastructure could be removed and dismantled locally to ensure the most flexible use of the area. He highlighted that the Masterplan also showed the former power station area being developed as a single-level site. He noted that future development proposals would be subject to separate planning applications. He advised the phasing of work was due to the presence of bats, and said works had also been designed to minimise disruption to residential properties. He advised that the volume and breadth of reports submitted had been similar to that of an Environmental Impact Assessment (EIA) development, and he listed the range of topics covered by the various submitted reports. He said that the development sought to avoid

heavy vehicles driving through Cockenzie and the Memorial Junction following community feedback from the Inchcape development; thus, an existing private service road and a temporary haul route would be used. He advised that mitigation measures would be used to bring construction noise below acceptable thresholds. He acknowledged the strength of feeling around contaminated land, but highlighted various reports confirming that the coal store site was developable for commercial and industrial uses and the bund material was suitable for upfilling the construction site. He confirmed that no exceedances of the assessment criteria protective of human health were recorded within the bund material. He confirmed that there was no asbestos contamination within the bund material to be moved. Asbestos at low levels had only been found within the demolition material left on part of the demolition site, and advised that a Remediation Method Statement had been submitted. He acknowledged community concerns relating to dust produced through concrete demolition and the movement of bund material, and advised of dust suppression measures, but also noted that the wet and clay-like bund material would not be easily blown around. He advised that the arboricultural study detailed that trees being removed were self-seeded and of low quality, and confirmed that none of the trees from the perimeter of the site would be removed. He said the Council aspired for biodiversity enhancement of the entire site. Although the bunds themselves have biodiversity value, this could not be replicated on the coal store part of the site at this stage because future development proposals would undo this work; a proposal for biodiversity enhancement would be submitted for land to the south of the coal store instead. He confirmed that future development proposals would require biodiversity enhancement and landscaping. He advised that it was proposed that construction would take place at the same time as the construction of the link road.

Responding to questions from Councillor Yorkston, Mr Marsden advised that the site had been considered as a landfill site to bring the level of the void in the power station site up to the same level as the rest of the site, but had not been taken forward as this work would take many years and would have incurred a long term traffic impact. He advised that various external companies had analysed the soil over the years. The Council had been able to access several reports produced before it took over the site in 2018, and two separate reports by different companies had been commissioned since taking this project forward. He also advised that bat numbers were still to be fully determined through hibernation and roosting reports; the second phase could not be undertaken before completion of this survey.

Responding to a question from Councillor Findlay, Mr Marsden highlighted some of the dust suppression methods, such as minimising the amount of aggregate, and watering down material before transporting it; the suite of proposals was still to be finalised, and work could not begin until the Planning Authority had given approval. He noted the short-term construction period and that the nearest housing to the access road was more than 100m away.

Responding to questions from Councillor Gilbert, Mr Marsden gave an account of the various reports into possible contamination to which the Council had access, as well reports it had commissioned. The reports had spanned a period from 2013 to 2023.

Responding to a question from the Convener, Mr Marsden advised that the area of developable land within the coal store would increase by around eight hectares. The main power station site would be levelled together to produce a 10-hectare developable site, and access to the site would also improve.

Brian Hall spoke against the application. His written objection had centred on noise disturbance and dust exposure because of the proximity of his home on Cedar Drive to the development, and because of a family member's health condition. He would concentrate his submission on atmospheric exposure to toxic materials as he believed the potential risk of asbestos resulting from the development had been underestimated. He was particularly concerned about the proposed work associated with the large eastern bund. He said there were many references in the Land Quality Risk Assessment to a sample identified as 6F2 with

respect to its asbestos content. He stated that all analyses were positive. He said there were references to procedures to be adopted when handling this material, even though the overall risk was classed as 'low' and 'very low'; this was because asbestos was a special case where no level of risk was acceptable. He was concerned that some samples, which were being described as negative for asbestos, had in fact been described by the experts as being positive for asbestos because of its association with 6F2, demolition material, which he said was of concern. Mr Hall had looked back at data and reports and understood that the asbestos present in the residual foundations and concrete structures of the former power station had also been of great concern to further development, for example of the cruise terminal. He said it was logical to assume that the concrete tunnels and other structures in the eastern bund would be constructed of similar materials to the power station, and hence the asbestos content could be expected to be similar to the asbestos data from sample 6F2 and any other power station site samples. He said that any demolition material associated with the eastern bund must take this into account. He said data on this matter from soil surveys should be discarded because no pre-demolition bund soil samples would detect this incorporated asbestos. He said there would be significant noise and dust generated from the demolition of this bund, as mentioned in the Air Quality Assessment Report, which only considered the level of dust and not the content. He considered that the main issues of dust and noise would come from the demolition of the eastern bund. He was also concerned that there was no definitive undertaking regarding the mitigation measures and precaution. He said that no type of mitigation would entirely remove the threat of asbestos exposure to residents, and he formally objected to the removal of the eastern bund on these grounds. Moving to the presence of bats, he pointed out that all species were protected, so a crime may be committed if places bats used for resting or roosts were damaged or destroyed, even if the bats were not occupying the roosts at the time. He reiterated that he, as an environmental chemist, considered that the soil analyses were not representative of the amount of asbestos that residents would be exposed to. He concluded that the eastern bund should be left undisturbed in the interests of noise disturbances, of residents' health, and of preservation of wildlife habitats.

Responding to questions from Councillor McMillan and the Convener, Mr Hall clarified that the 6F2 created at the time of the power station demolition was now bound in the tunnels under the bund, but another pile of 6F2 was about to be created by disturbing the bund. He reiterated that statements such as 'low risk' were not acceptable when it came to asbestos, as he considered that any risk was unacceptable. His position was that the eastern bund should be retained, and this would also be beneficial to the bats.

Gareth Jones spoke against the application. He said that the scheme did not conform with the adopted East Lothian Local Development Plan 2018 (LDP) and considered it to be poorly conceived. He said the public did not consider the Council's level of self-interest in the scheme to be fair or reasonable. He took issue with comments from the bid proposal, such as that the proposals were essential, and that there had been no opposition to the bid proposal; he stated that there had been no consultation until after submission. He questioned this lack of consultation, and suggested other places money could be spent, such as at Cockenzie Harbour. He said the Masterplan document suggested creating openings in the bunds and retaining them as screening rather than removing them entirely; he suggested the Council was ignoring the Masterplan because it did not accord with plans under the Levelling Up Fund bid. He was concerned that removal of the bunds would destroy a well-established habitat for no benefit. He said that ecological mitigation on battlefields had been offered late in the day and would probably require planning permission which was not in place. He questioned the report's enthusiasm for the view being created across an industrial site, and said the soil would only fill in what would otherwise be useful space. He questioned why any contamination in the coal store was not being surveyed and dealt with prior to commencement. He pointed out the scoping document, which meant an EIA had not been required, was not publicly available. He could not see any evidence to suggest that the biodiversity of brownfield land which had been naturalised had been taken into account, per NPF4 Policy 9. He pointed out that between £15-20m would be spent on levelling land that he suggested would be worth around £4m, and

asserted that this money should otherwise be for communities. He listed negative impacts of the development, including the loss of habitat, and the loss of screening of the coal store for future employment related uses. He felt strongly that the scheme was being mis-sold to spend a grant, and said there was nothing in the development to benefit residents or the wider community. He listed alternative actions, such as retaining the bunds, remediating the coal store, introducing services to the site, and building a developable platform over the basement, which he said would meet the objectives of the bid. If granted, he asked that a condition to restrict future development of the site in terms of the height and the massing be added. He also suggested that Condition 15 be altered to being prior to the beginning of the development, rather than before the second phase, and he implored the Council to act responsibly with regards to biodiversity. He suggested the £40,000 Section 75 agreement would not redress the cost of ecological remediation. He said converting 12 hectares of fields would see a loss of rental income; he questioned why the Council would pay itself to replant trees that it had cut down, but be prepared to accept the loss of the fields without any charge. He said the two substations and the BESS had potential to create a significant contribution to the Council and county, but he felt nothing had been done to leverage benefit to local residents.

Responding to a question from the Convener, Mr Jones reiterated that he did not consider the cost of £15-20m to remediate seven hectares of land to be a good investment, and pointed out that loss of screening removed the possibility of future industrial purposes.

Bryan Hickman spoke against the application on behalf of Cockenzie & Port Seton Community Council (C&PSCC). He had been asked by C&PSCC to undertake biodiversity survey work because of his previous experience working with the RSPB. He had undertaken three visits of roughly two-and-a-half hours, where he had walked around the perimeter fence. He highlighted a good deal of wildlife movement between bunds and adjoining areas of good habitat. He had observed 33 different species and had 254 contacts with different species. He then detailed all the wildlife he had observed, which included a wide range of species of warbler birds, including whitethroats and sage warblers, which were in decline in Britain. He noted that many of the birds observed preferred different habitats, which showed how diverse the area was, and he said the trees and scrub were important and valued. He listed further species he had recorded, including red-list species such as grey partridges and yellowhammers. He pointed out that the site must have value for insects for there to be such a range of bird species. He said the site also had a local and national value for species such as roe deer. He disagreed with the assumption that wildlife would happily move to another habitat; it would take years for these species to reestablish on another habitat. He thought a proper environmental survey would identify many more species than he had named, and he urged Members to consider the proposals from an environmental point of view.

Responding to questions from the Convener, Mr Hickman felt that NatureScot's lack of objection was irrelevant; he reiterated that developers could not destroy one area and expect wildlife just to move into what was left.

Councillor Yorkston, Local Member, said he had listened to the concerns raised, and acknowledged a recent petition. He had also considered the officer report and recommended conditions. He acknowledged that to infill the void with general waste would have extended the development timescale, and the bunds remaining in situ would mean that further land would not be made available. He felt being able to reuse the material from the bunds was a major bonus. He said there were understandable concerns about the site being contaminated, but he noted that: SEPA had given Scottish Power a certificate to surrender the site; external experts had deemed that traces of heavy metals and asbestos were within acceptable levels; and mitigations would minimise risks to the public and workforce. He understood the apprehension of some of the community, but firmly believed that measures were adequate for the work being proposed. He pointed out that the site had been purchased to bring employment to the area, and he thought there were real positives in school leavers being able

to walk or cycle to work. He thought the proposals would help deliver 20-Minute Neighbourhoods, and he would support the application.

Councillor Gilbert, Local Member, echoed Councillor Yorkston's comments. He would support the officer recommendation, as the work would add value to the site and make it more developable.

Councillor McMillan said he had listened to objectors, but also thought that the officer report addressed their concerns. He highlighted various recommended conditions which addressed concerns relating to asbestos, habitat, and birds. He said he respected officers' professionalism and their own respect for communities. He also pointed out his economic development role in considering this major site. He said this site needed to be levelled up, and he knew the proposals would help the Council to bring in good jobs to the area. He reiterated that conditions addressed all concerns, and he trusted that the Council officers would not work in a way that would adversely affect communities. He thought the development would present long term and sustainable economic opportunities. He wanted to see all recommended conditions fulfilled, and reiterated that he had listened carefully to objectors, but thought that the innovative project would be of real benefit to the economy and community. He felt that mitigation measures were in place to protect the environment, and highlighted the Council's other environmental work across the county.

The Convener understood the nervousness of the community living alongside the Cockenzie Power Station site. He said the Council had purchased the site to control its future, but the government's decision that the site should be energy related had delayed plans for the site. He said the Council had done as much as possible to ensure the buildings on the site were as attractive as could be. He said the site delivered fantastic opportunities for Cockenzie and Prestonpans. He had never felt the artificial bunds improved the village, and thought their removal would enhance the area. Although it was not yet known what development would take place within the site, he commented that the Planning Authority would make great efforts to ensure it was attractive, while creating high-quality jobs. He said that efforts would also be made to enhance the biodiversity of the site. He would take the advice of both Council officers and national agency officers who said it would be possible to develop the site and protect the environment around housing. He said the Council would do all it could to minimise disruption, and said there should be dust control measures in place. He would support the officer recommendation to grant consent, but reiterated that he understood the concerns of neighbours to the site.

The Convener moved to a roll call vote, and Members unanimously supported the officer recommendation to grant consent.

Decision

Members agreed to grant planning permission be granted subject to:

1. The undernoted conditions.
2. The satisfactory conclusion of an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997, or some other agreement designed to secure from the applicant a financial contribution to the Council of £49,230 for the cost for the supply, planting and ten-year maintenance of new trees to mitigate for those proposed to be removed from the former coal store bund.
3. That in accordance with the Council's policy on time limits for completion of planning agreements it is recommended that the decision should also be that in the event of a Section 75 Agreement or other agreement not having been executed by the applicant, the landowner and any other relevant party within six months of the decision taken on this application, the

application shall then be refused for the reason that without the developer contributions to be secured by an agreement the proposed development is unacceptable due to the loss of trees, contrary to Policy 1 of the Council's Tree and Woodland Strategy for East Lothian (TWS) and Policy DP2 of the ELLDP.

- 1 No development shall take place on site unless and until final site setting out details have been submitted to and approved by the Planning Authority.

The above mentioned details shall include a final site setting-out drawing to a scale of not less than 1:200, giving finished ground levels of the development relative to existing ground levels of the site and of adjoining land and building(s). The levels shall be shown in relation to an Ordnance Bench Mark or Temporary Bench Mark from which the Planning Authority can take measurements and shall be shown on the drawing.

Reason:

To enable the Planning Authority to control the development of the site in the interests of the amenity of the area.

- 2 An updated Construction Traffic Management Plan (CTMP) to minimise the impact of construction activity on the amenity of the area, including from the effects of noise and dust, shall be submitted to and approved by the Planning Authority prior to the commencement of development. The CTMP shall recommend mitigation measures to control construction traffic, shall include hours of construction work and routes of construction traffic to/from the site. It shall also make recommendations in respect of how building materials and waste will be safely stored and managed on site.

The CTMP will show that all construction traffic will arrive to and depart from the site from the B6371 to the east, coming from the A1 and the B6371 to the south.

The CTMP shall also include a scheme of monitoring and engagement to understand how motorised and non-motorised general traffic interacts with the crossing controls on the B1348 public road, including on pupil movements on the route to and from Preston Lodge High School.

Thereafter, the CTMP shall be implemented and complied with in accordance with the approved details for the period of construction of the development hereby approved.

Reason:

To minimise the impact of construction activity in the interests of the amenity of the area.

- 3 Prior to the commencement of the development hereby approved a programme for monitoring the condition of the public road to be used by construction traffic throughout the period of the development shall be submitted to and approved in writing by the Planning Authority. The public road to be monitored shall be 20 metres in each direction of the construction traffic crossing point of the B1348 Edinburgh Road.

The programme shall include details of the monitoring inspection schedule and a plan of how any emergency repairs shall be identified and repaired for damage to the road surface that could represent a significant road safety risk arising from the construction of the development.

Thereafter the approved programme of monitoring shall be implemented. Any remedial works shown by the monitoring as arising from the construction of the development shall be undertaken by the applicant within 3 months of the completion of the final monitoring undertaken, unless an alternative means of securing the works is approved in writing by the Planning Authority.

Reason:

To ensure that damage to the public road network resulting from the proposed development is rectified.

- 4 Prior to the commencement of development, a Public Access Management Plan shall be submitted to and approved in writing by the Planning Authority. The Public Access

Management Plan shall include details of any temporary rerouting of informal active travel routes in the local area, including a timetable for the implementation of the measures.

Thereafter, the Public Access Management Plan shall be implemented and complied with in accordance with the approved details, unless otherwise approved in writing by the Planning Authority.

Reason:

To ensure continuity of active travel routes in the interests of public access.

- 5 Prior to the commencement of development, an updated Drainage Impact Assessment (DIA) shall be submitted to and approved in writing by the Planning Authority.

The DIA shall include detail of the drainage infrastructure including SuDS and swales and shall show there to be no right-angled bends in the piped network. The DIA shall also include a timetable for the installation of the drainage infrastructure.

The drainage infrastructure as so approved shall be implemented in its entirety, unless otherwise approved in writing by the Planning Authority.

Reason:

To ensure the development is appropriately protected against flood risk and does not give rise to increased flood risk elsewhere.

- 6 Prior to commencement of development, a Dust Management Plan (DMP) shall be submitted to and approved in writing by the Planning Authority. The DMP shall identify all potential sources of dust that may arise as a result of the development hereby approved and shall specify any mitigation measures considered necessary to ensure that the amenity of nearby residential properties is not harmed from impacts of dust throughout the period of the development hereby approved.

Thereafter the measures identified in the approved DMP shall be implemented as so approved.

Reason:

In the interests of protecting the amenity of neighbouring residential properties.

- 7 Prior to commencement of development a Noise Management Plan (NMP) shall be submitted to and approved in writing by the Planning Authority. The NMP shall identify all potential sources of noise that may arise as a result of the development hereby approved and shall specify any mitigation measures considered necessary, including details of monitoring and compliance with Threshold Values at Noise Sensitive Receptors as detailed in Table 4-4 of the docketed Construction Noise and Vibration Impact Assessment dated 14 March 2024, to minimise noise impacts upon noise sensitive receptors throughout the period of the development hereby approved.

Thereafter the measures identified in the approved NMP shall be implemented as so approved.

Reason:

In the interests of protecting the amenity of neighbouring residential properties.

- 8 Prior to the commencement of development, a detailed Remediation Statement shall be submitted to and approved by the Planning Authority. The Statement shall demonstrate how the identified asbestos contamination (particularly within the Coal Store material - 6F2) will be dealt with in order to remove unacceptable risks to all relevant and statutory receptors. The Statement shall detail all works to be undertaken, proposed remediation objectives and remediation criteria as well as details of the procedures to be followed for the verification of the remedial works.

Thereafter the detail of works to be undertaken shall be implemented as so approved.

Following completion of the measures identified in the approved Remediation Statement, a Validation Report shall be submitted and approved by the Planning Authority to demonstrate the effectiveness of the remediation carried out.

Reason:

To ensure that the site is clear of contamination and that remediation works are acceptable in the interests of the amenity of the area.

- 9 In the event that unexpected ground conditions (contamination) are encountered at any time when carrying out the permitted development, work on site shall cease and the issue shall be reported to the Planning Authority immediately. At this stage a Site Investigation and subsequent Risk Assessment may have to be carried out, if requested by the Planning Authority. It may also be necessary to submit a Remediation Strategy should the reporting determine that remedial measures are required. It should also be noted that a Verification Report would also need to be submitted confirming the satisfactory completion of these remedial works.

Reason:

To ensure that the site is clear of contamination.

- 10 The phase 1 works of the development hereby approved as shown on docketed drawing no. CLUW-PLAN-012 Rev P0 shall be carried out in strict accordance with the mitigation measures in section 8.0 of the Species Protection Plan - Bats report dated 28 May 2024 by SLR Consulting that is docketed to this planning permission.

Reason:

To safeguard potential bat roosting space in the interests of the biodiversity of the site.

- 11 Prior to commencement of development an updated Invertebrate Survey Report shall be submitted to and approved by the Planning Authority. It shall inform measures to be included in the submission of a final Biodiversity Enhancement and Restoration Management Plan as required by Condition 15 below.

Reason:

In the interests of the biodiversity of the site.

- 12 No tree clearance shall take place during the breeding bird season (March-August), unless in strict compliance with a Precautionary Method of Work Plan for breeding birds, including provision for pre-construction surveys, that shall be submitted to and approved in advance by the Planning Authority.

Reason:

In the interests of the biodiversity of the area.

- 13 All site clearance works shall be carried out in strict accordance with of the Ecological Impact Assessment report dated 5 June 2024 by SLR Consulting that is docketed to this planning permission.

Reason:

In the interests of the biodiversity of the area.

- 14 Prior to the commencement of phase 2 of the development hereby approved as shown on docketed drawing no. CLUW-PLAN-012 Rev P0 an updated Species Protection Plan - Bats report shall be submitted to and approved by the Planning Authority in consultation with NatureScot, which shall include further bat survey work and outline mitigation measures to protect bats in the construction of the development.

Any mitigation measures highlighted to be required as a result of the approved Species Protection Plan - Bats report shall thereafter be carried out in accordance with a timetable to be submitted to and approved in advance by the Planning Authority.

Reason:

In the interests of the biodiversity of the area.

- 15 Prior to the commencement of phase 2 of the development hereby approved as shown on docketed drawing no. CLUW-PLAN-012 Rev P0 a final Biodiversity Enhancement and Restoration Plan (BERP) shall be submitted to and approved by the Planning Authority in consultation with NatureScot. The BERP shall set out in detail the habitat enhancement and compensatory measures to take place, the location for these measures and shall also include provision for new artificial hibernation roosts for bats to be formed prior to the phase 2 works taking place. The BERP shall also include a timetable for its implementation.

Thereafter, the BERP shall be implemented and complied with in accordance with the approved details, unless otherwise approved in writing by the Planning Authority.

Reason:

In the interests of protecting and enhancing biodiversity on the site and within the surrounding area.

- 16 The mitigation measures for the prevention of disturbance and/or displacement of SPA species throughout the period of the development hereby approved shall be implemented in strict accordance with those detailed in Table 4-7: Construction Mitigation Measures and Tables 4.6.1 to 4.6.5 inclusive within the Shadow Habitat Regulations Appraisal Screening and Appropriate Assessment Report dated 14 March 2024 by SLR Consulting that is docketed to this planning permission.

Reason:

To ensure the specified mitigation measures are fully implemented in order to safeguard SPA species.

Sederunt: *Councillors McMillan and Gilbert left the meeting.*

2. PLANNING APPLICATION NO. 24/00236/P: CHANGE OF USE OF OPEN SPACE TO BEER GARDEN WITH SEATING AREA, ERECTION OF FENCING AND GATES (PART RETROSPECTIVE), 131 CHURCH STREET, TRANENT

A report had been submitted in relation to Planning Application No. 24/00236/P. Amy Law, Planner, presented the report, highlighting the salient points. The report recommendation was to refuse consent.

Ms Law responded to questions from Councillors Findlay and McGinn. She advised that the area was privately owned, but was classed as a grassed area of open space. The landowner had given the applicant permission to use the area.

Dominic McNeill, applicant, answered questions from Members. He advised that a small area of decking had already been licensed. He was content to accept the suggested conditions contained within the report. He advised Members that the Licensing Board had recently discussed that the Tower Inn received minimal complaints when compared to other premises. He reassured Members of good measures in place to minimise complaints, including good communication with neighbours. He understood that having an 8pm curfew was important to maintain neighbourly relationships. He advised that customers would be unable to enter the outdoor area through the gate, which would be used only as an accessible entrance. He advised that the gate would be controlled by staff, and the area would be under constant CCTV monitoring. Mr McNeill agreed that the Tower Inn could be considered a community pub, and provided background information as to how he had come to take over the premises when it had been due to be closed down two-and-a-half years before. He spoke about the community connections made at the premises and how the pub helped some people to combat loneliness.

He felt the addition of the outdoor area would mean that more people would access the premises.

Councillor McGinn, Local Member, had been one of two Councillors who had called the application to Planning Committee, and wanted to add context. He spoke about the community outcry when the Tower Inn had been due to close a few years before, and of the work of Mr McNeill and the community to bring the pub back to life as a place where families could gather. He said constituents had reached out to him about this application, but no objectors had come to him. He was aware that many people were pleased with the premises' plans for an outdoor area. He knew that Mr McNeill and his team were committed to the area, to providing a good service, and working with Council officers.

Councillor McLeod, Local Member, supported Councillor McGinn's comments. He commented that many hubs and gathering places had been lost in Tranent over the years, and the addition of a beer garden would allow the Tower Inn to compete with other premises. He now felt reassured in his previous concerns about ownership of the land. He would vote against the officer recommendation to refuse consent.

Councillor Collins said the site visit had helped her to understand how the space could be used to benefit the community, and she was happy to support the application.

Councillor Menzies, Local Member, had also called the application before the Planning Committee. She acknowledged that the officer recommendation to refuse consent was correct in terms of planning guidance, but felt that further context would change opinion. She noted that the proposed development was in a small green space in the heart of Tranent, which was already well screened on one side by a hedge. She thought use of this land, currently only used by dog owners, should be changed for the better. She suggested that hedging could be used to conceal wooden fencing to preserve the character of the area. She thought noise concerns could easily be mitigated with a curfew on use of the outdoor area. She felt it was important to support businesses, and described the Tower Inn as a thriving business with a broad clientele. She felt the beer garden would encourage greater use by families and as gathering places. She noted that the weather would limit the use of the beer garden in any case, and also highlighted the suggested conditions. She felt that the Tower Inn was becoming a community hub, and said she had called the application before the Planning Committee out of a sense of fairness. She felt the outdoor area would add cultural and economic value to the setting. She hoped that other Members would support the premises and hoped that ways to mitigate concerns over noise could be found.

The Convener commented that pubs struggled if they did not have a decent outdoor space. He was concerned about the gate and said staff needed to know when customers were coming in and out. He would support the application, but felt that conditions should be in place in relation to the access gate, planting along the fencing, and times of use for the outdoor area.

Mr Dingwall listed the report's suggested conditions, noted below. He further suggested conditions relating to staining the fence and to require a scheme of landscaping to reduce the impact of the fence. Mr McNeill responded that there were already plans in place to put planters in front of the fence. He said the fence was for security purposes and to be able to control customers' access to the outdoor area; he intended for the fence to disappear behind the planting. He also mentioned that he had been in touch with the Tranent Wombles about creating another seating area on the other side of the pub.

Mr Dingwall and Mr McNeill discussed possible timescales for submission of plans for planting and fencing. Mr Dingwall strongly advised that Members require details of the planting to be submitted to and approved by the Planning Authority. He further suggested that Mr McNeill could meet with the Council's Landscape Officer.

The Convener moved to a roll call vote, and Members unanimously voted against the offer recommendation to refuse consent.

Five recommended conditions were reiterated by Mr Dingwall, noted below. These conditions were proposed by the Convener and seconded by Councillor McGinn. Members unanimously agreed to add these conditions by roll call vote.

Decision

Members agreed to grant planning permission, subject to the following conditions:

- 1 No amplified music and/or amplified speech shall be permitted in the beer garden at any time.

Reason
In the interests of protecting the amenity of nearby properties.
- 2 The beer garden shall only be used between the hours of 1100-2000 hours on any day of the week, including bank holidays.

Reason
In the interests of protecting the amenity of nearby properties.
- 3 The beer garden hereby approved shall not be used unless and until any doors providing access to the beer garden have been provided with a self-closing mechanism. Any such doors shall remain self-closing and shall not be retained in a continuous open position, and shall be retained as such in perpetuity.

Reason
In the interests of protecting the amenity of nearby properties.
- 4 Within one month of the grant of this planning permission, details of the paint or stain for the finish of the fence or gate shall be submitted to and approved by the Planning Authority. Thereafter the fence and gate shall be painted or stained the colour so approved within one month of the date of that approval.

Reason
In the interests of safeguarding the character and appearance of the Tranent conservation area.
- 5 Within three months of the date of grant of this planning permission, and scheme of landscaping to reduce the impact of the fence and gate shall be submitted to and approved by the Planning Authority. The submitted details shall include a timetable for implementation. Development shall thereafter be carried out in accordance with the details so approved.

Reason
In the interests of safeguarding the character and appearance of the Tranent conservation area.

Sederunt: Councillor McMillan re-joined the meeting.

3. PLANNING APPLICATION NO. 23/00498/AMM: APPROVAL OF MATTERS SPECIFIED IN CONDITIONS (1A TO I & K, 2(II), 7, 8, 24, 26, 27 & 29) OF PLANNING PERMISSION IN PRINCIPLE 15/00537/PPM - ERECTION OF 137 HOUSES, NINE FLATS, AND ASSOCIATED WORKS – LAND LOCATED TO THE SOUTH AND EAST OF WALLYFORD AND AT DOLPHINGSTONE

A report had been submitted in relation to Planning Application No. 23/00498/AMM. Emma Taylor, Team Manager – Planning Delivery, presented the report, highlighting the salient points. The report recommendation was to grant consent.

Ms Taylor responded to questions from Councillors McGinn and McMillan. She advised that the wider infrastructure, including play areas and the junction from the application area to the old A1, had been approved under another application. Depending on timings, the new junction being brought forward could serve this development. She further explained that as a recent planning application to develop the large area of open space had been refused, there was no permission in place for this area to be anything other than open space. She advised that other areas of open space would come forward, and one of the play areas would come forward prior to occupation of the thirty-first unit on this phase of the application.

The Convener moved to a roll call vote and Members unanimously supported the officer recommendation to grant consent.

Decision

Members agreed that approval of matters specified in conditions be granted subject to the following conditions:

- 1 No development shall take place on site unless and until final site setting out details have been submitted to and approved by the Planning Authority.

The above mentioned details shall include a final site setting-out drawing to a scale of not less than 1:200, giving:

- a. the position within the application site of all elements of the proposed development and position of adjoining land and buildings;
- b. finished ground and floor levels of the development relative to existing ground levels of the site and of adjoining land and building(s). The levels shall be shown in relation to an Ordnance Bench Mark or Temporary Bench Mark from which the Planning Authority can take measurements and shall be shown on the drawing; and
- c. the ridge height of the proposed shown in relation to the finished ground and floor levels on the site.

Reason:

To enable the Planning Authority to control the development of the site in the interests of the amenity of the area.

- 2 Notwithstanding that which is stated on the drawings docketed to this approval of matters specified in conditions permission a detailed specification of all external finishes of the houses and flats hereby approved shall be submitted to and approved by the Planning Authority prior to the use of the finishes in the development. The external finishes of the houses and flats shall be in accordance with a co-ordinated scheme of materials and colours that shall in detail promote render as the predominant finish to the walls of the houses and flats, with a use of more than one render colour and with a strongly contrasting difference in the colours such that they will not each be of a light colour, and shall show the roofs being clad in more than one colour of roof tile. All such materials used in the construction of the houses and flats shall conform to the details so approved.

Reason:

To ensure the development is of a satisfactory appearance in the interest of the amenity of the locality.

- 3 Prior to their occupation, mitigation in the form of glazing units that afford closed window attenuation of 28dB and attenuated ventilation systems that achieve a minimum attenuation of $D_{n,ew}$ 28dB shall be installed in the elevations of the houses as shown in purple on docketed drawing no. 23346/11/01 Rev A.

Thereafter such form of attenuation shall be retained in place unless otherwise approved by the Planning Authority.

Reason:

In the interest of safeguarding the residential amenity of future occupiers of the proposed residential development.

- 4 Mitigation in the form of an acoustic barrier comprising a 2 metre high type C-1 screen wall with close boarded timber fence as shown on docketed drawing no. DET/13 shall be erected in the positions for them as shown on docketed drawing no. 23346/11/01 Rev A prior to the occupation of the houses on the plots where such acoustic barriers are required.

Thereafter the acoustic barriers as so erected shall be retained in place unless otherwise approved by the Planning Authority.

Reason:

In the interest of safeguarding the residential amenity of future occupiers of the proposed residential development.

- 5 With the exception of the acoustic barriers as required by Condition 4 above, notwithstanding that shown on the drawings docketed to this planning permission, the boundary enclosures shown on those drawings are not hereby approved. Instead, and prior to the commencement of development, revised details of all boundary enclosures to be erected on the application site, and the timescales for their provision, shall be submitted to and approved in advance by the Planning Authority. Those details shall show 1.8 metre high solid enclosures around and between rear gardens of the houses hereby approved except where those boundaries are adjacent to a road or pathway where they shall be feature boundaries in either render, stone or stone with timber panel infills and not full height close boarded fencing to heights and finishes to be approved in advance by the Planning Authority. The details shall also show all semi private and defensible spaces in front of or to the side of the houses hereby approved and to the side of parking courtyards to be enclosed by walls/hedges/fences/ or railings to define areas of private space from public space.

Thereafter the boundary treatments erected shall accord with the details so approved unless otherwise agreed in writing by the Planning Authority.

Reason:

To ensure the satisfactory provision of appropriate boundary enclosures and in the interest of safeguarding the privacy and amenity of future residents of the development.

- 6 Prior to the occupation of the last residential unit hereby approved, the proposed access roads, parking spaces, and footpaths to serve them shall have been constructed on site in accordance with the docketed drawings.

Those areas of land shall not thereafter be used for any other purpose than for accessing and for the parking of vehicles in connection with the residential use of the houses and shall not be adapted or used for other purposes without the prior written approval of the Planning Authority.

Reason:

To ensure that adequate and satisfactory provision is made for access and for off-street parking in the interests of road and pedestrian safety.

- 7 The development shall comply with the following transportation requirements:

(i) All roads and paths shall conform to East Lothian Council's Transport Infrastructure in New Developments;

(ii) driveways shall have minimum dimensions of 6 metres by 3.3 metres. Double driveways shall have minimum dimensions of 6 metres width by 6 metres length or 3.3 metres width by 11 m length.

(iii) Vehicle accesses to private parking areas (i.e. other than driveways) shall be via a reinforced footway crossing. Within private parking areas, the minimum dimensions of a single parking space shall be 2.5 metres by 5 metres. The circulation lane should be 6m wide for nose-in parking; a narrower lane is acceptable for echelon parking;

(iv) Cycle parking for dwellings without a private back garden with a gate (e.g. flats/mid-terraces), shall be included at a rate of 1 space per dwelling. This shall be in the form of a lockable room or shed;

(v) Where a priority junction joins a main distributor road, a visibility splay of 4.5 metres by 70 metres in both directions shall be provided and maintained on each side of the vehicular access such that there shall be no obstruction to visibility above a height of 1.05 metres measured from the adjacent carriageway surface;

(vi) Where a private access joins a main distributor road, a visibility splay of 2.4 metres by 70 metres in both directions shall be provided and maintained on each side of the vehicular access such that there shall be no obstruction to visibility above a height of 1.05 metres measured from the adjacent carriageway surface.

Reason:

In the interests of road safety.

- 8 Prior to the commencement of development, a swept path, or vehicle track assessment, of the road layout shall be submitted to and approved by the Planning Authority. For the avoidance of doubt the Design Vehicle to be used is the "Large Rigid Vehicle" as outlined in the Freight Transport Association's document "Designing for Deliveries" - this will permit access by the occasional refuse/recycle collection vehicle, deliveries, social care buses and emergency & firefighting appliances.

Reason:

In the interests of road and pedestrian safety.

- 9 A Construction Method Statement to minimise the impact of construction activity on the amenity of the area, including from the effects of noise and dust, shall be submitted to and approved by the Planning Authority prior to the commencement of development. The Construction Method Statement shall recommend mitigation measures to control construction traffic, shall include hours of construction work and routes of construction traffic to/from the site. It shall also make recommendations in respect of how building materials and waste will be safely stored and managed on site.

The Construction Method Statement shall also include details of wheel washing facilities to be provided, and that these facilities shall be 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.

The Construction Method Statement shall also provide details of utility/service drainage connections, including what temporary measures shall be put in place to control surface water drainage during the construction of any drainage system.

Thereafter, the Construction Method Statement shall be implemented and complied with in accordance with the approved details for the period of construction of the development hereby approved.

Reason:

To minimise the impact of construction activity in the interests of the amenity of the area.

- 10 A Travel Information Pack shall be submitted to and approved by the Planning Authority prior to the occupation of any of the residential units hereby approved. The Travel Information Pack shall have particular regard to provision for walking, cycling and public transport access to and within the site, shall include local bus and train timetables, local cycling and walking maps, information on bike hire / car sharing, and shall include details of how it will be distributed to residents. It shall also include a timetable for its implementation, details of the measures to be provided, the system of management, monitoring, review, reporting and duration of the Pack.

Reason:

In the interests of ensuring sustainable travel patterns in respect of the development.

- 11 Prior to the commencement of development a Quality Audit shall be submitted to and approved by the Planning Authority, which shall be undertaken for the preliminary and detailed design of all roadworks, footways and cycle paths within the development hereby approved. The Quality Audit shall provide details on accessibility and connectivity from the wider transport network and between different elements of the application site and consider all different modes of transport including walking and the need of users who are mobility impaired.

The approved Quality Audit shall thereafter be implemented through the detailed design stages and the full audit process completed through to construction/occupation.

Reason:

In the interests of road and pedestrian safety.

- 12 Prior to the commencement of development a Stage 2 Road Safety Audit shall be submitted to and approved by the Planning Authority, which shall be undertaken for the detailed design of all roadworks, footways and cycle paths within the development hereby approved, and shall include an implementation programme describing when measures identified in the audit will be provided in relation to construction of the proposed development.

Immediately following completion of the development, the date of which shall be provided in writing to the Planning Authority, a Stage 3 Road Safety Audit - Post Opening shall be submitted to and approved by the Planning Authority.

12 months following approval of the Stage 3 Road Safety Audit a Stage 4 Road Safety Audit shall be submitted to and approved by the Planning Authority.

All the Road Safety Audits shall be carried out in accordance with the most recent revision of GG119 Road Safety Audit.

Reason:

In the interests of road and pedestrian safety.

- 13 The play area, equipment within it and surfacing materials hereby approved shall all be installed and available for use prior to the occupation of the last residential unit also as hereby approved.

The equipped play area, when provided, shall be used for such purposes at all times thereafter unless agreed in writing by the Planning Authority.

Reason:

To ensure the satisfactory provision of a play area in the interest of the amenity of the future occupants of the residential units hereby approved.

- 14 All planting, seeding or turfing comprised in the details of landscaping on docketed drawing nos. 1982/02 Rev C, 1982/03 Rev B, 1982/04 Rev B and 1982/05 Rev C shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of ten years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Planning Authority gives written consent to any variation.

The design of all landscaping must be carried out in conjunction with the design and positioning of all services, and sufficient space must be made available to accommodate the full establishment of all landscaping work without impacting on any services.

All the new planting shall be maintained in accordance with the maintenance and management programme as detailed in the docketed 'Pod 2A Dolphingstone Planting Notes & Landscape Maintenance and Management Proposals' document dated February 2024.

Reason:

In order to ensure the implementation of a landscaping scheme to enhance the appearance of the development in the interests of the amenity of the area.

- 15 Prior to the commencement of development, a scheme for the provision of electric car charging points to serve all of the residential units, and associated infrastructure for them, where feasible and appropriate in design terms, shall be submitted to and approved in writing by the Planning Authority. The scheme shall show 1:1 ratio provision with the installation of one 7kW Type 2 charger per dwelling, either socketed or tethered. Where it is not possible to connect to the household's own electrical supply then a factored arrangement shall be provided.

The scheme shall include a timetable for implementation and details of factoring and maintenance arrangements for any charging units which are to be installed outwith the curtilages of residential units. Development shall thereafter be carried out in accordance with the details so approved and charge points shall be maintained in accordance with the details so approved and shall remain in place unless otherwise approved by the Planning Authority.

Reason:

To minimise the environmental impact of the development.

- 16 Prior to the commencement of development, a report on the actions to be taken to reduce the carbon emissions from the build and from the completed development shall be submitted to and approved in writing in advance by the Planning Authority. This report shall include, but not exclusively, the provision of renewable technology for all new buildings, where feasible and appropriate in design terms. The details shall include a timetable for implementation. Development shall thereafter be carried out in accordance with the report so approved.

Reason:

To minimise the environmental impact of the development.

Note: Summary of information

The Committee excluded the public from item 4 in terms of paragraph 12 (any instructions to/opinions of counsel and any advice/information received/obtained or action taken in connection with legal proceedings or any other matter affecting the authority) of Schedule 7A to the Local Government (Scotland) Act 1973.

4. APPLICATION FOR A CERTIFICATE OF LAWFULNESS

The Planning Committee agreed that the Planning Convener should pursue a judicial review.

REPORT TO: Planning Committee
MEETING DATE: 3 September 2024
BY: Executive Director – Place
SUBJECT: Application for Planning Permission for Consideration

2

ECU Application No. ECU00004603

ELC Reference No. 24/00001/SGC

Proposal Electricity Act 1989 – application to installation 17 wind turbines up to 8MW each, generating up to 136MW of which 15 turbines will have a maximum tip height of 200m and two turbines will have a maximum tip height of 180m, battery storage up to 136MW and associated access and infrastructure

Location Land at Newlands hill approximately 6km southeast of Gifford on the northern edge of the Lammermuir Hills

Applicant Stephenson Halliday on behalf of Belltown Power UK Wind Limited

Ward Haddington and Lammermuir (development site and route including works), Dunbar and East Linton (route including works)

REPORT

In Scotland, any proposal to construct, extend, or operate an onshore electricity generating station with a capacity of 50 megawatts (MW) or over requires the consent of Scottish Ministers under Section 36 of the Electricity Act 1989. Such applications are processed on behalf of the Scottish Ministers by the Energy Consents Unit ("ECU"). Onshore generating stations which will have a capacity of less than 50MW when constructed are not within the scope of the Electricity Act, and such proposals require an application for planning permission to be submitted to the relevant local planning authority.

The ECU must consult East Lothian Council on all Section 36 applications within East Lothian.

At the Council meeting of the 27 February 2024 a new procedure for processing Section 36 consultation requests was approved. It was agreed that once the consultation response has been completed by the Planning Service it will be placed on the Committee Expedited List. Members then have seven days in which to request referral to Planning Committee. Otherwise, the consultation response is deemed to be accepted and the Service Manager for Planning (East Lothian Chief Planner) shall be authorised to proceed on that basis.

The ECU have consulted the Council in respect of a proposed wind turbine development on land at Newlands Hill. The consultation response completed by the Planning Service is attached as Appendix 1.

RECOMMENDATION

It is recommended that the content of Appendix 1 is approved as the Council's consultation response to the ECU.

APPENDIX 1

ECU Application No. ECU00004603

ELC Reference No. 24/00001/SGC

Proposal Installation of 17 wind turbines up to 8MW each, generating up to 136MW of which 15 turbines will have a maximum tip height of 200m and 2 turbines will have a maximum tip height of 180m, battery storage up to 136MW and associated access and infrastructure

Location Land at Newlands hill approximately 6km southeast of Gifford on the northern edge of the Lammermuir Hills

Applicant Stephenson Halliday on behalf of Belltown Power UK Wind Limited

Ward Haddington and Lammermuir (development site and route including works), Dunbar and East Linton (route including works)

ENERGY CONSENTS UNIT ("ECU") CONSULTATION: PROPOSED WINDFARM AND BATTERY ENERGY STORAGE SYSTEM ON LAND AT NEWLANDS HILL, EAST LOTHIAN COUNCIL'S RESPONSE

BACKGROUND

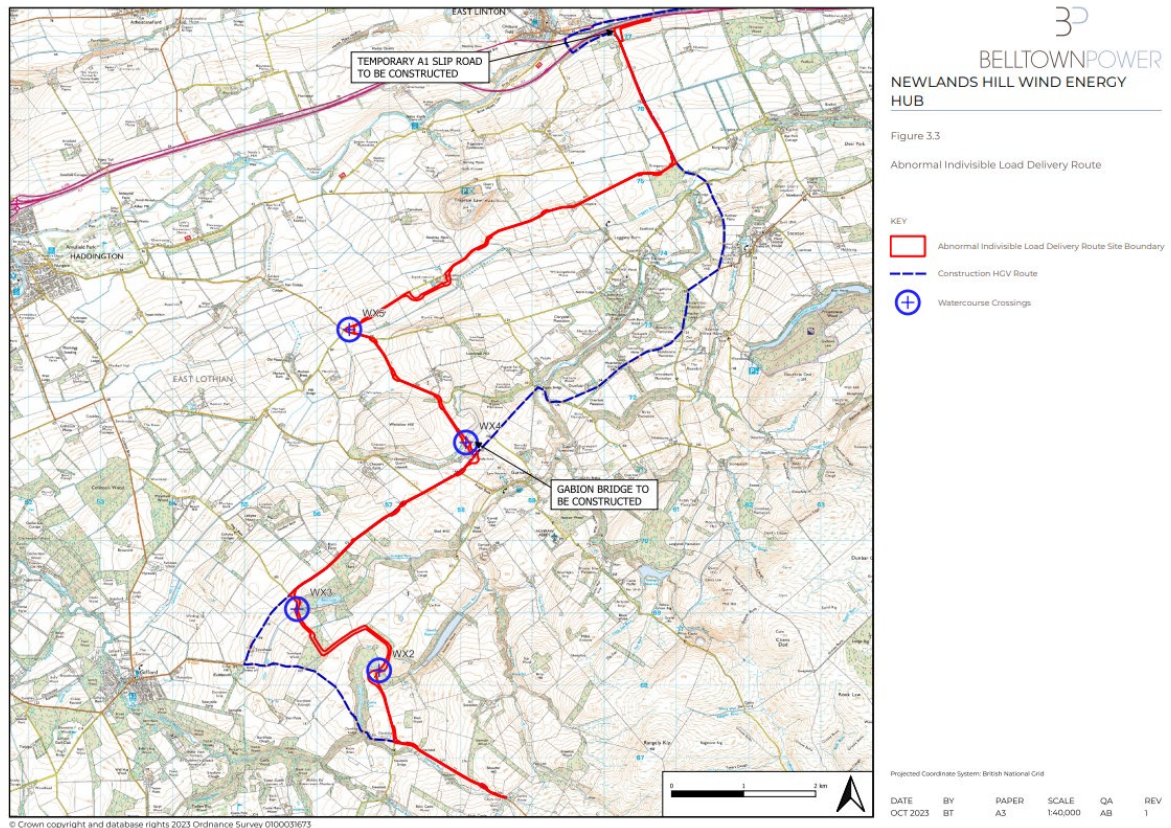
1. An application has been made to the Scottish Ministers under Section 36 of the Electricity Act 1989 for the construction and operation of a windfarm and Battery Energy Storage Facility (BESS). In the case of S36 applications planning authorities are a consultee to the application process and not the Consenting Authority.
2. With regard to paragraph 2(2) of Schedule 8 to the Electricity Act and regulation 8 of the Consents Regulations, if a relevant planning authority makes an objection within the timescale given by regulation 8 (1) and that objection is not withdrawn, the Scottish Ministers must cause a Public Inquiry to be held unless the Scottish Ministers propose to accede to the application subject to such modifications or conditions as will give effect to the objection of the planning authority. East Lothian Council is a relevant planning authority for the purposes of this application.
3. The proposed development would be located in East Lothian at Newlands Hill, on moorland approximately 6 km southeast of Gifford, straddling the B6355 road between Gifford and Duns.

4. Scottish Ministers issued a Scoping Opinion on 25 March 2023 for a proposal at this location which comprised 23 turbines of between 180m and 230m, and battery energy storage, which determined that that proposal required Environmental Impact Assessment (“EIA”). An Environmental Impact Assessment Report (EIAR) has been submitted with this application.

PROPOSAL

5. The proposed development consists of a wind farm and associated infrastructure and an Abnormal Indivisible Load (AIL) route. The Wind Farm Area (WFA) comprises an area of 870 ha., the area within the outer perimeter of turbines being around 290ha.
6. The proposed development comprises:
 - 17 three-bladed horizontal axis wind turbines expected to generate 6.6MW, but could range from 6-8 megawatts (MW) each generating up to 136MW, of which 15 turbines with a maximum tip height of 200m and 2 turbines with a maximum tip height of 180m;
 - A site entrance on either side of the B6355 road, and approximately 10,500m network of new WFA on-site access tracks including turning heads;
 - Foundations at the base of each turbine, with an approximate total above-surface area of 1920m²
 - Crane hardstandings and setdown areas adjacent to each turbine location with an approximate total area of 7020m²
 - A network of underground cables connecting the turbines to the on-site substation;
 - A battery energy storage compound (BESS) measuring around 150m by 70m, with a 2.5m palisade security fence around the perimeter, to include:
 - BESS facility with a capacity of up to 136MW, being 64 permanent containers housing energy storage devices, each approximately 1.6m by 9.1m and some 2.5m in height and
 - approximately 18 inverter skids (combined inverter and transformer) and ancillary equipment
 - Control building of 30m by 25m
 - Substation compound
 - Communications mast up to 15m in height
 - A permanent anemometer mast or LiDAR compound for wind monitoring;
 - Temporary construction compounds, laydown areas including car parking;
 - Temporary borrow pits to provide suitable rock for access tracks, turbine bases and hardstandings; and
 - Internal transformers within the turbine structures
7. As the wind turbines exceed 150m above ground level, they fall within scope of Article 222 of the Air Navigation Order, which requires all obstructions of 150m or more above ground level to be fitted with a red light. The Civil Aviation Authority and the Ministry of Defence have approved a reduced lighting scheme in which only seven of the 17 turbines are required to be fitted with visible lighting.
8. The route to the site for Abnormal Indivisible loads will be from the assumed entry port, at Blyth, to join and follow the A1 to a new slip road to serve this development only, opposite East Linton. The AIL route would have a running width of between 3.8-6m with a 0.5m verge to either side. The AIL route would include 16km of existing access tracks and public road network as shown in EIAR Figure 3.3 below. These would

require to be suitably upgraded to support the expected loads. There would also be 3.1km of new access tracks. All works to the road network and new access tracks would be required to be retained for the full life of the wind farm development.



9. A Proposed Outline Habitat Management and Enhancement Plan (Outline HMEP) (Technical Appendix 9.5, Volume 4) has been developed. This will seek to provide biodiversity mitigation and enhancement. Within the WFA this will include 58.9 ha of wader management (comprising 50.9 ha of managed heathland habitat and 7.95 ha of managed wet grassland habitat) which includes mitigation for displacement of waders; 10.32 ha of wet bog, around 7 hectares of which is mitigation for loss and the remainder being enhancement; 7 ha of native woodland, 3 ha of enhanced riverine habitat; and 30-49 ha of grassland management for improved species richness.
10. The outline HMEP also seeks to mitigate losses of notable habitat along the AIL route.
11. The applicant has been offered a grid connection at Fallago Rig substation, approximately 5km southeast of the BESS location. This will be subject to a separate application for consent by SP Transmission. The applicant states that as a result of this the potential environmental effects as a result of the grid connection will not be considered further as part of their EIA Report.
12. The proposed development is expected to operate for 40 years, which will be followed by decommissioning.
13. The construction of the Proposed Development would take approximately 18 months.

SCHEDULE 9 OF THE ELECTRICITY ACT 1989

14. The application is made under the Electricity Act 1989. This Act requires that in formulating relevant proposals, the applicant shall have regard to the desirability of

preserving natural beauty, of conserving flora, fauna, geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest, and do what they reasonably can to mitigate any effect which the proposals would have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings or objects.

15. In considering such proposals, Scottish Ministers must have regard to the desirability of these matters, and the extent to which the applicant has complied with their duty of mitigation. The applicant must also avoid causing injuries to fisheries or fish stocks.

THE DEVELOPMENT PLAN

16. As the application is not made under the Planning Act the Development Plan does not have the primacy it normally would for planning decisions. The Development Plan however does give the Council's settled approach to some of the matters set out in Schedule 9 of the Electricity Act. In determining applications under the Electricity Act practice has emerged of the decision maker taking the development plan for the area into account in reaching their decision. The development plan for East Lothian consists of National Planning Framework 4 and the adopted East Lothian Local Development Plan 2018.
17. NPF4 identifies 18 national developments that are significant developments of national importance. National Development 3 of NPF4 (Strategic Renewable Electricity Generation and Transmission Infrastructure) supports renewable electricity generation, repowering, and expansion of the electricity grid.
18. Whilst National Development 3 references a Scotland wide rather than a specific location, the south of Scotland (including East Lothian) is identified for supporting on and offshore electricity generation from renewables and delivering new and/or upgraded infrastructure directly supporting on and offshore high voltage electricity lines, cables and interconnectors including converter stations, switching stations and substations.

National Planning Framework 4

19. National Planning Framework 4 ("NPF4") is Scotland's national spatial strategy for Scotland. It sets out spatial principles, regional priorities, national developments and national planning policy. Relevant NPF4 Policies are:

- 1 – Tackling the climate and nature crises
- 2 – Climate mitigation and adaptation
- 3 – Biodiversity
- 4 – Natural places
- 5 – Soils
- 6 – Forestry, Woodland and Trees
- 7 – Historic Assets and Places,
- 11 – Energy
- 12 – Zero Waste
- 13 – Sustainable Transport
- 14 – Design, Quality and Place
- 18 – Infrastructure First
- 20 – Blue and Green Infrastructure
- 22 – Flood risk and water management
- 23 – Health and Safety
- 25 – Community Wealth Building
- 33 – Minerals

Local Development Plan

20. The following policies contained in the Local Development Plan (“LDP”) are relevant

- T1 Development Location and Accessibility
- T2 (General Transport Impact)
- T4 (Active Travel Routes and Core Paths as part of the Green Network Strategy)
- SEH1: Sustainable Heat and Energy
- SEH2: Low and Zero Carbon Generating Technologies
- WD1 Wind Farms
- WD3 (All Wind Turbines)
- WD4 Access Tracks
- WD6 Decommissioning and Site Restoration
- W4 Construction Waste
- NH1 (Internationally Designated Sites)
- NH3 (Protection of Local Sites and Areas)
- NH4 (European Protected Species)
- NH5 (Biodiversity and Geodiversity Interests, including Nationally Protected Species)
- NH7 Protecting Soils
- NH8 Trees and Development
- NH9 Water Environment
- NH10 Sustainable Urban Drainage
- NH11 (Flood Risk)
- NH13 (Noise)
- CH1 (Listed Buildings)
- CH2 Development affecting Conservation Areas
- CH4 (Scheduled Monuments and Archaeological Sites)
- CH6 (Gardens and Designed Landscapes)
- DP1 (Landscape Character)
- DP2 (Design)

OTHER RELEVANT POLICY

Scottish Government Control of Woodland Removal Policy
East Lothian Council Tree and Woodland Strategy
East Lothian Council Green Network Strategy

REPRESENTATIONS

21. Members of the public may make representation to the Energy Consents Unit. They may also make comment to East Lothian Council as a consultee in this process, either via email, in writing or by submission to planning online. At the time of writing of this report, a total of 699 representations were received from members of the public to East Lothian Council, either directly or through being copied into responses to the ECU. One was made on behalf of Northumberland, Hopes and Mayshiel Estates.
22. 635 of these representations were in the form of a standard letter supporting the development, which came from events organised by the applicant, and to which the signatory could add their own comments. Representatives of the applicant canvassed support for these letters at events in Haddington and Dunbar, collecting them and sending them to the Council.
23. 64 representations were received either in writing or via planning online. 33 of these were in support of the application, 28 objecting and 1 neutral.

24. The other representation enclosed a petition mounted in objection to the proposal (<https://www.change.org/p/save-our-skyline-lammermuirs-sos>). A spreadsheet was submitted to the Council which it was stated contained the signatories to this petition and additional comments made.

25. This spreadsheet contained 744 signatures and 29 other comments in opposition to the windfarm. The petition stood at 872 signatures by 21 August 2024.

26. The main reasons given in support of the proposal were:

- The urgency and importance of addressing climate change and the contribution of the proposal towards this and Scotland's renewable energy targets
- Positive impact on mental health as climate change induces fear and proposals such as this give hope/pride that the area is playing its part
- Climate justice – other areas of the world are suffering from climate change created by the West and there is a responsibility to mitigate this
- The need for clean energy
- Affordability of onshore wind energy
- Security of energy supply
- Battery storage element will help balance the grid
- The attractive appearance of wind turbines
- Improved biodiversity
- The suitability of the site in particular – reasons given included a good wind resource; lack of population in the immediate area; location away from beaches or castles and its being outside areas of outstanding natural beauty;

Several supporters stated that while they considered there were adverse impacts, in particular on landscape, that these were worth it for the benefit, in particular to climate.

27. The main reasons for objection to the proposal were:

- Significant landscape and visual impact, including impact on the moorland landscape, on views from the Lammermuirs and on views to Lammermuirs and on night-time amenity arising from aviation lighting
- Cumulative landscape and visual impact with existing and planned development particularly in the Lammermuirs and including that offshore
- Adverse impact on biodiversity including habitat and particular species including protected species and Danskin Loch SSSI
- Impact on cultural heritage including Traprain and the historic environment generally
- Impact arising from the AIL and construction traffic route, including impact on landscape, biodiversity, cultural heritage, road safety; impact on residents using the road; impact on and interactions with farm traffic; lack of assessment of seasonal traffic
- Lack of need for the proposal given Scotland will generate much more than it consumes (some linked this with climate justice issue of impacts being experienced by those living near the proposal while others benefit)
- Lack of grid capacity to export electricity
- Flood risk
- Noise at properties and affecting outdoor recreation
- Impact on mental health and well-being
- Risk of fire from the BESS
- Lack of information on the grid connection

Most objectors recognised the need to address climate change and/or to generate

renewable energy. Some recognised the contribution of the proposal towards this but considered this was outweighed by the impacts of the proposal. Others considered it was the wrong location or wrong technology.

28. Issues raised in representations that should be addressed by condition if the proposal goes ahead included: that a scheme for decommissioning with financial guarantees should be in place; that micro-siting should not allow an increase in height of turbines; that the grid upgrades are in place first; that the connection route should be underground; that there should be a procedure for dealing with complaints timeously; that trees and hedges should be replaced; and that Mould Bridge should be preserved.

COMMUNITY COUNCIL COMMENTS

29. The majority of the windfarm site area is within Gifford Community Council area, with a small section with Garvald and Morham Community Council area. Both community council areas also contain sections of the Abnormal Indivisible Load (AIL) route off the trunk road system. Parts of the AIL route on local roads also falls within Dunpender Community Council area. East Lothian Council consulted these community councils for their comment. Responses were received from Dunpender Community Council, and Garvald and Morham Community Council. East Lammermuir Community Council, whose area is adjacent to the AIL local route and some of whose residents are likely to use this route going about their daily business, as well as containing part of the AIL route along the A1, also sent comments. Dunbar Community Council also commented.
30. Garvald and Morham Community Council advised that their community was divided in opinion over this application and therefore the Community Council was taking a neutral position, neither supporting nor opposing the proposal. If the project was to go ahead, they ask that they have an opportunity to review the Construction Traffic Management Plan on behalf of the community, and there is an opportunity for representatives from Garvald Community to join in the Community Liaison Group.
31. East Lammermuir Community Council neither opposes or supports the proposal. This reflects the findings of a local survey they carried out in December 2023/January 2024 showing that the community most affected in East Lammermuir – that is, in and around Stenton – is divided in opinion, with 50% in support and 50% opposing the proposal.
32. Survey respondents did demonstrate strong opposition to the proposed construction access routes, with 80% of those expressing an opinion opposed to the route for large loads, and 88% opposing the route for construction traffic. The Community Council state that this builds on experience elsewhere in East Lammermuir.
33. If the scheme goes ahead, East Lammermuir Community Council request planning conditions including:
- Electricity cabling, including grid connection, to be underground and no increase in blade tip height through micro-siting
 - Construction traffic management, including a requirement to establish a Community Liaison Group to plan, monitor and manage construction traffic and establish a complaints procedure; provision of alternative safe routes for walking, horse-riding and cycling during the construction period, restriction of speeds, no weekend working, use of trackers, and restrictions of traffic around schools.
 - Road maintenance including provision of passing places, drainage prior to construction, replacement of trees and hedges removed.
 - Provision of an outline Decommissioning Plan.

34. Dunbar Community Council support the submission made by East Lammermuir Community Council and they would defer to the wishes of East Lammermuir residents as they will be most impacted by this development.
35. Dunbar Community Council recognises that onshore wind is an essential part of the renewable energy plans for Scotland and if consents are to be granted they would ask that there is a safe plan for management of construction traffic both on and off the A1, that the siting and location of cabling should all be located below ground, and that the drainage channels, plantings and hedgerows are reinstated and/or enhanced wherever these are damaged or displaced by construction.
36. Dunpender Community Council raised concerns with regard to fire risk from the proposed battery storage. They ask for a thorough consultation on this and that applications for battery storage units should have robust plans and systems in place to deal with fire.
37. Dunpender Community Council have 3 principal concerns – i) visual impact; ii) transportation impact; and iii) absence of compensatory payments to their community. These are set out in more detail below. The Community Council is in favour of alternative energy sources but have reservations about this project, they question the need for this project in addition to 2 offshore wind turbines operational in the Firth of Forth.
38. *Visual impact:* the Community Council considers the development to contradict the key aims of the East Lothian Council Special Landscape Report namely i) to preserve key views in particular from roads and summits; ii) to maintain the skyline as a feature in particular as viewed from the plain below; and iii) to protect visually sensitive areas.
39. The Community Council highlight Traprain Law an iconic scheduled ancient monument that dominates central East Lothian and is highly popular with both visitors and locals for the spectacular views from its summit.
40. The surrounding area with its rural and agricultural ambience and its network of roads and paths is extensively used for horse riding, cycling, rambling and walking, and Dunpender Community Council advise that the proposed wind turbines will have an overpowering effect on views from all over the area as they are considerably larger scale than anything else in the Lammermuirs. They also thrust out rather than being in any way screened by the ridge of hills. Due to their enormous size these turbines will require flicker effect night lighting which the Community Council advise will have a detrimental impact on the night skies, unlike the existing arrays that do not require lighting.
41. *Transportation:* the proposed routes for transporting construction equipment and materials will have a great impact on the local roads in the Dunpender area of Traprain/Whittingehame and Luggate. The narrow road network already copes with substantial agricultural traffic, this is particularly true at peak times of sowing and harvesting. They do not consider the proposed route takes account of the existing volume of agricultural traffic even before it is shared with local motor traffic, walkers, riders, and cyclists. The chosen route impacts the large livery stable at Sunnyside, and the tourist and amenity development at Papple and Traprain Law. No timeframe is given for repairs to roads, and there are no guarantees the roads, hedges and trees will be permanently reinstated. They note that hedge, stone wall and tree reinstatement and enhancement has not happened on other roads used to access turbine sites.

42. *Absence of compensatory payments for Dunpender residents* - compensatory payments appear limited to the villages of Gifford and Garvald. Individual settlements and houses along the transportation route in the Dunpender community have been excluded although they will be significantly impacted by the disruption from construction traffic. If the development is consented, Dunpender Community Council recommend that an officer to oversee the areas affected by transport should be provided.

PRINCIPLE OF DEVELOPMENT

43. The principle of need for a development of this nature is established in NPF4. National Development 3 Strategic Renewable Energy Generation and Transmission Infrastructure supports electricity generation throughout Scotland. The designation of development for this national development are 'a development contributing to 'Strategic Renewable Electricity Generation and Transmission' and the classes of development include 'onshore electricity generation, including electricity storage, from renewables exceeding 50MW capacity'. This proposal therefore is included in National Development 3. NPF4 states that national developments are significant developments of national importance. The statement of need given in NPF4 includes that additional generation from renewables is fundamental to achieving a net zero economy.
44. As the proposal supports renewable energy, the principle of the proposal also gains support in principle from Policy 11a of NPF4, which states that development proposals for all forms of renewable, low-carbon and zero emissions technologies will be supported, including (i) windfarms and (iii) energy storage.
45. ELLDP Policy SEH1: Sustainable Energy and Heat also gives support in principle for energy generation from renewable or low carbon sources.
46. While the principle of this type of development is accepted as being in line with the Development Plan details of the proposed development require to be considered. This is in line with Policy 11 of NPF which lists thirteen criteria relating to the design and mitigation of energy related developments that require to be addressed to determine their compliance with the Development Plan, other policies of NPF4 and the policies of the ELLDP.
47. The ELLDP includes a Spatial Framework Plan for Windfarms including Areas of Strategic Capacity. Scottish Planning Policy, which has now been superseded by NPF4, required the mapping of this spatial framework, based on international and national designations, community buffers and carbon rich soils. The ELLDP notes that in Group 3 areas, windfarms are likely to be acceptable in principle, subject to detailed consideration and cumulative issues. In Group 2 areas, Policy WD1 provides that windfarms will only be supported where the Council is satisfied that siting, design or other mitigation can substantially overcome any significant effects on the qualities of the relevant designation(s) that justify inclusion in the Group 2 area. The area of the proposal includes both Group 2 and Group 3 areas. The principle of a windfarm in this location is therefore likely to be acceptable under this policy in principle, subject to detailed consideration including of the qualities that justified inclusion in the Group 2 area, which in this case was the suspected presence of carbon rich soil.
48. ELLDP Policy WD3 supports wind turbine development subject to the impact of the turbines, access tracks and ancillary development being acceptable in terms of a list of considerations.

49. Where ELLDP policy is incompatible with policy in NPF4, the policy in NPF4 should prevail, being the more recent.

CLIMATE

50. East Lothian Council declared a Climate Emergency in 2019.

51. Policy 1 of NPF4 states that when considering all development proposals significant weight will be given to the global climate and nature crises. NPF4 Policy 2a requires that proposals will be sited and designed to minimise lifecycle greenhouse gas emissions as far as possible. NPF4 Policy 2b requires that development proposals be sited and designed to adapt to current and future risks of climate change.

52. LDP Policy SEH1 supports the principle of the 'energy hierarchy' (demand reduction, energy efficiency of buildings, then energy generation from renewable or low carbon sources).

53. The Scottish Governments Climate Change Plan sets out the Scottish Government's pathway to achieve the ambitious targets set by the Climate Change (Scotland) Act 2009, as amended by the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019, and the commitment to end Scotland's contribution to climate change by 2045.

54. Scotland's renewable electricity generation has grown rapidly over the last twenty years, and a large contribution to achieving the commitment set out in the plan will be made by the increased decarbonisation of our electricity system.

55. The Climate Change Plan notes operating a zero-carbon electricity system will mean finding new ways to provide a range of technical services and qualities currently provided by fossil fuel and nuclear generation. Wind turbine development is one technology which helps achieve these goals.

Overall carbon balance

56. Greenhouse gas emissions from the wind farm manufacture, construction and decommissioning have been assessed by the applicant. They are estimated to be 162,387 tCO₂e. As a comparison, East Lothian as a whole emitted 1,259,700 tonnes annually in 2022 (this includes emissions from industry, which are a bit under half of the total). The purpose of the development is to export electricity to the grid. The project will cause greenhouse gas emissions overall. However, greenhouse gas emissions will be avoided in comparison to other methods of generating electricity in particular fossil fuel generation.

57. The amount of electricity that the project will generate may be different from expected also due to wind conditions. The emissions associated with the grid connection route also do not appear to have been included, yet are part of the project as a whole. This should be taken into account when considering the overall carbon balance of the scheme. Whilst the amount of avoided emissions cannot be predicted with certainty, it can reasonably be concluded that in comparison to other methods of generating electricity, in particular fossil fuel generation, greenhouse gas emissions will be reduced.

58. Although the proposal is expected to avoid greenhouse gas emissions in comparison to grid mix, it still emits greenhouse gas emissions in itself. These should be minimised as far as possible in line with NPF4 Policy 2a.

59. At its meeting on Tuesday 3 September 2019 the Council's Planning Committee decided that a condition requiring a developer to submit for the approval of the Planning Authority a report on the actions to be taken to reduce the carbon emissions from the completed development should be imposed on all relevant applications.
60. Therefore, the Council would recommend a condition requiring life cycle assessment be imposed on any grant of consent to make sure that greenhouse gas emissions are fully taken into account and mitigated at every stage, consistent with the requirements of Policy 1 and 2 of NPF4 and Policy SEH2 of the ELLDP.
61. ELLDP Policy SEH2 Low and Zero Carbon Generating Technologies requires all qualifying new buildings to include Low and Zero Carbon Generating Technologies to meet the energy requirements of Scottish Building Standards. This should reduce the DER/BER by at least 15%. The control building is such a qualifying building. The building will draw power from the wind turbines when generating, or batteries via a step-down transformer, or import from the grid. Given the amount of electricity generated by the wind turbines is likely to vastly exceed the energy needs of this building it is safe to assume this requirement is met.
62. Peat is a valued resource partly because peatland in good condition is important for carbon sequestration, while degrading peat is a source of greenhouse gas emissions. 'Securing a Green Recovery on a Path to Net Zero' the Update to Scotland's Climate Change Plan seeks widespread peatland restoration, noting that there needs to be far higher levels of peatland restoration in order to meet climate change targets. The Climate Change Committee 'Progress in reducing emissions in Scotland – 2023 Report to Parliament' noted that Scotland has missed the peatland restoration target for the fifth year in a row. Peat is considered under 'Soil' below.

SOIL

63. NPF4 Policy 5 and LDP Policy NH7 protects prime agricultural and carbon rich soils.

Peat

64. There is some peat within the windfarm area.
65. Peatland is defined in NPF4 by the presence of peat soil or peaty soil types. This means that 'peat-forming' vegetation is growing and actively forming peat, or it has been grown and formed peat at some point in the past. Policy 5 of NPF4 does not support development on peatland other than for specific types of development, of which generation of energy from renewable sources is one. Where development on peatland or carbon rich soils is proposed, detailed assessment is required. LDP Policy NH7 Protecting Soils aims to protect carbon rich soils, however such development is accepted to meet an established need where no other suitable site is available and the layout, design and construction method minimises the amount of such land that is affected.

The EIAR reports the results of Phase 1 and Phase 2 peat depth surveys. Adjustments were made to the design so that peat deposits were avoided, and micro-siting buffers included to make sure peat areas would not be incorporated post-consent. A request to scope out Peat Landslide Hazard Risk Assessment and a Peat Management Plan was accepted by SEPA and NatureScot on this basis. The proposed development layout here aims to avoid areas of deep peat. The need is established through designation as a National Development.

Prime agricultural land

66. There are some losses of prime agricultural land for formation of the access routes. NPF Policy 5 allows development proposals on prime agricultural land where it is for essential infrastructure and there is a specific locational need and no other suitable site; or for the generation of energy from renewable sources where there is secure provision for restoration. In all of these cases, the layout and design of the proposal should minimise the amount of protected land that is required. The access route for this proposal will take some prime agricultural land. Although this is accepted where it is for renewable energy generation, this is for the access route, not renewable energy generation itself. Given this is a national development, and the route is essential infrastructure to support this, it would be acceptable provided there is no other suitable site. The applicant has shown reasoning for the selection of the route chosen. However, the Council is not convinced it has been fully demonstrated that the potential for the use of other routes, including those coming from the south, is ruled out. The Council therefore objects on this basis.

BIODIVERSITY

67. East Lothian Council declared a Nature Emergency in October 2023. This Declaration noted the alarming extent of the global nature and biodiversity crisis. It further noted that Nature is in decline and urgent action must be taken to reverse this.

68. NPF4 Policy 11e ix provides that project design and mitigation will demonstrate how impacts on biodiversity including birds have been addressed, while Part 11e x covers impacts on trees and woodlands, and Part e xiii covers cumulative impacts.

69. NPF4 Policy 3 has the intent of protecting biodiversity, delivering positive effects from development and strengthening nature networks. Policy 3a states that development proposals will contribute to enhancement of biodiversity, restoring degraded habitats and strengthening nature networks. Development proposals for national development will only be supported where it can be demonstrated that the proposal will conserve, restore and enhance biodiversity, including nature networks, so they are in a demonstrably better state than without intervention, including future management. Policy 3biii requires that assessment of potential negative effects which should be mitigated prior to identifying enhancement, and then 3biv requires provision of significant biodiversity enhancement is provided *in addition to* mitigation. Policy 3bv requires that local community benefits of the biodiversity and/or nature networks have been considered.

70. NPF4 Policy 4 Natural Places provides protection for sites designated for natural heritage interest including European and Ramsar Sites, SSSIs, and Local Nature Conservation Sites, which in East Lothian includes Local Biodiversity Sites. Policy 4f provides for protected species in line with legislation. NPF4 Policy 6 provides for protection of hedgerows as well as woodland and trees.

71. LDP Policy WD3 Part d) states that proposals will be supported provided the impact is acceptable in terms of natural heritage assets. The LDP also contains policy protecting European Sites (Policy NH1), SSSIs (Policy NH2); Local Biodiversity Sites (Policy NH3), Protected Species (Policies NH4 and NH4) and the biodiversity value of the development site and surrounding area (Policy NH5).

72. The EIAR considered Ecology and Ornithology. A desk study of ecological information was undertaken supplemented by field surveys. The EIAR found that after applying embedded mitigation and good practice measures, potential construction phase effects related to habitat loss from land take; temporary disturbance and land take for

laydown and construction area; disturbance to, fragmentation or severance of connecting habitat or potential commuting routes within or adjacent to the site. Decommissioning effects would be similar, though the AIL route may not be needed for this stage. Operational effects generally relate to disturbance of adjacent habitats or species, on either a temporary or permanent basis. Some effects may reduce with habituation or remain for the lifetime of the Proposed Development.

73. The EIAR considered that the main adverse ecological effect was the risk of collision mortality for bats and potential need to reinstate temporary road upgrades on the AIL route in the unlikely event that a large component needs to be replaced. Direct effects of habitat loss for other sensitive ecological features, such as habitat loss are not expected to occur in the operational phase.
74. The designated sites scoped into the assessment were Danskine Loch SSSI, which is overlapped by the AIL route. The qualifying feature of this site is Fen Woodland, which was last assessed as Unfavourable Declining. The EIAR also considered Lammernuir Local Biodiversity Site which is an extensive site overlapping the WFA, and Faseny Water Local Wildlife Site, within and adjacent to the WFA. Bara Wood Local Biodiversity Site/Local Wildlife Site/Ancient Woodland Inventory, and Townhead Wood Ancient Woodland Inventory site, which are overlapped by the AIL route were also included. Some areas of Central Scotland Green Network integrated habitat networks of woodland, grassland or wetland were also found within the WFA or overlapping the AIL route. The WFA is entirely within the 'Bog Heath' habitat network area.
75. The EIAR reported data from the Wildlife Information Centre, showing records of 4 protected terrestrial mammal species from within a 5km buffer of the WFA, including records of mountain and brown hare from within the WFA. Electrofishing data found results for salmon fry downstream of the WFA at all sites sampled.
76. The WFA largely comprises a dry heath/acid grassland mosaic on the higher ground, with a small amount of other habitats such as bracken and marshy grassland, and mixed grassland communities on lower ground, particularly in the north of the WFA. The dry heath habitat is managed by burning and grazing. The higher ground within the WFA also has an area of wet modified bog, grading into wet heath over shallower peat. Small areas of wet woodland, bog pool, and basic flush and spring are also present. No rare, protected or sensitive plant species were found during field survey.
77. Evidence of mountain hare and otter were found in the mammal survey. For bats, no suitable bat roost opportunities within 200m plus rotor distance (285m) of the proposed turbine locations were found. There were two possible structures with bat roost potential within the WFA. Bat surveys did detect the possible presence of roosts of some bat species within proximity of the WFA but the number of calls detected was low. Baseline activity surveys recorded 5 bat species using the site. Species considered to be at high risk of collision were common and soprano pipistrelle, and noctule. The other two bat species are generally considered at low risk of collision and records of activity were low for them.
78. The watercourses into which the WFA drains were assessed by SEPA as having poor ecological status and poor access for fish migration. Over half of the tributaries within the study area comprised peaty headwaters with little suitability for fish. The remaining tributaries are likely to support small populations of non-migratory fish fauna.
79. The AIL route runs through Danskine Loch SSSI. The habitats on the AIL route extend to around 4.6 ha and are different in character to those of the WFA, comprising mainly lowland arable farmland with boundary features and buildings, pockets of woodland,

and dense and scattered scrub. Habitats within the AIL route included 1.285 ha of broad leaved semi natural woodland and 1.272 ha of broadleaved plantation woodland. The only habitat areas which were specifically protected were those within Danskine Loch SSSI. The ecological report submitted by the applicant sets out that Bara Loch and the lowland farmland habitat would be suitable for use by certain specified protected species.

80. Embedded mitigation includes design to minimise land take, impacts on deep peat and number of water crossings. A suitable buffer has been included around all mapped watercourses, and between turbines and features used by bats. Watercourse crossings were avoided in the WFA. Good practice measures, including creation of a Construction Environment Management Plan (CEMP), pre-construction surveys, employment of an Ecological Clerk of Works, and measures to prevent pollution and protect wetland habitats including at Danskine, could be secured by condition. A pre-, during- and post-construction fish monitoring plan will also be established. A Species Protection Plan for Mountain Hare is proposed.
81. NatureScot objected to the application pending further information regarding the impact on Danskine Loch and potential mitigation. The applicant provided further information and an outline HEMP for Danskine Loch SSSI. This will include removal of invasive species within 3.87 of the wet woodland habitat; felling of two blocks of conifer plantation in a block of 2.16ha, to be replaced with native broadleaf woodland; and wetland habitat creation to the east of Danskine Loch SSSI to improve connectivity between this and Dunolly Reservoir. NatureScot removed their objection on that basis.
82. NatureScot advised that there would be no adverse effect on site integrity of any European Sites, though as there was potential for connectivity with River Tweed SAC and several SPAs, including the Firth of Forth SPA, with pinkfooted goose as an interest, appropriate assessment would be required. They advised that further mitigation for impact on bats, namely reducing rotation speed while idling, should be included.
83. NatureScot advise that the ratio of area of peatland lost to the area of peatland restored to achieve compensation is 1:10. Given the predicted peatland loss here, they recommend 7 ha of peatland is restored to achieve compensation, and a further 3.2 ha is provided to achieve enhancement. The is shown in the revised outline HEMP. NatureScot welcome the native woodland restoration, riverine habitat enhancement and enhancement of grassland habitat. NatureScot questioned the adequacy of both the area and location of the originally proposed 5ha wader management area. This has been expanded and the location altered in the revised HEMP.
84. The RSPB consider that Appropriate Assessment is needed for collision risk to pinkfooted goose, a qualifying interest of the Firth of Forth and other SPAs, although numbers involved are low and the species is in favourable maintained condition. The RSPB disagreed with the EIA conclusion that the impact on breeding Curlew is negligible and not significant. They note that no cumulative impact assessment was carried out for this proposal, but that the one for Torfichen Windfarm proposal nearby found that the cumulative displacement of proposals in the NHZ was 8.42% of the Curlew population, not including from this proposal. As Curlew breeding rates are not replacing adult losses and the species is experiencing significant decline, the RSPB consider the impact on breeding Curlew is underestimated. They consider the wader enhancement area originally proposed to be inadequate. However following submission of the Updated Wider Site Habitat Management and Biodiversity Enhancement Plan

with expanded wader habitat and predator control, the RSPB are content with mitigation for this species.

85. The RSPB note the requirements of NPF4 Policy 3b, in particular that the policy requires biodiversity enhancements to be in addition to mitigation, and that negative effects should be fully mitigated prior to identifying enhancements. The RSPB noted the original outline Habitat Management and Enhancement Plan includes 7ha of native woodland creation, 3 ha of riparian planting, 30 ha of grassland enhancement and 500m of hedgerow. The RSPB originally considered this insufficient, due to the minimal sizes of the areas covered.
86. Following the applicant's submission of the Updated Wider Site Habitat Management and Biodiversity Enhancement Plan (Additional Information Appendix 5), which includes an expansion of the wader management area, the RSPB are content that the combination of 58.9ha of habitat management, and maintenance proposals, are suitable mitigation for the displacement of breeding Curlew and other waders. The RSPB request conditions to secure this, including a financial bond.
87. The **Council's Biodiversity Officer** advises that the oHEMP does not clearly show mitigation and significant enhancement in terms of NPF4 Policy 3. The EIA/HEMP outlines mitigation for the significant adverse impacts as required by EIA legislation. However, this is not necessarily the same as clearly demonstrating that a) all adverse effects have been mitigated and b) that 'significant biodiversity enhancements' are provided. To be sure there is enhancement, it must be clear firstly that the biodiversity of the area is as least as good as before intervention and then what the enhancements are. This requires the existing biodiversity value of the area to be clearly set out, as well as exactly what is lost (or gained) through each direct and indirect effect. Actions proposed in mitigation should then clearly show the existing situation on areas where mitigation will take place, plus an explanation of why the action proposed is an improvement on its current biodiversity value and how it compensates the loss. Once the mitigation is clearly outlined 'significant enhancement' must be shown. Given the urgency of the need to address biodiversity loss, the Council recommends that the ECU should carefully decide whether or not 'significant' biodiversity enhancement is proposed, and therefore whether or not the proposal is consistent with NPF4 Policy 3.
88. The Biodiversity Officer notes that the Lammermuirs is home to a small population of mountain hare, a species which, since March 2021, is included in Schedule 5 of the Wildlife and Countryside Act 1981. The Gatekeeping response from ELC (2023) acknowledged that an impact assessment on the species would not be included in the report and that it would not be a determining factor on granting the scheme permission, however the Biodiversity Officer has since been given further information which changes this position. Recent survey work on the species in the Lammermuirs has been used by the applicant to justify the scoping out of mountain hare from the EclA, alongside proposed mitigation measures for other species to be of benefit to mountain hare.
89. The applicant uses a survey carried out by Pettigrew et al in 2020 to support their conclusions that:

"Embedded mitigation and good practice, including pre-construction protected species surveys and relevant SPPs are included in the Proposed Development to prevent breaches of legislation pertaining to protected Schedule 5 species. On this basis there is considered to be no route to significant effects on populations of this species at any geographic scale and so mountain hare are scoped out of further assessment."

90. However, further work by Pettigrew et al in 2021 (per com.) has shown a sharp decrease in the Lammermuir mountain hare population, with particular note to a downward trend from previous years in the WFA. It is also considered that there has been a sharp decrease in mountain hare numbers in other Lammermuir Estates that neighbour the Proposed Development site, with other factors noted to have a potential impact on species numbers such as an increase in golden eagles in south-east Scotland.
91. Further to this, radio telemetry studies by Pettigrew et al show that *“The range of movement is small for such a mobile animal”* and note that- *“Hewson & Hinge (1990) found 1 km² in north-east Scotland reflecting travel between the moorland rest area and hill pasture feeding. We have no evidence for movement to hill pasture about 3km to north.”*
92. The incombination pressures on an already dwindling population within the WFA and its neighbouring hillsides of mountain hare, lead her to conclude that, without significant mitigation measures, the likelihood that the Proposed Development, either in combination with or in isolation would be in direct violation of the European Habitats Directive Schedule 3 and the Wildlife and Countryside Act 1981 (as amended), Schedule 5.
93. It is an offence to intentionally or recklessly:
- kill, injure or capture a mountain hare;
 - disturb a mountain hare in its place of shelter;
 - damage, destroy or obstruct access to a mountain hare’s place of shelter.
94. This means that if mountain hares could be affected in these ways by a development, and no action is taken to prevent it, an offence may be committed. This was highlighted within the ELC EclA Scoping Response to the Scottish Ministers (part 28 of ELC response, January 2022). The Biodiversity Officer is concerned with the applicant’s somewhat arbitrary approach that embedded mitigation and good practice, such as Species Protection Plans and pre-construction protected species surveys, will be used for all protected species potentially present.
95. The Biodiversity Officer therefore finds the scoping out of mountain hare from the EclA wholly unsatisfactory and against the applicant’s precautionary approach shown to other species within their application, and objects to this proposal on these grounds.
96. The Biodiversity Officer notes that information provided regarding the chosen AIL routes ecological value was minimal. She is aware that ELC colleagues had requested a drone flight of the route, and considered this would have been of benefit to note specific areas where biodiversity could be enhanced. While she acknowledges that the hedgerows along the AIL are sparse and fragmented, she would expect this to be a key opportunity to enhance biodiversity along the whole ALI route, which respect to areas that will need to be acquired by the applicant to manage the abnormal load transfer. While it is mentioned in the outline Habitat management and Enhancement Plan (oHMEP) objective to:
- “Promote Increased Cover and Connectivity of Native Hedgerow, via increasing the diversity of hedge species used in replanted hedgerow bordering widened areas of road, planting c.500m of new species rich hedgerow bordering an area of new track and seeking opportunities where appropriate to ‘gap up’ retained hedgerow.”*

97. While this is satisfactory aim to cite, this does not in her view go far enough to show biodiversity enhancements along the AIL. In addition to this, the verges along the roadsides, work together with the hedges and while they could not be surveyed to NCV level, there should be some recognition of the potential for destruction of the grassland verges with passing construction vehicles, removal of hedgerows, mature trees etc. There does seem to be some disconnect between the author of the EclA and the HEMP, where hedgerows are noted to be 'trimmed or removed' to facilitate works. Again, further detail for this must be provided, including which trees and hedgerows will be affected and the extent of the trimming or removal works. The biodiversity and landscape value of these trees should be explored so that satisfactory mitigation measures are in place prior to commencement of works. If mature trees are subsequently to be removed along the AIL route, supplementary ecological surveys for bats to be carried out by a suitably qualified person, will be required and submitted for the approval of the Planning Authority. Our Biodiversity Officer recommends a suitably appropriately worded condition to secure this.
98. Townhead wood is noted as an Ancient Woodland, however it is currently being managed as a conifer plantation. While this is not ideal, it should also be acknowledged that there will be an Ancient Woodland seed bank within the area and therefore the removal of trees and replacing with a 500m section of trees, should take this into account. If there is an opportunity to replant with species that will support the ancient woodland seed bank, regardless of the current tree species, this approach should be explored within the oHMEP. Local provenance of tree supply for any planting should be included in the HEMP.
99. Bara Woodland is on the preferred AIL route. Again, this woodland has Ancient Woodland Indicators, and that should be considered further than what has been communicated through the EclA and the oHMEP. A Species Protection Plan for Bara Woodland should also be submitted.
100.
Within the oHMEP, section 5.1.2. states that-
- "The HMEP, once finalised, will be a live document, with the habitat management measures implemented being adaptive throughout the lifetime of the Proposed Development in response to the findings of ongoing monitoring."*
101.
The Biodiversity Officer notes that while a live document can be a positive approach in some circumstances, they are not comfortable accepting this approach to the HMEP. A condition to specify the production of a complete HMEP in consultation with the parties noted in this section of the EclA, is therefore recommended prior to granting permission.
102.
Danskin Loch SSSI is to be traversed in the preferred AIL route. Having viewed the information provided by the applicant to NatureScot, the Biodiversity Officer is satisfied that other alternatives have been explored with regards to this specific route, and has no objection to this aspect subject to the imposition of the conditions proposed by NatureScot regarding the SSSI. Precise methods to be used will be set out in the Construction Method Statement, with mitigation included in the CEMP, both of which will be subject to planning condition and approval by ELC in consultation with NatureScot.

LANDSCAPE AND VISUAL IMPACT

103. NPF4 Policy 11e) requires that project design and mitigation will demonstrate how certain impacts are addressed, including at (ii) 'significant landscape and visual impacts, recognising that such impacts are to be expected for some forms of renewable energy. Where impacts are localised and/or appropriate design mitigation has been applied, they will generally be considered to be acceptable [...] and (xiii) cumulative impacts'. Policy 14 states in a) that development proposals will be designed to improve the quality of an area [...] regardless of scale, and in b) where they are consistent with the six qualities of successful places, which includes 'pleasant' and 'distinctive'. Part c) of this policy states that development proposals that are poorly designed, detrimental to the amenity of the surrounding area, or inconsistent with the six qualities of successful places will not be supported.
104. LDP Policy WD3 states that "Applications for freestanding wind turbine development will be supported provided the impact [...] is acceptable in terms of a) cumulative issues with other development; and c) landscape and/or visual impacts." This policy continues that the scale of contribution to renewable energy targets and effects on greenhouse gas emissions will be taken into consideration as appropriate". LDP Policy DC9 Special Landscape Areas seeks to protect the interest of these areas. LDP Policy DP1 Landscape Character requires that all new development be well integrated into its surroundings by responding and respecting landform. LDP Policy DP2 Design requires that new development should be appropriate to its location among other things in terms of its positioning, size and form. The LDP also includes at Appendix 2 Cumulative Wind Turbine issues, which include retention of distinctiveness of lowland and upland areas, retention of distinctiveness within Scotland; pattern of existing development and relief from development; and Lammermuir skyline.
105. Schedule 9 of the Electricity Act 1989 requires that Scottish Ministers pay due regard to the desirability of the natural beauty of the area, and mitigation of impacts on this.
106. A Landscape and Visual Impact assessment has been provided as part of the EIAR. Our Landscape Officer has reviewed and commented on this material (see appendix 2). The Council requests that the ECU takes into account her response in their assessment of this proposal. Her conclusion is that the proposal will have significant adverse effects on the integrity of two Special Landscape Areas ("SLA"), namely the Lammermuir SLA and Lammer Law, Hopes to Yester SLA, contrary to NPF4 Policy 4di. This is also contrary to ELLDP Policy DC9 Special Landscape Areas. She concludes there are significant adverse visual effects on receptors within 5km of the WFA, including Gifford and the Yester House Garden and Designed Landscape. She considers there are significant adverse cumulative effects. She considers the impacts from the proposals are not localised. Our Landscape Officer considers the forming of the AIL route would have a significant effect on landscape character in general and the Traprain and Tyne Valley SLA in particular.
107. She considers the proposals overall, both the WFA and AIL route, lead to significant adverse landscape and visual impacts over a wide area of East Lothian, which cannot be mitigated such that the significant impacts will be removed or even reduced.
108. NatureScot advise that the proposed development would introduce wind farm development between Crystal Rig 1, 2 & 3 (northeast) and Fallago Rig (southwest) on the northwestern side of the Lammermuir Hills and would bring development of this nature closer to landscape and visual receptors west of Crystal Rig and north of Fallago

Rig. This would include the introduction of views of turbines to some areas not currently influenced by the presence of operational wind farms, including at proximity. NatureScot consider the proposed development is likely to significantly affect:

- Host Landscape Character Types (LCTs) 266: Plateau Moorland – Lothians and 269: Upland Fringes – Lothians.
- Visual receptors within the Lammermuir Hills, views from parts of Gifford and Yester Estate, and some views from nearby roads and recreational routes.
- Special Landscape Area (SLAs) Lammermuir Moorland and the Lammer Law.

NPF Policy 9eii notes that significant landscape and visual effects are expected for some forms of renewable generation, and that where these are localised or appropriate design mitigation has been applied, they will generally be considered acceptable. As detailed by the Landscape Officer, the effects of this proposal are extensive and not localised.

109. Schedule 9 part 3 to the Electricity Act requires that Scottish Ministers should have regard to the desirability of preserving natural beauty of the countryside in considering proposals such as this. As detailed by the Landscape Officer, and summarised above, the proposal adversely impacts on the natural beauty of the countryside.

HISTORIC ENVIRONMENT

110. The EIAR includes a desk-based baseline assessment, including a Stage 1 setting assessment. This identified known heritage assets and the potential for currently unrecorded assets within the site as well as assets within the wider landscape which could be impacted through changes to their setting. The assessment considered both direct and indirect effects on receptors agreed with HES, this Council and Scottish Borders Council. This assessment found 42 known heritage assets of low to medium importance located within the site, 29 of these were within the wind farm area and a further 13 along the abnormal indivisible load route.

Direct effects

111. Within the site boundary the EIAR reports potential for direct impacts on one heritage asset namely MEL12519 Redstone Rigg, a trackway, which would be physically impacted by the proposed development over an area of roughly two hectares by T14, hardstanding, construction compounds, an access track a borrow pits. There is also potential for direct construction impact on one further heritage asset as a result of micro-siting or accidental damage. This is MEL12617, a sheepfold. The EIAR considered the proposal site to have negligible to low archaeological potential for currently unknown remains.

112. There is potential for direct construction impact on three archaeological (below ground) heritage assets and one non-designated built heritage asset as a result of the works required for the abnormal indivisible loads route. These are MEL1610, and undated linear feature/pit alignment; MEL3160, a linear feature; MEL 12755 a post mediaeval lade and HA16, the post mediaeval bridge Mould Bridge. The majority of the AIL route follows existing roads however at Standing Stane and Tanderlane, where it diverts from the road network, there are areas with high or archaeological potential. Mitigation for impacts on these assets is proposed to be mitigated by a programme of archaeological fieldwork. A Historic Building Record of Mould Bridge will be made, following by monitoring during its demolition.

113. Scheduled Monument SM5887 Standingstone, enclosure 350m WSW of is outwith the site boundary but will be marked on access route construction plans and fenced off to avoid accidental damage to it.
114. There are six 'finger post' signs along the AIL route. The applicant will refurbish and replace these if they are accidentally damaged. The applicant proposes additional mitigation, including monitoring for and of impacts on currently unknown archaeology will be outlined in a Written Scheme of Investigation agreed with the Council in advance of construction.
115. The **Council's Heritage Officer** considers that direct impacts can be mitigated by an appropriate archaeological programme of works which will need to be agreed if the proposals are consented.

Indirect effects – World Heritage Sites

116. A member of the public raised the UNESCO World Heritage Site at Edinburgh. The Council's Heritage Officer noted that the Historic Environment can absorb a degree of change and did not consider the turbines would have an unacceptable impact on the Edinburgh World Heritage Site or its primary characteristics which is located a significant distance away from the application site.

Indirect Effects – Yester Gardens and Designed Landscape, Listed Buildings, Hobgoblin Ha'

117. The EIAR carried out a Stage 1 assessment of setting. This found potential for setting effects at Yester Inventory Garden and Designed Landscape (GDL388), which contains a scheduled monument (Yester Castle and Hobgoblin Ha' vaulted chamber, SM780), three Category A Listed Buildings including LB14693 Yester House, and five Category B listed buildings. This area overlaps Gifford Conservation Area. The EIAR contains visual material, from points agreed with HES. The assessment found that the proposal would not be readily discernible from the main views of the house, though there would be some visibility of 4 turbines from the one ridge with a designed view in the direction of the proposed development, and framing both Yester House and Chapel. The EIAR considered the cultural significance of Yester House would be retained. The only adverse effects found were to its setting, in terms of some views of the house from some locations within the designed landscape. The turbines would result in a modern distraction within designed views, and would impact on cultural significance. The impact comprised glimpsed views of turbines partially screened by policy woodlands, either singly or in a group of up to four, from certain specific locations within the designed landscape setting of the house. The impact would be less in the summer when the trees were in leaf. The impact on Yester House LB14693 was considered minor, and not significant. Views of LB14695 Yester Chapel were considered to be unaffected.
118. HES consider the turbines would be visible in views of the house from the immediate landscape, as shown by the supporting visualisations. They consider the views shown to be the most important, though there are likely to be other locations in the landscape where visibility would occur. These views (shown in Volume 3 Figure 8.3 – 8.6) are the main southern drive towards the house, views of the main entrance from the west, and from the southern frontage towards Yester Chapel). HES consider the proposal would result in adverse impacts by introducing modern features within the wider landscape. This impact would be more severe than the EIARs conclusion of 'minor adverse' however HES do not anticipate that the impacts will be significant.
119. Views of the proposal from LB7329 Danskine Lodge and Gateway and LB14667 Lodges and Gate Piers would be likely to be fully screened by policy woodland. Views

of the Lammermuir Hills were not considered to contribute to the cultural significance of these listed buildings. The EIA considered Designed views of the LB18194 Walled Garden Category B Listed Buildings from the LB18194 Gardener's House and Greenhouses and those in the opposite direction, would be unaffected. Views of the proposal may be possible from LB14696 Stables and LB14694 Bridge and Tunnel, Gifford Water Category B Listed Buildings however views toward the Lammermuir Hills were not considered by the EIAR to contribute to their cultural significance.

120. The Yester Inventory Garden and Designed Landscape (GDL) provides the setting to Yester House, and the proposal would be visible in views as noted above. The proposal would be more readily visible from higher elevations with the GDL where there are more open views to the Lammermuirs. These views were considered in the EIAR to be less important than those that contribute to the significance of Yester House, with views of the Lammermuirs not considered as an intentional part of the design. The EIAR concludes there would be a minor effect, which is not significant. HES note that the proposal would have a greater visibility beyond the central core of the landscape, but that the more peripheral areas are not as significant as the central core and are less sensitive to change.

121. Woodland thinning is planned to take place around SM780 Yester Castle & Hobgoblin Ha' vaulted chamber Scheduled Monument, however given the canopy to be removed the EIAR considers there will continue to be no view of the proposal from this monument. It's interest in any case is the subterranean chamber, and the defensive position of the castle, which the EIAR considers has no relationship with the Lammermuirs, so understanding of the monument would be unaffected, while the ability to understand the historic relationship between this monument and Yester House would remain.

Indirect Effects - LB10814 Lennoxlove House or Lethington Category A Listed Building (GDL259 Lennoxlove (Lethington))

122. Part of Lennoxlove GDL falls within the 10km study area, with Lennoxlove House (Category A listed) just outside. The EIAR considers views from Lennoxlove House of the proposal unlikely to result in impact on cultural significance. However, it identifies one designed view facing southwards as being particularly sensitive visual change. A photomontage is shown at Volume 3 Figure 8.17. The EIAR notes that the proposed development would be entirely screened by policy woodlands within the GDL, with no elevated view over these woodlands in the direction of the proposal.

Indirect effects LB1417 Bolton Muir with Entrance Court, Retaining Walls and Terrace Walls Category A Listed Building

123. The EIAR notes that the house is located at elevation, with its orientation benefitting from views towards the Lammermuir Hills. A visualisation (Figure 8.18) has been provided. The EIAR considers that the pine and other trees in the garden mean the views no longer contribute significantly to the cultural significance of the house. The EIAR considers the cultural significance of the architecture would be retained, and the only identified adverse impact relates to the contribution made by views of the Lammermuir hills from the house and within its garden. This effect was considered of minor significance, and not significant.

124. The Heritage Officer has not commented on this asset, however that the trees are not covered by a Tree Preservation Order so may be removed or die, and so the views to the Lammermuirs reinstated.

LB7346 Baro House with Boundary Walls, Gates and Gatepiers Category B Listed Building

125. This house was also apparently located at an elevation and aspect with its orientation benefiting from views towards the Lammermuir hills. Its garden contributes to its cultural significance, guidance views outward from the building's southern elevation. The EIA considers that the photomontage provided at Figure 8.19 shows the turbines to not be readily discernible, the majority of the proposal being screened by woodlands, other than Turbines 12 and 13, which are visible beyond the gardens gates. The EIA considers that the proposal would have a slightly adverse effect, that would not be significant.

Indirect effects – Conservation Areas

126. The EIA considers Gifford Conservation Area, considering that its cultural significance is mainly derived from individual historic buildings within it and the distinctive townscape created by the pattern of streets and open spaces. The EIA states the Council has not produced a Conservation Area Character Appraisal to define the key areas. This is the case, however a Character Statement is included in the Cultural and Built Heritage SPG which has not been referred to. This Character Statement notes that Gifford's landscape setting is an important part of its character as one of the hillfoot villages of the Lammermuir Hills. The statement continues that the more open fields emphasise the villages rural character and frame views against which its buildings are set.

127. The EIA assessment notes that dense woodland of Yester Estate, Lady's Wood, Beechbank wood and Broad Wood surround the built-up areas of the Conservation Area to the southeast and south, and the southwestern approach. This results in there being no views beyond the Conservation Area boundaries to the south and west. The EIA concludes that the proposal would have no impact on Gifford Conservation Area.

128. The EIA does not consider Stenton Conservation Area. Potential impacts on this have been raised through public representation. Our Heritage Officer considers that the turbines will be visible here and there will be an impact, however the Conservation Area Statement does not bring in the wider landscape as being a special characteristic of the Conservation area beyond the landscape up to Ruchlaw West Mains. The Conservation Area is 'hunkered down' into the landscape, and although the Lammermuir Ridge is a backdrop to the Conservation Area it is not the focal point.

Indirect effects – Scheduled Monuments

129. The EIA considers the effect on four prehistoric stone circles/settings namely SM740 Kingside Hill, stone circle, SM4423 Johnsleugh, stone settings: 1790 m SW of, SM4423 Johnsleugh, stone settings: 1105 m SSW of, and SM4423 Johnsleugh, stone settings: 1360 m SSW. The settings lie on south or southeast facing ground; the EIA considers there is no clear relationship with the surrounding landscape or celestial bodies, other than their location in the valley relative to each other. Visualisations at Figures 8.8 to 8.11 have been provided.

130. HES consider that while the proposed development will have some impact upon the setting of a number of prehistoric stone settings and later prehistoric settlements, they consider the degree of impact is not such that it would raise issues of national interest.

131. The **Council's Heritage Officer** however considers the indirect impacts upon the Scheduled stone circles at Johnsleugh (Crow Stanes and Nine Stanes (SM 4423) and Kingside Burn (SM 740) will be significant. He disagrees with the conclusion of the EIAR that the effects would be of negligible significance and therefore not significant. He considers that the EIAR significantly underplays the indirect impacts which will arise from the turbines. Managing Change in the Historic Environment: Setting is clear that it is not only visual impacts which should be considered but also impacts from, amongst other things, noise. The proximity of the turbines to these Scheduled Monuments will mean that the noise of the turbines will be a significant intrusion on the appreciation of these monuments. They are sited in an area which is particularly remote and quiet, which is one of the notable features of these for today's visitors. It is accepted that there is continuing discussions and debate over the original function of these monuments and this is noted in the EIA but the appreciation of them in a modern context has not been assessed. The introduction of industrial noise levels to this area can only be detrimental to the appreciation of these monuments and will be a significant element of the experience of these monuments. This was not assessed nor considered in the EIA. Proximity of turbines will also significantly change how these monuments are seen and appreciated today.
132. The Council's Heritage Officer concludes that the indirect impacts upon the Scheduled Monuments (SM 755, 4423 and 740) will be significant and adverse and that meaningful mitigation would not be possible.

Indirect Effects – prehistoric forts

133. The EIAR considers SM751 Hopes, fort, Long Yester Scheduled Monument and provides visualisation at Figure 8.12. This shows that blades and hubs of 8 turbines would be visible, the nearest proposed turbine being 1.7km to the NE of the monument. The EIAR considers the position of this fort was intended to occupy a defensible position and monitor/control the farmland below, views towards the development being peripheral, and therefore the effect on its cultural significance would not be significant.
134. The forts at SM745 Black Castle, fort, Newlands, SM5794 Park, fort 800m SE of, SM5795 Park, fort 900m SSE of, and SM747 Green Castle, fort, Newlands are considered (visualisations are provided at Figure 8.13 to 8.16). The class of monument is not fully understood, though some or all of the forts are considered likely to be related. The EIAR states that it is considered that the position of the forts were intended to occupy a defensible position to monitor and/or control the surrounding fertile farmland. The document notes HES has also suggested that their situation may have been intended to control access to/from the Lammermuir hills to the forts' east. HES comment: 'They very obviously avoid the higher ground of the hills themselves: the settlements appear to be sited to dominate and control the transition points between the hills and the fertile land below rather than to dominate the entire landscape. The hills form a dominant backdrop to the relationship between the forts which is being played out below.'
135. The EIAR considers the proposal would not impact on the relationship of the settlements and the surrounding farmland. However it finds an impact on cultural significance arising from the prominence of the turbines, on monuments that were themselves intended to be prominent. It notes that T17 would be 1.6km SE of SM5794 Park, fort 800m SE of, and SM5795 Park, fort 900m SSE of'. Turbine 16 would be 940m southeast of SM747 Green Castle, fort and 1.3km southeast SM745 Black Castle, fort. The EIAR considers the presence of the proposal that close would affect a visitor experience of the group of monuments, effectively doubling the height of the

natural Lammermuir escarpment that the forts have always previously been in the shadow of. However, the EIAR concludes that this slight adverse impact is of minor significance for each, which is not significant. In the authors' view the understanding, appreciation and experience of these monuments would be adequately retained such that the integrity of setting would not be significantly adversely affected, in line with NPF4 Policy 7.

136. The EIAR does not consider the effect on Traprain Law Hill Fort (SM755) in the Heritage Chapter, though visualisations were included in the LVIA, Viewpoint 12. Our Heritage Officer considers that the impact upon this Scheduled Monument will be significant. Although not formally subjected to a Heritage assessment in the EIAR he considers it clear from Viewpoint 12 that the proposed Newlands Turbines will have a much larger impact than those already consented/ constructed. Virtually the full height of the turbines will be seen prominently in the foreground of the view to the south. This is opposed to distant blades and hubs which are, just above the skyline of the Hills. Viewpoint 12d shows how prominent these turbines will be.
137. Traprain Law is one of the preeminent Hillforts in Southern Scotland and the natural topography affords 360-degree views across the surrounding landscape with the Lammermuir hills being the southern backdrop. This expansive view is not only important to how the fort is experienced today by visitors but also would have been part of its original function. The intervisibility with hillforts in the Lammermuirs is clearly a significant part of the archaeological and historic value of the site and the introduction of turbines which are so prominent has a significant adverse impact upon how this monument is understood and enjoyed. The wider historic landscape in which Traprain sits is largely free of obvious modern intrusions (i.e. the modern infrastructure is relatively low key in views from the top of Traprain Law) and the introduction of these turbines in this location will be significantly at odds with the feel of the wider landscape views.
138. The intervisibility between hillforts is important (particularly to and from Traprain) but the views across the Lammer ridge are also important. Not only from a modern perspective as the Traprain 'bowl' has a timeless feel but also in an archaeological context as it is considered that these hillforts were situated to control movement across the hills and Traprain sat at the nexus of this. This is very evident at the gap in the hills which Whitecastle sits, but there are multiple deans and routes right along this ridge and the placement of the turbines along the ridge will in effect be a significant eye-catcher in that view line so the views from Traprain to the Lammermuir ridge are key (the original entrance to the Hillfort was probably on the south side facing where the turbines would be located). Traprain Law is in addition a significant visitor attraction.
139. The proposed route also runs through the Special Landscape Area for Traprain Law, which includes a historic landscape. The road network is largely medieval in origin (and possibly older) and contributes significantly to the character of the area. The proposals will significantly alter this road network and although the direct impacts can be mitigated the changes to the character of this area will be significant. The introduction of new lengths of road, the widening of roads, the removal of hedgerows, mature trees and dry stane dykes will fundamentally change how the area is seen and experienced. In line with NPF4 and the consideration of Historic landscapes it is likely that the impact of the access route will be greater than can be absorbed by the historic environment in this area as the character and understandability of the area would be significantly and adversely altered. The Heritage Officer considers this sufficient to raise an objection in relation to the Historic Environment.

Heritage conclusions

140. The Heritage Officer considers that the conclusions of the EIA on the indirect impacts for the majority of receptors have been underplayed. Even where there may not individually be a significant effect, cumulatively there are many historic assets in East Lothian which are impacted to one extent or another by this size of turbine in this location. For direct effects, he considers the assessment of the potential for unidentified buried archaeological remains which may be impacted to be weak. This starts from the assessment of a low to negligible potential for unknown archaeological remains within the WFA (para 8.137) which sets up for a conclusion that any direct impacts, prior to mitigation, will be not significant. It is clear in all the policies and guidance that direct impacts which damage or remove buried archaeological remains are not 'not significant' – the phrase 'archaeological remains are a finite and non-renewable resource' is oft quoted.
141. For the ALL route the main impact will be direct impacts on unidentified Buried remains. The area of this access is in an area of High archaeological potential and is within the Traprain Hinterland (i.e. the area that would have been settled and farmed to support Traprain law). This is evidenced through work carried out in the Traprain Environs Project undertaken by Prof Colin Haselgrove (The Traprain Law Environs Project: Fieldwork and Excavations 2000–2004 | [Open Access E-Books \(socantscot.org\)](http://socantscot.org)). This work shows the wealth and depth and potential for archaeological remains in this area.
142. The Heritage Officer considers the introduction of turbines which are significantly higher than other consented ones and situated along the Lammermuir ridge line, as opposed to behind it, is likely to have a magnified affect across a much wider area. A rough estimation is that they will be seen across the whole of the East Lothian Plain and will unduly stand out due to their size and location. In terms of the Historic Environment there is a concern that turbines of this scale and location may start to change how a significant number of historic assets and landscape are seen, appreciated and understood. While the Historic Environment can and should absorb a degree of change there comes a point where the change is too much and we change the essential characteristics of historic assets and landscapes. He is concerned that our current assessment models are not up to assessing this level of impact over a much wider area.
143. Should the proposal be consented the Heritage Officer considers an archaeological condition to mitigate direct effects would be required. The mitigation proposed is less than he would expect to see but considers this can be addressed through condition.
144. Overall the Heritage Officer considers that the direct impacts can be mitigated by an appropriate archaeological programme of works which will need to be agreed if the proposals are consented. However, the indirect impacts however are of such magnitude that there is no potential to mitigate the impacts. He recommends that consent be refused on this basis.
145. The proposed development is therefore contrary to Policy 7 of NPF4, ELLDP Policy CH4 Scheduled Monuments and Archaeological Sites, nor Electricity Act 1989 Schedule 9 requirements as regards desirability of protecting sites, buildings and objects of architectural, historic or archaeological interest.

NOISE, VIBRATION, AMENITY, PRIVATE WATER SUPPLIES

146. NPF Policy 11ei requires that design and mitigation demonstrate how impacts on communities and individual dwellings are addressed. Part b) of Policy WD3 has a similar requirement. NPF4 Policy 23e provides that development proposals that are likely to raise unacceptable noise issues will not be supported.

Noise

147. The applicant has submitted an assessment of Noise in the EIAR. Construction noise impacts have been scoped out as the relevant noise limits will be met at noise sensitive locations near the development. The EIAR concludes overall construction noise impact not significant, and this will be controlled and minimised through a proposed CEMP. There were considered to be minor effects due to the increase in road traffic from construction vehicles accessing the site during the peak period, but overall this was considered not significant.

148. Operational noise impacts from wind turbines were considered in relation to noise limits both for the proposed development alone and cumulatively with other wind development. Operational noise from the substation and battery energy storage were scoped out of assessment as these would not be audible at noise sensitive receptors. Noise from decommissioning was considered to be similar to construction, and relevant noise limits would also be met.

149. The **Council's Senior Environmental Protection Officer** has considered the Noise Assessment Report within the EIA and is satisfied that noise during the operational phase of development, for both the independent operation of Newlands Hill and also cumulatively with other windfarms, will not have any significant impact upon amenity. He suggests however that Condition 22 of the Heads of Planning Service Model Conditions on Noise be applied to any consent granted including limits per Table 1 (0700-2300) and Table 2 (2300-0700) of this condition. He notes that operational noise limits have been derived from the baseline noise measurements and the relevant noise limits are set out at Table 12.9 of the EIA. However, he considered it would be beneficial if the Noise Report were updated to include a completed version of Condition 22 Tables 1 and 2 for ease of reference. The applicant submitted this as Tables 1 and 2 of Appendix 3 of the Consultation Clarifications Report submitted by the applicant in July 2024. The Senior Environmental Protection Officer is satisfied with proposed limits given there. He further notes the comments given on Heads of Planning Service Model Conditions in Section 3 of Appendix 3 of the 'Clarifications' report. He considers these are reasonable and would have no objection if the model conditions are reworded as recommended. He is satisfied that noise from the construction phase of the development would not, subject to appropriate controls being imposed, have an unacceptable impact on noise sensitive receptors. Subject to the imposition of recommended conditions, the Senior Environmental Protection Officer raises no objection to the proposals.

Shadow flicker

150. 'Shadow flicker' is an effect which can occur as rotating wind turbines cast passing shadows through windows of neighbouring property as they turn. The primary effect of this in occupants is nuisance. The EIA includes desk study for shadow flicker using a distance of 11x the rotor diameter. The EIAR states that properties within this zone include Darent House, which is financially involved, and 1 and 2 Mayshiel Farm Cottages. The desk study then in Table 16.1 considers Darent House, which it notes as having turbines within the stated study area distance of 1782m, 1 and 2 Mayshiel

Farm Cottage, and Black Mountain Farm, which are outwith the distance but could potentially be within once micrositing is considered. The maximum time that shadow flicker would be experienced is 47 hours per year at Darent House, 19 hours at 1 Mayshiel Cottage, none at 2 Mayshiel Cottage and 13 hours at Black Mountain Farm. Prevailing weather conditions would reduce this as it only occurs when the sun is out. The EIAR considers woodland at 1 Mayshiel Cottage and Blackmountain Farm to further reduce visibility, and therefore the effect on any property other than Darent House is considered negligible.

151. Faseny Cottage, which is within the study area, is not further considered, but would be on the very margins of being within 130 degrees of North required to potentially experience an effect: so if it did so at all, it would be only for a very limited time period.
152. The EIAR states that if mitigation was needed for the effect on Darent House this would be agreed with the property owner who is financially involved.
153. The **Council's Environmental Health and Protection Officer** does not raise any concerns related to shadow flicker.

Private water supplies

154. Private water supplies (PWS) are considered in the EIAR. Table 11.2 states that PWS within 100m of infrastructure were considered a highly sensitive receptor, with those within 1km of infrastructure considered medium sensitivity, and those further than 1 km considered of low sensitivity. However in paragraph 11.73 it states that the sensitivity of PWS is considered to be high. The EIAR identified 4 PWS within 1km of the windfarm site, shown in Vol. 3 Figure 11.6. These are Newlands (stated to serve 8 properties), Snawdon (stated to serve 7 properties), Darent House (stated to serve that house only) and Faseny Cottage/Bothy (also that property only). All wind farm infrastructure is located significantly beyond the 250m protection distance specified by SEPA guidance.
155. In agreement with SEPA, NatureScot and ELC, a CEMP will include pollution risk assessment and planning and design of appropriate pollution control measures. Surface water run off containing silt and other sediment has the potential to enter PWS. This could arise from excavations, exposed ground and temporary stockpiles. Pollutants such as oils, fuel and cement may be mobilised through mechanical leaks or spillage and carried in surface drainage. In construction and decommissioning phases, the EIAR considers the magnitude of the impact would be medium resulting in an effect of major adverse significance. No significant effects were identified for the operational phase.
156. Mitigation is proposed. This includes standard good practice of pre-construction site investigations to inform micrositing and choice of materials, including targeted monitoring and assessment of groundwater levels and flows. A CEMP is also proposed which includes pollution risk assessment and control measures. Baseline water quality sampling and analysis would be undertaken at Newlands, Snawdon, Darent House and Faseny Cottage/Bothy PWS, subject to grant of access. A programme of regular monitoring and analysis of the water quality of the PWS would be implemented throughout the construction phase, subject to grant of access. No significant residual effects were found.
157. The Council's Senior Environmental Health and Protection Officer notes that regulations were made in 2017 (the Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017) run alongside the 2006 regulations quoted in

the EIAR. They also note that both the Newlands and Snawdon PWS supply one more property than listed. They consider the mitigations described to be consistent, though this would have to be proven via the sampling and analysis programme. They are content that this could be managed by conditions however. SEPA are also content that all PWS are outwith the relevant buffer zones, however request a condition on micro-siting to ensure this remains the case.

FLOOD RISK AND WATER ENVIRONMENT

158. NPF4 Policy 11 Part vii requires that project design and mitigation show how effects on hydrology, the water environment and flood risk are acceptable.

Flooding

159. The Policy Intent set out in NPF4 Policy 22 Flood Risk is to strengthen resilience to flood risk by promoting avoidance as a first principle and reducing the vulnerability of existing and future development to flooding. This policy sets criteria for where proposals are at risk of flooding, which includes essential infrastructure where the location is required for operational reasons, and water compatible uses. In such cases all risks of flooding must be understood and addressed, and the development should remain safe and operational during floods. Development proposals must also not increase the risk of surface water flooding to others; manage rain and surface water through sustainable urban drainage systems, and seek to minimise the area of impermeable surface.

160. LDP Policy NH11 Flood Risk also provides that development that would be at unacceptable risk of flooding will not be permitted, and that proposals will not be supported if they would increase the probability of flooding elsewhere. LDP Policy NH10 requires development proposals to show appropriate provision for Sustainable Drainage Systems (SUDS) has been made.

161. The EIAR considers flooding in Chapter 11. This reports that no watercourses within the windfarm area are indicated to be at risk of flooding. The **Council's Senior Engineer – Flood Protection** notes that with regard to the Flood Hazard Mapping, although the site is not shown to be at risk, this may be in part because risk for catchments of less than 3 square kilometers are not shown. The EIAR reports that the main body of the Faseney Water, to the south, has a 10% chance of flooding each year. The EIAR notes that standard mitigation for the proposed development includes Sustainable Urban Drainage Systems to be incorporated into the detailed design. The applicant considers this will mitigate any interaction between the proposed development and the Faseney Water, and that therefore no further consideration of flooding is necessary.

162. **The Council's Senior Engineer** considers the potential for effect of run-off from drainage via tracks and cables installed should be included in the EIAR, which cumulatively with other projects could lead to flooding downstream. However, he is content that a Construction and Environmental Management Plan (CEMP) is a suitable way of mitigating the construction risk to flooding and/or water pollution. He would require that watercourse crossings during construction do not reduce the current flow of the watercourse and that they should ideally be designed to cope with the 1 in 200 year flow event. This should be detailed in the CEMP. He notes that surface water runoff should be managed before and after construction. He requires that run off rates are not increased as a result of the windfarm including by an increased construction road. The CEMP should also detail any silt management, to reduce watercourse pollution.

163. Subject to the imposition of the recommended conditions, the proposal is consistent with Policy 22 of NPF4 and Policy NH11 of the adopted Local Development Plan 2018.

Water Environment

164. ELLDP Policy 9 requires that where relevant new development should protect and where appropriate, enhance the water environment.

165. The EIAR considers the water environment in Chapter 11. The EIAR reports the windfarm area is within the catchment of the Whiteadder Water, which is part of the wider catchment of the River Tweed. The proposed development takes in the headwaters of the Danskine Burn, Park Burn, Newlands Burn, which flow northeasterly before joining Gifford Water, the Papan Water, which flows into the Thorter Burn then Whittingeham Water, and the Faseny Water which flows into the Whiteadder Water then Whiteadder Reservoir. The EIAR notes that all three watercourses within the study area of the proposed development (Whiteadder Water, Faseny Burn and Whittingehame Water) were assessed by SEPA in 2020 as having an overall 'Poor' status.

166. The AIL route is with the Whittingehame Water catchment, and crosses five watercourse, namely Danskine Burn, an un-named burn within Danskine Loch SSSI, Sounding Burn, Ninewells Burn and Luggate Burn. Existing crossings may require to be upgraded. The only one of these water courses to have a SEPA classification is Luggate Burn. This burn is currently culverted for approximately 550m under the proposed AIL route. The overall status of this watercourse is 'Poor' and its overall ecological status 'Bad'.

167. No Groundwater dependent terrestrial ecosystems (GWDTE) were identified within the AIL route. Within the windfarm area assessment was carried out, however despite suggestions from habitat survey that GWDTE might be present, were considered not to be due to the impermeability of the bedrock.

168. The windfarm area is within a Drinking Water Protection Area. The key watercourses that contribute to this are over 500m from turbines or infrastructure. The EIAR notes that the site is also within a Groundwater Protection Area. The EIAR considered the standard mitigation to protect all water courses (CEMP and others, see PWS) to be adequate to protect these interests.

169. Our Senior Engineer notes that all of the turbines are a suitable distance (at least 50m) from watercourses, as per Figure 11.5A.

170. SEPA note that dewatering during excavations should be in accordance with the Controlled Activities Regulations. They note that the designation of the drinking water protection area for groundwater is incorrect. SEPA considers all groundwater in Scotland to have a drinking water designation. SEPA accept that there are no true GWDTE at the site. SEPA note commitments to drainage and surface water measures to maintain hydrological connectivity, and consider this should extend to non-GWDTE wetland habitat bisected by infrastructure, and a flush at T10. SEPA note that the CEMP should include a Borrow Site Management plan especially as they have concerns about risks from the Wester Mossy Burn location.

171. SEPA do not object to the proposal provided conditions are placed on consent to secure mitigation described in the EIAR, a CEMP, a 50m buffer around all

watercourses other than where there are new crossings. They also request a condition requiring any water course crossings to be oversized bottomless arched culverts or traditional style bridges; a condition on restoration of borrow pits; and restrictions on micro-siting to protect watercourse, private water supplies and peat.

172. Subject to a conditions on the water environment required by SEPA and requiring a CEMP and the mitigation listed in the EIAR, the proposal is acceptable in terms of flood risk and impact on the water environment.

TRANSPORTATION AND ACCESS

173. The **Council's Asset and Regulatory Manager** has appraised the assessment of the traffic impacts of the proposed development. Their response follows the review of the submitted Transport Assessment, Outline CEMP, the 'Access, Traffic & Transport' chapter of the EIAR report and all relevant planning drawings. Their appraisal of the impacts of the proposals on the local transport network considers the acceptability of the permanent infrastructure over the course of its 40-year operational life as well as during the construction and decommissioning phases.

Relevant Local and National Policy

174. The Asset and Regulatory Manager has fully considered the relevant transport related policies within the adopted East Lothian Local Development Plan (2018) and NPF4. These include Policy NPF4 Policy 11 Part ei, eiii, evi and exii, which require project design and mitigation to show how impacts on communities including residential amenity, public access, including impact on long distance walking and cycling routes; road traffic and trunk roads, including during construction; and cumulative impacts, have been address.
175. ELLDP Policy T1 requires development to be located on sites that are capable of being conveniently and safely accessed on foot and by cycle, by public transport as well as by private vehicle, including adequate car parking provision in accordance with the Council's standards. The submission of Travel Plans may also be required in support of certain proposals. ELLDP Policy T2 General Transport Impact requires that new development must have no significant adverse impact on: road safety; the convenience, safety and attractiveness of walking and cycling in the surrounding area; Public transport operations in the surrounding area, both existing and planned, including convenience of access to these and their travel times; the capacity of the surrounding road network to deal with traffic unrelated to the proposed development; and residential amenity as a consequence of an increase in motorised traffic. This policy further provides that where the impact of development on the transport network requires mitigation this will be provided by the developer and secured by planning condition or legal agreement as appropriate. ELLDP Policy T4: Active Travel Routes and Core Paths as part of the Green Network Strategy states that the Council will protect its existing core path and active travel networks and ensure that new development does not undermine them, including the convenience, safety and enjoyment of their use.

Construction Phase Traffic Impacts

176. The following construction phase traffic impacts are considered.
- **Staff trips:** It is noted that there could be up to 45 construction staff on site per day. We would expect a Staff Travel Plan to be in operation to encourage public

transport use and car sharing in preference to single occupancy trips where possible.

- **Construction Traffic Profile:** A full month-by-month prediction of construction traffic over the 18-month construction period has been provided and this indicates the worst case daily (two-way) journeys would occur during month 10 and this would result in 70 cars / LGVs and 130 HGVs movements.
- **Construction traffic routes:** General construction traffic would access the site via the A1, B6370 and B6355. Abnormal load traffic would be assigned an alternative route using sections of the B6370 and B6355 that makes use of the proposed temporary slip road from the A1 and sections of haul road through private land.
- **Construction traffic impacts on the local road network:** The predicted peak monthly construction traffic data has been compared with the baseline traffic data to assess the percentage impact on the local road network. The magnitude of impact in percentage terms varies considerably given the different flow quantum's on the various road types from unclassified rural road to trunk roads.
- **Abnormal loads:** The turbines are broken down into components with the blades and tower sections classified as abnormal loads. The abnormal load route is considered in subsequent sections. It is proposed that the abnormal loads will be accompanied by escort vehicles. It is estimated that there would be a total of 378 two-way escort journeys in total.

177. The assessment methodology for the construction phase traffic impacts as set out in the Transport Assessment and EIAR Chapter is considered to be acceptable, however, it demonstrates that there will be significant impacts associated with construction traffic. This will require mitigation through planning conditions in order to render them acceptable in transportation planning and relevant policy terms. These mitigation measures are discussed below.

Proposed Construction Phase Traffic Mitigation

178. A Construction Traffic Management and Routing Plan is proposed as a primary mitigation measure by the applicant. The basis of this is welcomed and it should be secured through suggested Roads Condition 1 (see Annex 3: Discussion on Conditions below)

179. Further to the above, during the decommissioning phase it will also be necessary to impose a Decommissioning Traffic Management & Routing Plan (DTMRP) which should be secured through an appropriately worded planning condition. This document will take the same form as the CTMRP, and must be subject to the agreement of the Council's Assets and Regulatory Manager on its content in advance of its requirement.

Abnormal Loads Assessment

Temporary slip road from the A1

180. A route survey including a swept path assessment has been carried out for the proposed abnormal load route which includes a proposed temporary slip road from the A1 to the east of East Linton.

181. The temporary slip road from the A1 would need to be constructed to acceptable permanent road design standards i.e. it would need to be hard-formed and in accordance with DMRB standards. The slip road would also need to be designed to prevent inadvertent use by members of the driving public. The design of the temporary slip road will need to be reviewed and signed off by Transport Scotland / BEAR Scotland and the Planning Authority.

182. Given the nature and complexity of the proposed temporary slip road from the A1, the details and design process will need to be established for prior agreement with Transport Scotland and with the **Council's Road Services**. Given the topography of the land and the level differences that will need to be overcome, the proposals will require significant earthworks. Based on the limited information provided in the application, Road Services have doubts that these earthworks could be accommodated within the red line boundary of the planning application.

Abnormal load route on the East Lothian Council public road network

183. Along the proposed abnormal load route there will be interventions required whereby the horizontal alignment of the existing public road cannot accommodate the swept path of the abnormal load vehicles – this will require the clearance and / or trimming back of trees and hedges together with the construction of load bearing surfaces at specific points. At junctions, these interventions will be more noticeable as the abnormal load vehicles would need to divert from the existing alignment with a new running surface with the required radius. Further, there are some areas whereby a new alignment is required to avoid the constraints of existing residential / farming property.

184. In order to facilitate the interventions that require full diversions of the abnormal load vehicles away from the existing public road carriageway, appropriate fence and gate details will need to be agreed so that there is no confusion from the public as to what carriageway should be used. This will require strict management from the applicants in terms of the needs to close gates etc and this will need to be set out in relevant planning conditions.

185. As part of the work required to fully assess the impact of the abnormal load route, Road Services request that a drone survey and a report of its findings be undertaken to provide aerial photography to be used to assist in the assessment of the impact of the vehicles along the proposed route. The Asset and Regulatory Manager is also aware that there are alternative vehicles such as 'blade-lifters' that can be utilised to minimise the impact along the road corridor with regards to the swept paths of the vehicles. They request that these are considered further in order to reduce the impacts along the proposed route. Further consideration should be given to alternative routes for abnormal loads that reduce the impact on the public road network within East Lothian.

Construction Vehicle Route Impacts

186. On the basis of the above points in relation to both standard construction vehicles and abnormal loads, the Asset and Regulator Manager requests that a Construction Vehicle Route Impact Report be undertaken to be secured through the imposition of a condition.

Abnormal Load Management Plan

187. In order to minimise the impacts of the abnormal load deliveries, an Abnormal Load Transport Management Plan will be required, which should be secured through the imposition of a condition. Further to the above, during the decommissioning phase if Abnormal Loads are to be moved it will also be necessary to impose a Decommissioning Phase Abnormal Load Transport Management Plan, which should be secured through an appropriately worded planning condition. This document will take the same form as the construction phase, subject to the agreement of the Asset and Regulatory Manager on its content in advance of its requirement.

Core Path Network Impacts

188. The Asset and Regulatory Manager requests the provision of a Core Path Management Plan (CPMP) to ensure that agreed 20mph speed limits are always adhered to where pedestrians, cyclists and equestrians are likely to be prevalent. It is also recommended that delivery drivers are made aware of the sensitivities surrounding the interaction between HGVs and horses as referenced from the British Horse Society.
189. The CPMP should generally consider the temporary and permanent infrastructure that will be delivered to ensure the safe and convenient active travel routes in the local area to cater for the needs of people living in the local area, including a timetable for the implementation of the measures. This document should consider information technology to minimise the impacts of construction traffic on cycling and walking.
190. The CPMP should be secured through an appropriately worded planning condition such that it is submitted for approval prior to the commencement of works..

Road Safety Audits

191. The Asset and Regulatory Manager requests that Road Safety Auditing is carried out for all areas of the development proposals whereby there are changes that will occur to the operation of the public road network under both the temporary construction period and the operational period. This requirement could be secured through the imposition of a condition.

Dilapidation to the Road Network

192. The dilapidation and damage associated with construction traffic should be mitigated against through the undertaking or immediate emergency repairs relating to significant damage, together with more general repairs undertaken on a regular basis and periodic road resurfacing and repair where necessary. As part of this process, a dilapidation survey will be required at the start of the construction period to gauge the condition of the roads on the construction routes as existing. The requirements of mitigation associated with this dilapidation and damage will be set out in an appropriate planning condition. Financial security for these works will be required through an appropriate bond, the value to be established following discussions prior to commencement of works on site.

Operational Phase Mitigation

193. Operational traffic movements have been described as up to two vehicle movements per week for maintenance purposes. It is accepted that this would be significantly lower than the construction and decommissioning phases and therefore not likely to result in any significant impacts and therefore no further assessment work is required. Road Services note that occasional abnormal load movements to deliver replacement components will be required in the event of major failure – this would require the mitigation measures that are secured for the construction phase to be made available during the operational life.
194. The Asset and Regulatory Manager welcomes confirmation that the site entrance roads will be well maintained and monitored during the operational life of the development to prevent issues such as surface water run-off onto the public road network.

Decommissioning Phase Mitigation

195. It is stated that a traffic assessment will be undertaken and appropriate traffic management procedures followed. This general approach is noted and it is requested that this assessment be secured through an appropriately worded planning condition. It is also noted that elements of the infrastructure put in place for the construction phase would be left in place through the operational phase and into the decommissioning phase – the Asset and Regulatory Manager welcomed discussions on what infrastructure would be appropriate to remain as such.

Road Construction Consent

196. All works within or affecting the public road including works on the footpath must be authorised in advance by this Council. Further, any proposals, which include new or extended roads, will also require Road Construction Consent prior to carrying out any works and for which application should be made to the Head of Infrastructure. In addition, it should be noted that temporary measures will be necessary to deal with surface water run-off during construction of the site, in accordance with the requirements of the Water Environment (Controlled Activities) (Scotland) Regulations 2005 and General Binding Rules.

197. Overall, there are areas of the construction phase that require further details and the agreement of the Asset and Regulatory Manager as part of a detailed design, assessment and project management process. Furthermore, there are a considerable number of required mitigation measures that will need to be put in place during the construction phase to ensure that the temporary impacts of the construction process on the local transportation network are kept to an acceptable level in order to render them acceptable. Provided these requirements are met, which the Asset and Regulatory Manager considers can be achieved by condition, the proposed development is acceptable in consideration of the local and national transportation planning policies set out in the ELLDP and National Planning Framework 4.

Core paths, rights of way and recreational access

198. NPF4 Policy 11 eiii requires project design and mitigation to show how impacts on public access including long distance walking and cycling routes, and scenic routes, have been addressed. NPF4 Policy 14 has the intent of encouraging, promoting and facilitating well designed development that makes successful places. As noted under 'Landscape' above Part 14a of this policy requires that development proposals be designed to improve the quality of an area whether in urban or rural locations while Part 14b states they will be supported where they are consistent with the six qualities of successful places. NPF4 Policy 20 promotes the expansion and connectivity of blue and green infrastructure. Part b of the policy supports development proposals incorporating new blue or green infrastructure, noting that where appropriate this will be an integral part of the design.

199. Policy 14 ELLDP Policy WD3 All Wind Turbines section f) requires that the impact of the proposal on the recreational value of public access routes is acceptable. ELLDP Policy T4 also protects the enjoyment of the use of core paths. Policy DC10 The Green Network requires that all relevant development must make provision for the Green Network in accordance with the Council's Green Network SPG. The Central Scotland Green Network is a National Development as set out in NPF4. The Green Network SPG page 51 Design Guidance for Developers sets out what types of development must make such provision. Relevant development is identified as including that which impacts on an aspect of the Green Network, which includes active travel routes,

recreational destinations or protected natural heritage sites. Recreational destinations are shown in Appendix 1 of the Green Network SPG and include Lammer Law, Meikle Says Law, Traprain Law, and Hopes and Whiteadder Reservoir. As outlined in the Landscape section above, the proposal will impact on these recreational destinations.

200. The Access Officer notes that while there are no formal rights of way or core paths in the development area of the proposed Newlands Wind Farm, people do walk in the area under the right of responsible access to the countryside provided under the Land Reform Act. There are a couple of tracks there where people regularly walk. If this development was to go ahead then there would be more likelihood of people walking on the access tracks to the turbines, as has been seen on other wind farms in the Lammermuirs. The access tracks should be kept open and accessible for non-vehicular access and where possible augmented with additional paths to make circuits between wind turbine locations or to join in to other paths and tracks in the area. The tracks and paths should have signposting to avoid walkers getting lost or going down cul-de-sacs and having to return or make their own way across the heather.
201. As more people will end up walking here, a small car park should be provided as part of this development to reduce the likelihood of people parking on the road verge or informally in the site entrance.
202. There are a number of core paths and rights of way in the vicinity from which the turbines will be very visible. The whole character of the Lammermuirs will change for walkers, or anyone looking at the hills because this proposal is much further down the slope than any other wind turbines. Whereas the other turbines are seated beyond the horizon these ones will appear to be so much closer on the slope facing Gifford, Haddington and much of East Lothian. The joy of walking in the Lammermuir Hills is to get away from the busy coastline and experience wilderness and solitude in the hills. Any addition to the windfarms in this area will completely change the character of the place.
203. The Access Officer considers the AIL Route will have an considerable impact on the local area. The route will involve the removal of numerous long-established trees and hedges and ruin iconic roads that have been used by cyclists and walkers for years. These will be permanent changes, as the route will have to remain in available throughout the lifetime of the windfarm. The route up Redstone Rigg is historic and iconic and has featured in many cycle events such as the Tour of Britain. The AIL route will also cause disruption to core paths around Danskine Loch and to informal access routes around Bara Wood and Townhead Wood. Again, this appears not to have been addressed.
204. The Access Officer considers that the visual amenity of recreational users of the scenic B6355 route and the promoted Hillfoot Way will be affected. The Access Officer also has concerns about the effect on access of changes to drainage from wind turbine development, including cumulatively. He notes that whereas in the past the hills have retained water and released it into watercourses over periods of weeks or months, many windfarm tracks have deep drainage ditches alongside them. When walking along the track after periods of rain it is clear that water is pouring out of the surrounding ground into the ditches and off the hills. The Access Officer states that landowners have reported fluctuations in water levels in water courses below wind farms to him, and that the Council has had to replace two foot bridges that have been washed away and had to build a new bridge over water course where this wasn't previously needed. This has coincided with the time period that windfarms have been built in the hills above these sites. Loss of bridges has an impact on public access; in

addition many informal paths in the Lammermuir Hills involve jumping over small ditches, which may become impassible due to the water running off the hills.

205. The Access Officer considers it is difficult to quantify the impact that such a windfarm will have on the views and enjoyment of walks in the hills. Many people find the turbines to be a distraction and they spoil their enjoyment of what used to be a peaceful walk away from it all. He considers a fund to improve public access in the area where the wind farm will be visible could go some way to improving the enjoyment of paths in the area. The Access Officer objects to the proposal on the grounds of the visual intrusion in the area and the impact on the path network and the destruction of the trees and hedges along the road verges on the AIL route.
206. The applicant has not addressed how the project design and mitigation have addressed impacts on public access, including impact on long distance walking and cycling routes, and scenic routes, as required by NPF4 Policy 11(e)iii. The proposal is also contrary to ELLDP Policy T4 due to its adverse impact on the enjoyment of the use of core paths. The proposal does not make provision for the Green Network as required by ELLDP Policy DC10.

ECONOMY

207. NPF4 Policy 11c states that development will only be supported where it maximises net economic impact, including local and community socio-economic benefits such as employment, associated business and supply chain opportunities. NPF4 Policy 25 Community Wealth Building Part a) supports proposals that contribute to local or regional wealth building strategies and that are consistent with local economic priorities, while Part b) supports community ownership.
208. ELLDP Policy WD3 All Wind Turbines section e) requires that the effect of the proposal be acceptable in terms of tourism or recreation.
209. The applicant has provided a Socio-Economic and Tourism Assessment separately from the EIA. This concludes that during the construction and development phase there will be £9.9 million gross value added and 137 years of employment in East Lothian, and £53.4 million GVA and 809 years of employment in Scotland. The annual economic benefits during the operation phase would be £0.9 million GVA and 11 jobs in East Lothian, and £2.5 million GVA and 29 jobs across Scotland. The commitment to maximise local economic benefit including a community fund could support 2 jobs in the local economy. The electricity discount scheme offered could reduce electricity bills in the community, leading to an increase in household spending on other items which could generate £100,000 GVA and 2 jobs in East Lothian, and £200,000 GVA and 4 jobs across Scotland. The applicant also proposes an element of shared ownership, offering local communities 1% of ownership for free and ability to buy an additional 4% at cost. They propose to maximise local sourcing by guaranteeing to work with local contractors who meet the necessary requirements and bid within 10% of the lowest bid. They will provide local schools and colleges with site visits and educational resources.
210. The Assessment considered tourism, reporting that day visitors spent £44.1 million in East Lothian in 2019 (£14 per trip), with domestic overnight visitors spending £34.3 million (£224 per trip). Data for overseas visitors found they spend more at £1000 per trip in the Lothians as a whole, but data are not available for East Lothian specifically. The Assessment identified local visitor attractions, tourist accommodation and core paths and recreational trails within 15km of the proposal. It refers to research by BiGGAR Economics looking at wind farm construction and tourism employment in

Scotland. This report concluded there was no pattern of evidence suggesting that onshore windfarms had any negative effects on tourism of local authority areas or the immediate areas surrounding windfarms. For the visitor attractions and accommodation providers identified, the Assessment considered that motivations to visit or stay, such as interest in history or for outdoor activities, would not be impacted by the windfarm. The Assessment considers that walking trails around the windfarm will not experience any impacts on activity.

211. The Assessment provided by the applicant therefore concludes that the proposal maximises net economic impact.
212. The **Council's Economic Development Service Manager** considers it is conceivable, given the unknown nature of the cumulative impact of energy infrastructure projects, that impacts on tourism/the economy/population and human health may start to be seen where previously individual projects would have had a negligible impact. He considers there is still likely to be relatively low impact from the operation of individual projects, but the construction of a large number of projects could impact the decisions of visitors and therefore the economy and where people choose to live.
213. In terms of maximising net economic impact, the applicant states in their Assessment para 3.2.1 that 'Newlands Hill would significantly contribute towards the goals of the Council's Economic Development Strategy'. The Economic Development Service Manager comments that there are a relatively low number of local jobs created and unmeasured potential negative aggregate impact of energy infrastructure construction. (These might include for example losses due to delay caused by construction traffic, which are not considered in the report). He queries the assumptions made on the proportion of non-domestic rates that are returned to the Council. He further notes that such proposals cannot be linked to planning consent and will therefore only be realised if the developer ultimately chooses to put them in place effectively. However he considers it likely that local jobs will be created and that opportunities will be available for local businesses to bid for and secure contracts.
214. The Scottish Government's Onshore Wind Sector Deal was published in September 2023, and commits the industry to initiatives such as training and apprenticeship opportunities, local supply content, and community benefit arrangements. The Planning and Sustainable Place Statement submitted by the applicant mentions this deal in terms of the importance of the wind sector, but it is not clear if the applicant has signed up to the actions around supply chain, skills, and circular economy that it contains in either this document or the economic Assessment.
215. A representation notes that there is no consideration of impact on field sports within the Assessment.
216. 'Maximising' net economic impact is a relatively new concept. There does not appear to be any agreed methodology for assessing this. There clearly will be some economic benefit from the scheme, which is estimated in the material submitted. In addition, the applicant has included commitments to community benefits which would have economic benefit, some of which are in line with the Onshore Wind Sector Deal. There are also likely to be some negative impacts, including those identified by the Council's Economic Development Service Manager's comments on potential for impact on tourism, negative impacts associated with construction and whether the local economic benefits proposed can be secured. These have not been quantified. It is therefore unclear if there will be net economic benefit or whether this has been maximised.

217. The Economic Development Service Manager comments that the energy discount scheme uses up a high proportion of the community benefit fund, and queries the details of the proposed scheme. He notes that compared to other developments he is aware of the energy discount scheme appears to be positive and if brought forward effectively (i.e. represents an ongoing discount over what could be achieved through 'normal market' routes for consumers and businesses and take-up is good) this may contribute to local community wealth and wellbeing. However, as he understands this is funded from the industry standard community benefit payment, so may not represent a net additional benefit, rather an alternative way of administering a proportion of that fund. As he understands it, the developer has offered local communities the option of a 1% ownership share of the development and a further option to purchase an additional 4% share. From what he understands this is comparatively significant in terms of private development of this type and that the local communities have received the offer positively and are engaging with the developer. He is concerned however that unless conditions or safeguards could be put in place via the planning system any developer's fulfilment of proposals of the types outlined above will ultimately be at their discretion and subject to financial considerations (and community uptake / capacity) over the course of their project.

218. Although the uptake of community ownership is uncertain, this appears to offer an element of shared ownership encouraged by NPF4 Policy 25b.

AVIATION

219. NPF4 Policy 11 and ELLDP Policy WD3 requires proposals to demonstrate that impacts on aviation and defence interests, including seismological recording, are acceptable.

MOD

220. The MOD raised concerns about the performance of AD radar at Brizlee Wood. The applicant put forward proposals for technical mitigation which was accepted by the MOD, and can be secured by condition to which the applicant has agreed.

221. The site is within a Low Flying Area, and the MOD requires that aviation safety lighting, which can include infrared lighting only, is installed and that they are notified of the positions of structures. The applicant has put forward proposals for lighting of permanent development (i.e. not construction equipment or temporary structures) which the MOD find acceptable. The applicant and MOD have agreed a condition to secure this.

Edinburgh Airport

222. The proposal will result in the need for changes to Instrument Flight Procedures to allow for vertical clearance by aircraft to be maintained. Four IAP charts will be required to be re-designed and submitted to the CAA for approval. A planning condition requiring this has been agreed between the applicant and Edinburgh Airport Ltd to secure this.

Civilian night low flying

223. The EIA Report notes that Article 222 of the Air Navigation Order 2016 requires all en route obstacles with heights of 150 metres or more above ground level to be illuminated with medium intensity steady red lights during the hours of darkness. This

legal requirement is designed to mitigate the risk of a civilian aircraft that is flying at night at the international regulatory minimum height of 500ft above ground level colliding

with unlit obstacles. All proposed turbines are above this height. The applicant submitted a lighting scheme designed on the basis of aeronautical study to the Civil Aviation Authority (CAA) which provides for visible spectrum lighting on seven of the turbines and infrared on 12. This has been approved by the CAA. NATS En route confirm they have no objection to the scheme.

224. The proposal is therefore acceptable in terms of aviation safety of civilian night low flying.

225. The conclusion of the EIAR is that there is a case for providing a lighting scheme that does not involve the lighting of every turbine. On this consideration it should be noted that the **Council's Landscape Officer** raises concerns about the impact of aviation lighting on the visual amenity of the area during night-time hours. While the scheme put forward has been accepted by the regulators as sufficient to ensure aircraft safety, and as such meets development plan policy on impact on aviation, it is not entirely clear that the scheme is a) the *minimum* that would be required and b) that there is no other potential mitigation to potential risk to aircraft such as provision of night vision equipment. Therefore, the Council recommends that the ECU should investigate whether the amount of lighting could be reduced, whilst still meeting the safety requirements of the regulators.

TELECOMMUNICATIONS AND BROADCASTING

226. NPF4 Policy 11(v) and Policy WD3 All Wind Turbines part i) seek that impacts on telecommunications and broadcasting installations are acceptable. The Energy Consents Unit has consulted with operators of telecoms and broadcasting and no objections were received that the Council has been made aware of.

SAFETY, ACCIDENTS AND DISASTERS

227. The intent of NPF4 Policy 23 is to protect people and places from environmental harm, mitigate risks arising from safety hazards. Part g requires that development proposals within the vicinity of a major accident hazard pipeline will consider the associated risks. The Design and Access Statement notes the need to maintaining safe distances for operation and construction purposes at 1.5 times the hub height from gas pipelines. The AIL route twice crosses a major pipeline. The applicant states that this runs under public highway which is already designed to accept the proposed loads. If any additional load bearing surface is required on the verge of the public highway or on private land, it would be subject to load calculations and an approved design by National Gas.

228. The EIA regulations include assessment of the potential impact from major accidents and disasters. The Council requested consideration of what would happen in the event of an aircraft striking the proposal. This is unlikely, and mitigation to *prevent* it happening is included in the chapter on aviation. The applicant does not consider the potential impact of this, or any mitigation in the event that it does, on the basis that it is not a 'likely significant effect' and therefore doesn't have to be included in the EIAR. This is based on a misunderstanding of the idea to which the word 'likely' is attached. The requirement for this assessment was introduced following the incident at a Fukushima, where the effects of a tsunami were worsened by the presence of a nuclear power station. This was not a likely event, and mitigation had been included to prevent it happening. Nonetheless, it did. The purpose of introducing the need for assessment

of the impact of major accidents and disasters was to consider the 'likely significant' effects on the environment, should a possible but unlikely event happen. This has not been done.

229. Muirburn is limited to outwith a 1km buffer of infrastructure during construction, and a 300m buffer of turbines post construction. There is no mention of the distance from the BESS. There is no information on the potential consequences of loss of control of muirburn.
230. The BESS indicative layout is shown on Chapter 3 Figure 3.10a, as a boundary line only. Very little information has been provided on this, including on fire safety measures. The Council recommends that the ECU should consult the Fire Service on the matter of fire safety and impose as conditions any recommendations they may have. Alternatively, if the ECU considers that this is not a material consideration then the ECU should satisfy themselves that the matter of fire risk is covered under other legislation.

EIA ISSUES

231. It is for Scottish Ministers to determine if the EIA Report is satisfactory, and meets the terms of the legislation. The Council would draw the following issues to the attention of Scottish Ministers.
232. The application and EIA Report does not include or consider the export cable route. This in our view is an integral part of the development. Without this, the proposal cannot export electricity to the national grid, which is its central purpose. The impacts of the cable route are part of the overall impacts of the project, and should be considered together. The cable route suggested is between Fallago Rig substation and the proposal. This area may include peat. This means there could be significant impacts from an underground route. An overhead line could have significant landscape and visual impacts. The Council would question whether the public have had sufficient opportunity to consider the proposal as a whole without the provision of information on this.
233. The Council received on request further clarification material, including a ZTV of hubs without screening. This, rather than the visibility screened by trees or buildings, is likely to be the worst-case scenario for any given point.
234. SEPA raise concerns about the location of the borrow pit within the Wester Mossy Burn Catchment on steeply sloping ground, considering that it will be challenging to manage and avoid significant pollution. If the proposed measures cannot be certain to work and the impact is potentially significant, this should potentially be explored through EIA. Scottish Ministers could check this with SEPA.
235. The EIA does not fully address the effects of major accidents and disasters as noted above.

CONCLUSION

236. The proposal is part of a National Development. The principle of need is established. The Council has declared a Climate Emergency and recognises the importance of addressing climate change and strong policy support for renewable energy in National Planning Policy 4 and elsewhere. The proposal would have benefits in terms of decarbonisation of the electricity supply and therefore on greenhouse gas

emissions. The Council recognises the contribution that this project would make to climate targets.

237. The proposal will have significant adverse impact on landscape, cultural heritage, and biodiversity. It is unclear whether the proposal would maximise economic benefits.
238. The proposal is unacceptable due to:
- A. Significant adverse landscape and visual impacts including cumulative effects, as detailed in the Landscape Officers response, which are more than localised and which have not been appropriately mitigated, contrary to National Planning Framework 4 Policy 11, ELLDP Policy WD3 and the regard to be had under Schedule 9 Section 3 of the Electricity Act 1989 of the desirability of preserving natural beauty.
 - B. Significant adverse impact on the historic environment, in particular on Traprain Law Hill fort (SM755) and the wider historic landscape in which it sits, and the stone circles at Johnscleugh (Crow Stanes and Nine Stanes (SM4423) and Kingside Burn (SM740)), contrary to National Planning Framework 4 Policy 7h, and Policy 11e (vii), and East Lothian Local Development Plan Policy CH4, and the regard to be had under Schedule 9 Section 3 of the Electricity Act 1989 of the desirability of protecting sites, buildings and objects of architectural, historic or archaeological interest.
 - C. Potential adverse impact on mountain hare conservation, a species protected under European Habitats Directive Schedule 3 and the Wildlife and Countryside Act 1981 (as amended), Schedule 5, contrary to NPF4 Policy 3 and regard to be had under Schedule 3 of the Electricity Act 1989 of the desirability of preserving fauna.
 - D. Lack of provision for the Green Network and mitigation for impact on core paths contrary to NPF4 Policies 11eii and 20, ELLDP Policies T4 and DC10.
 - E. That the AIL route is unacceptable due to its impact on prime agricultural land, contrary to NPF4 Policy 5 and its impacts on the landscape and historic environment as noted above, in the absence of it being fully demonstrated that other routes, including those from the south, are either not feasible or are more environmentally damaging.
239. Were the ECU to decide to grant consent, then the Council recommends that this should be subject to conditions, and that these conditions are agreed in advance by the Council.
240. Should consent be granted the council also recommends that the ECU and/or Scottish Ministers work in partnership with existing and future operators of tall structures to seek a solution to aviation safety that has less of an impact than the use of visible spectrum aviation lighting. The council notes that aviation lighting from an increasing number of wind turbine developments has a potentially significant impact over a wide area. If the scheme is consented, it should be checked with the regulators that the scheme proposed is the minimum acceptable.

RECOMMENDATION:

1. That the Scottish Government Energy Consents Unit is informed that East Lothian Council objects to the granting of consent under Section 36 of the Electricity Act 1989 for the reasons set out in this report; and
2. That the East Lothian Chief Planning Officer be authorised to undertake any discussions with the Scottish Government Energy Consents Unit to seek to resolve these objections and conditions to be attached to the consent if required; and

3. That if consent is granted then it be subject to conditions to be agreed with the Council's Chief Planning Officer.

APPENDIX 2

EAST LoTHIAN COUNCIL

Planning Service

INTERNAL MEMORANDUM

From: Landscape
Per: Sarah Cheyne
Ref: PA/EL/S36/NHWF

To: Strategy & Policy
Per: J Squires
Ref: ECU00004603

Date: 5 August 2024

Subject: Section 36 Consent for Newlands Hill Wind Energy Hub

Location: Newlands Hill, Gifford, East Lothian

I write in response to your email of 20 June 2024 with landscape comments on the above planning application.

Proposed Development

The Proposed Development comprises the Wind Farm Area (WFA) and the Abnormal Indivisible Load (AIL) route.

The WFA

The WFA consists of 17 three bladed horizontal axis turbines, with 15 turbines of a maximum blade tip height of 200m and 2 turbines of a maximum blade tip height of 180m, with respective hub heights of 122.5m and 102.5m. In addition there will be an onsite control building and substation compound, a battery energy storage (BESS) compound, and a permanent anemometer mast or LiDAR compound for wind monitoring.

Turbine no	Easting	Northing	Max blade tip height	Max hub height	Lit	Base AOD	Hub AOD	Tip AOD
T01	359280	663894	200	122.5	Yes	384	506.5	584
T02	358948	664192	200	122.5	No	393	515.5	593
T03	359475	664363	200	122.5	No	381	503.5	581
T04	359178	664679	200	122.5	No	402	524.5	602
T05	359418	665244	200	122.5	No	408	530.5	608
T06	359687	664900	200	122.5	No	397	519.5	597
T07	359981	664575	200	122.5	No	409	531.5	609
T08	359817	663948	200	122.5	No	391	513.5	591
T09	360295	664266	200	122.5	No	424	546.5	624
T10	360397	663840	200	122.5	Yes	398	520.5	598
T11	360317	665209	200	122.5	No	398	520.5	598
T12	360821	665592	200	122.5	Yes	414	536.5	614
T13	360879	665150	200	122.5	Yes	416	538.5	616
T14	360443	664818	200	122.5	No	419	541.5	619

T15	360297	665625	200	122.5	Yes	377	499.5	577
T16	358914	665008	180	102.5	Yes	422	524.5	602
T17	358650	664512	180	102.5	Yes	410	512.5	590

The AIL

Access to the wind farm for abnormal indivisible loads (AIL) (such as blades, hub, nacelle, and tower sections) is proposed to be taken along the local road network with the addition of some off-road sections. The AIL route would be approximately 19km extending from a temporary slip road junction with the A1 at East Linton to the access junctions to the WFA, on either side of the B6355.

As noted in the EIR the AIL route would have a running width of between 3.8-6m with a 0.5m verge to either side. The AIL route would include 16km of existing access tracks and public road network. These would require to be suitably upgraded to support the expected loads. There would also be 3.1km of new access tracks. All works to the road network and new access tracks would be required to be retained for the full life of the wind farm development.

Micro siting

75m micro siting allowance is sought for turbines and 50m for all other elements including the AIL route. The EIR notes that this distance is included in the red line boundary. 50m could make a significant difference to the landscape impact on this route and this micro siting allowance for the AIL is not supported in landscape terms.

The Grid Connection

The EIR notes that the Applicant has received a grid connection offer for the Proposed Development from the network operator, Scottish Power Transmission, including an indicative grid connection method. The point of connection is located at Fallago Rigg Substation, located approximately 5km southeast of the BESS location.

As the grid connection works are not included as part of this planning application potential environmental effects resulting from the offsite grid connection are not considered in this EIA report. The landscape and visual effects could however be significant alone or in combination with the wind farm proposals. As such we believe that the total impacts should be assessed as one LVIA.

LVIA

An LVIA has been provided with the application to assess the landscape and visual impacts of the proposal.

A 20km study area for this was agreed to be sufficient to identify all potentially significant effects. This extends across the majority of East Lothian from beyond the coast to the east of Dunbar to the A198 and North Berwick to the north and to Elphinstone to the west.

Visual Impact

19 viewpoints with photomontages for visual assessment have been provided, 17 of these are from within East Lothian. In addition eight illustrative viewpoints have been included and five wirelines from additional locations provided.

Photomontages for nighttime assessment have been provided for VP 8 Whiteadder Reservoir, VP 10 B6369 near Gifford, VP 14 Haddington

The LVIA notes that each of the viewpoints is a 'sample' of the potential effects, representing a wide range of receptors – including not only those actually at the viewpoint, but also those nearby, at a similar distance and/or direction.

The significance of the effect of the development on the individual viewpoints has not been provided in the LVIA, although the scale of visual effect is referred to.

Viewpoints

Viewpoint 1 - B6355 adjacent to site

AOD 415.7m

Located within the Plateau Moorland LCT and representative of this as well as the Lammermuir Moorland SLA, local road users, recreational users and tourists.

Within the centre of the wind farm.

This viewpoint is located on the road as it passes through the site. Heading south the view is constrained by the hill slope and the surrounding open moorland. Views are more open heading north along the road with a panoramic view out across the plains of East Lothian to the coast. The turbines are proposed to either side of the road. They would be fully visible together with their associated tracks and other infrastructure. The substation and BESS would be screened from this viewpoint and from much of the surrounding area due to the lower area of landform it is proposed in. Although the turbines do not sit directly in the view to the coast they are visible across the hill slopes to both sides, framing the view and you would have the feeling of being within the wind farm here. Aviation lighting to all turbines would be visible.

The LVIA assesses the scale of visual effect to be large.

The proposal changes the character of this view from one of standing within natural, peaceful, undeveloped moorland looking north out over the plain of East Lothian to the coast towards a more developed world, to one of standing within the middle of a development site. Surrounded by turbines of a gigantic scale whooshing overhead with the moorland landscape divided by tracks and other infrastructure connecting the turbines. At night the full impact of red aviation lighting will be felt. There will be a loss of naturalness and peacefulness. This will have a significant detrimental impact on the views from the road and the users of this and of the wider area who come to appreciate the wilder undeveloped nature of the moorland.

Viewpoint 2 – Harestone Hill

AOD 501.6m

Located within the Plateau Moorland LCT and representative of this as well as the Lammermuir Moorland SLA, walkers and recreational users, and tourists.

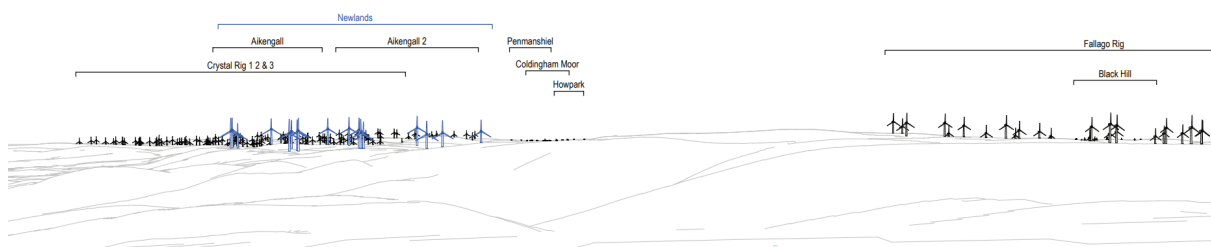
There are panoramic views over the plain of East Lothian to the north in this view. Fallago is the nearest wind farm visible from here at just over 1.5km to the southeast, overlapping with the proposed turbines of Dunside and with the proposed turbines of Longcroft extending to the right. They are set beyond rising ground providing a feeling that they are within a different landscape. Crystal Rig wind farms are visible in the distance to the northeast. Their location within the bowl landform and lower height reducing their prominence in this view. This view gives the feeling of standing in undeveloped moorland with wind farms in the distance.

There will be full visibility of all Newlands turbines from base to tip from this viewpoint with the closest turbine (T02) only about 2.8km away. Tracks linking these will be clearly seen over the hillslopes as will aviation lighting to the hubs. The BESS and substation compound

sited in a lower area are likely to be screened from view by foreground in this view. The proposals introduce a view of turbines within the same landscape as the viewer, set within the middle ground in this view. Although most sit in front of the view of the grouping of Crystal Rig and Aikengall, they are much larger and closer and more intrusive. Their hubs sit higher than the tips of the turbines at Crystal Rig and Aikengall in this view. Their much larger size than the turbines of Crystal Rig and Aikengall in the distance compounds the feelings of proximity to the proposed development. Four turbines (T04, T05, T16 and T17) and the anemometer mast sit forward from the Crystal Rig turbines in this view, towards the northern edge of the hills, although just within the heather clad plateau. T05, T16 and T17 sit slightly separated to the north from the rest of the group of wind turbines with T10 sitting slightly separated to the south in this view. These outlier turbines T16 and T17 and T10 have visible aviation lighting. The proposals bring development into the same landscape as the viewer.

Views of the hills to the west are retained with limited impact from wind turbines and the open views over the plain of East Lothian are retained to the north. However the character of the landscape and therefore feeling of naturalness and appreciation of the moorland setting will be changed for viewers from this currently undeveloped area of the moorland.

The wireline provided for Lammer Law indicates a similar impact from this important regularly visited recreational viewpoint in East Lothian within the Lammer Law, Hopes to Yester SLA. The turbines form a large prominent new element in the moorland. The hubs are higher than the tips of the turbines in the wind farms seen in the distance beyond and aviation lighting will be visible.



The LVIA assesses the scale of visual effect to be medium. Given the size and proximity of the development to the viewpoint, and the introduction of visible aviation lighting, combined with the importance of these viewpoints for recreational users we feel that there will be a significant detrimental impact on the views from this area of the moorland and the Lammermuir Moorland SLA and Lammer Law, Hopes to Yester SLA.

Viewpoint 3 – Hornshell on B6355

AOD 232.1m

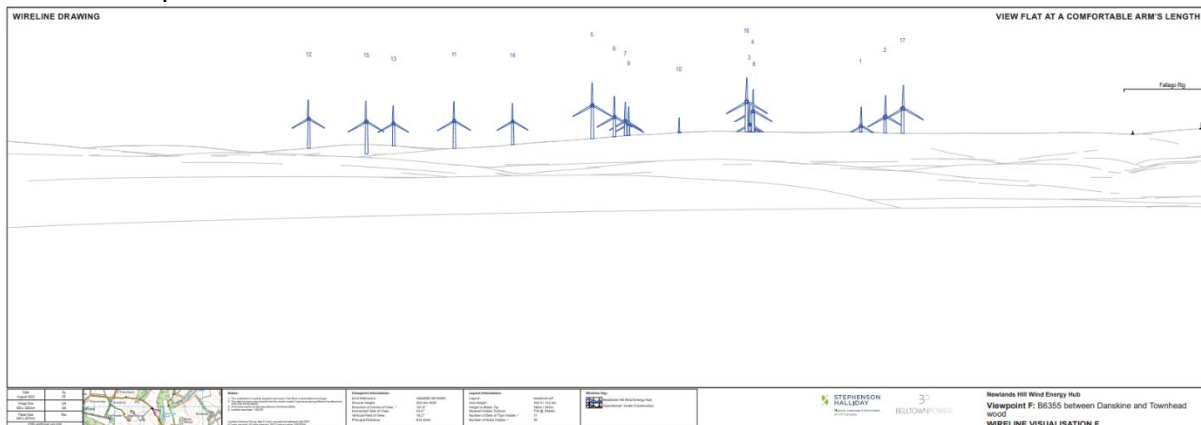
Nearest turbine 2.35km

Located within the Upland Fringe LCT this viewpoint is representative of this as well as the Lammer Law, Hopes to Yester SLA, local road users, recreational users and tourists. It is similar in location to the visual produced for the Black Castle Fort heritage assessment (figure 8.14).

The visual for this has been taken partially behind trees. This is the only place there are trees along this road. A viewpoint 130m further northwest (where there is also a field gateway) would have provided a more accurate view of the users of this road.

There are no other turbines visible from this section of the B6355. In the visual provided the trees screen the full extent of the wind farm however the large scale of the turbines is clear. From here they appear set beyond the crest of the hill. However the wireline provided for Viewpoint F further northwest along the B6355 between Danskine and Townhead at

3.9km from the nearest turbine shows the turbines coming off the plateau tops and on to the downslope of the hills.



The proposed wind farm would form a large, close and prominent new feature in views along this road and within the surrounding wider area where no other wind farms are visible. In addition it would appear to come over the ridge line and out of the hills.

The raised height of the turbines also means that nighttime aviation lighting would be visible.

The LVIA assesses the scale of visual effect to be large. We agree that the impact of introducing large, visually prominent, and lit turbines into an area where there is currently no visibility of any turbine development will have a significant adverse impact on views from the Upland Fringe LCT and the Lammer Law, Hopes to Yester SLA.

In addition this road forms part of the AIL route. There is likely to be additional detrimental visual impact due to changes to the character of the road by carriageway widening and vegetation and boundary clearance.

Viewpoint 4 – B6370 near Garvald

AOD 150.4m

Nearest turbine 5.76m.

Located to the southern edge of the Lowland Farmed Plain LCT this viewpoint is representative of this LCT as well as local road users, recreational users and tourists. The viewpoint is also located on the AIL route.

The rising land immediately south of the viewpoint limits view of the Lammermuir Hills from here. This is not particularly representative of the views from the wider Lowland Farmed Plain LCT.

The proposal introduces views of blades and possibly hubs of a number of turbines over this rising land. Three hubs of turbines 5, 12 and 16 are shown to be visible in the submitted visual. Turbines 12 and 16 have visible aviation lighting. The proposals will introduce a flicking effect over the hillslopes and introduce lighting close to the horizon at nighttime on this well used residential route between Garvald and Gifford. This will introduce development into this otherwise natural view.

In addition this road forms part of the AIL route. There is likely to be additional detrimental visual impact due to changes to the character of the road by carriageway widening and vegetation and boundary clearance.

The LVIA assess the scale of visual effect on this viewpoint to be small. It does not note the presence of hubs in this view even though there are readily apparent on the wireline. It is likely that, given the introduction of aviation lighting into this view and the works required to create the ALL route, the visual impacts may be greater on this area of the Lowland Farmed Plain LCT than suggested in the LVIA.

Viewpoint 5 – Longyester

AOD 206.5m

Closest turbine 3.8km

Located within the Upland Fringe LCT this viewpoint is representative of this as well as the Lammer Law, Hopes to Yester SLA, local road users, recreational users and tourists.

Views of the hills from this location are dramatic and wide ranging along the Lothian Edge rising to the southeast from the agricultural ground. This central section of hills has more intricate landform with the heather clad hills split by incised river valleys.

There is no visibility of turbines along the skyline of the Lammermuir Hills other than a couple of tips of Crystal Rig in the distance to the left.

As noted in the LVIA the Proposed Development would be seen as a prominent new skyline feature extending across the area of open moorland beyond and to the left of the nearby Dod Law. The turbines to the left of the development in this view bring the turbines off the hill tops. This diminishes the feature of the Lothian Edge. The aviation lighting will also be visible from this area on all but one of the turbines.

The LVIA assess the scale of visual effect on this viewpoint to be large/medium. However the impact of introducing large, visually prominent, and lit turbines into an area where there is currently no visibility of any turbine development will have a significant adverse impact on views from the Upland Fringe LCT and the Lammer Law, Hopes to Yester SLA. We consider this to be a greater scale of visual effect than considered in the LVIA.

Viewpoint 6 – Hopes Reservoir

AOD 290m

Nearest turbine 4.687km

Located within the Plateau Moorland LCT and representative of this as well as the Lammer Law, Hopes to Yester SLA, walkers and recreational users, and tourists.

This viewpoint is taken from the valley of the Hopes Reservoir along the track to the southern side of the reservoir along core path route 55. It is a highly scenic and natural feeling view with water to the left and enclosing heather clad hillslopes enclosing the view. Areas of upland native woodland hug the lower valley slopes. Other than the reservoir there is no development visible. There are no views of wind turbines. The area has a feeling of peacefulness and naturalness and a feeling of being away from it all.

As noted in the LVIA the Proposed Development would be seen on the skyline above the reservoir dam, looking along the valley to the east. This is directly in your line of sight as you head along the track out of the hills. As noted in the LVIA the eye is naturally drawn along the valley towards the more complex landform which the Proposed Development would sit above and the movement of turbine blades would reinforce this. This visibility is replicated along the entire length of the track alongside the reservoir.

Nine turbines would be introduced into this view. At least five hubs with aviation lighting would be visible.

The LVIA only assess the scale of visual effect on this viewpoint to be medium. However the introduction of turbines into the most intricate landscape of this view where there is currently no similar development. The undeveloped naturalness of this view will be lost, made worse by the introduction of lighting. The impact of introducing large, visually prominent, and lit turbines into an area where there is currently no visibility of any turbine development will have a significant adverse impact on views from the Lammer Law, Hopes to Yester SLA. We consider this to be a greater scale of visual effect than considered in the LVIA.

Viewpoint 7 – Clints Dod

AOD 399m

Nearest turbine T12 at 3.5km

Located within the Plateau Moorland LCT and representative of this as well as the Lammermuir Moorland SLA and recreational users.

This hill summit offers panoramic views across the open moorland of the northern Lammermuir Hills, the Lothian Plain and Firth of Forth to the northwest and out towards the North Sea to the northeast. Crystal Rig and Aikengall wind farms form a large part of the view to the southeast in this view. Fallago sits in the distance to the southwest.

The visual impact of the proposal on this view is similar to that from Harestone Hill. There will be full visibility of all Newlands turbines from this viewpoint. The undulating hills offer some containment, but some turbines are visible from base to tip and tracks linking these will be clearly seen over the hillslopes as will aviation lighting to the hubs. The BESS and substation compound sited in a lower area are likely to be screened from view by foreground in this view.

The proposals introduce a view of turbines within the same landscape as the viewer, set within the middle ground in this view. They sit closer and forward from the turbines at Fallago. The proposals bring development into the same landscape as the viewer.

Views of the hills to the west are retained with limited impact from wind turbines and the open views over the plain of East Lothian are retained to the north. However the character of the landscape and therefore feeling of naturalness and appreciation of the moorland setting will be changed for viewers from this currently undeveloped area of the moorland.

The LVIA assesses the scale of visual effect to be medium. Given the size and proximity of the development to the viewpoint, and the introduction of visible aviation lighting, we feel that there will be a significant detrimental impact on the views from this area of the moorland and the Lammermuir Moorland SLA.

Viewpoint 8 – Whiteadder Reservoir

AOD 248.8m

Nearest turbine 13 at 4.75km

Located within the Plateau Moorland LCT and representative of this as well as the Whiteadder SLA, recreational users, local road users and tourists.

This viewpoint is similar in character to that at the Hopes Reservoir. The viewpoint is taken from the edge of the reservoir beside the B6355. The rising hills, largely comprising open moorland, that surround the reservoir along with pockets of localised vegetation generally limit outward views although some slightly more distant hilltops can be seen looking over the water to the southwest.

There are no views of wind turbines. The area has a feeling of peacefulness and naturalness and a feeling of being away from it all.

As noted in the LVIA the Proposed Development would be seen extending across the more distant hilltops beyond the reservoir and pylons to the northwest. As noted in the LVIA the turbines on the eastern side of the array would be in relatively open view with the turbines set further back would have a greater proportion of their towers screened by intervening landform with the most distant having just their nacelles and upper parts of the rotors visible above the skyline.

The pylon line sitting below the turbines in this view gives a realistic scale comparison for the massive size of the turbines.

The proposed development introduces turbines into this view where there are none at present. All the turbines are visible including 16 hubs and aviation lighting on six of the hubs.

The LVIA assess the scale of visual effect on this viewpoint to be medium. However the impact of introducing large, visually prominent, and lit turbines into an area where there is currently no visibility of any turbine development will have a significant adverse impact on views from the Whiteadder SLA. We consider this to be a greater scale of visual effect than considered in the LVIA.

Viewpoint 9 – Minor road on boundary EL and SBC

AOD 407.4m

Nearest turbine T10 at 5.524km

Located within the Plateau Moorland LCT and representative of this as well as the Lammermuir Moorland SLA, local road users, recreational users, and tourists.

This viewpoint is located on well-used core path route 30 beside a minor road passing through a remote part of the central Lammermuir Hills. It sits in a relatively elevated location that looks out across undulating and open moorland. The existing clusters of existing and consented development at Fallago Rig and Aikengall/Crystal Rig are features on skylines in the middle distance to the west and north respectively beyond the immediate landscape character area.

The proposals would be seen sitting prominently on the skyline in the northwest direction of the road. The turbines would sit as a new feature in the landscape. Introducing a new focal point to the view and reducing the extent of undeveloped moorland. Their location to the hill tops in this view, large size and aviation lighting increases their prominence. The LVIA assess the scale of visual effect on this viewpoint to be medium/small. In our opinion the turbines have a greater impact than suggested by the LVIA on this view and the appreciation of the moorland from this area.

Viewpoint 10 – B6369 north of Gifford

AOD 124.9m

Nearest turbine T16 at 6.944km

Located within the Gifford Water River Valley and representative of local road users and recreational users.

View from the B6369 heading south into Gifford. There are open views of the Lammermuir Hills to the south. The proposals are sitting to the left of this view. They form a prominent new feature in the view that appears partly on the Lammermuir Hills and partly on arable

land. The large scale of the turbines makes it difficult to judge where they are. In this view they appear to connect the upland and lowlands. They do not appear “clearly associated with the open hills which form the skyline” as suggested by the LVIA.

The turbines sit high and prominent in the view with no containment by the hills. All hubs and all aviation lights are visible. The LVIA assess the scale of visual effect on this viewpoint to be medium.

Viewpoint 12 – Traprain Law

AOD 214.8m

Nearest Turbine T15 at 9.206km

Located within the Lowland Farmed Plain LCT this viewpoint is representative of this LCT as well as Traprain and Tyne Valley SLA, the historic environment, tourists and recreational users.

As described in the LVIA this isolated hill summit offers panoramic views over lower lying farmland and settlements towards the sea; distant skylines to the east and west and a closer skyline formed by the Lammermuirs to the south. Existing wind farms are a limited presence on this skyline, mostly screened beyond the scarp slope.

It also notes that the Proposed Development would be seen to the left of Fallago Rig, appearing as markedly larger and closer and seen on, rather than beyond, the skyline. It would be a more notable presence on the Lammermuirs skyline than existing and consented wind farms, but would be clearly separated from the farmland that surrounds Traprain Law.

This would introduce a new dominant feature to the skyline, breaking the established pattern of containment of wind turbines by the hills. The LVIA assess the scale of visual effect on this viewpoint to be medium/small. This appears an underestimation of the scale of visual effect. The proposals have a significant adverse impact on views from Traprain Law at over 9km from the development.

Viewpoint 13 – Sandy Hirst

AOD 0.8m

Nearest turbine T12 at 14.2km

Located within the coastal terrace LCT this viewpoint is representative of this LCT as well as the Belhaven Bay SLA, recreational users and tourists.

The Lammermuir skyline sits as the backdrop to the view from here. Existing and consented wind farms are visible along the skyline, the most noticeable are the Crystal Rig and Aikengall group.

The Proposed Development would be seen to the left and partly in front of Fallago Rig, appearing as markedly larger and closer and seen on and partly beyond the skyline. The LVIA assesses that the Proposed Development would be a more notable presence on the Lammermuirs skyline than existing and consented wind farms, but would not alter the distinctive character experienced at this location.

We disagree with this. The visuals clearly show the visibility of turbines to the eastern end of the Lammermuir Hills in this view and how the existing Fallago turbines have little visual impact. They also show that the greater size and forward location of the proposal that creates a notable presence spreads the visible impact of turbine development along the skyline, reducing the areas of undeveloped skyline important to appreciation of the hills.

Viewpoint 14 – Haddington

AOD 60m

Nearest turbine T16 at 12.177km

Located within the Lowland Farmed Plain LCT this viewpoint is representative of this LCT as well as residents, local road users and recreational users.

The Lammermuirs form the distant skyline in views from the Plain and from Haddington itself. Existing and consented wind farms form a limited presence on this skyline – seen at a distance and partly screened by the terrain.

The Proposed Development would be seen to the left of Fallago Rig, appearing as a separate group of turbines, markedly larger and closer on the skyline. The turbines would sit high on the skyline with no containment by the hills. They form a prominent new feature, highly visible in this view. All hubs are visible with several areas of stacking of turbines creating a clumsy and cluttered appearance. All the aviation lights will also be visible.

The LVIA assess the scale of visual effect on this viewpoint to be small. This appears an underestimation of the scale of visual effect. The proposals have a significant adverse impact on views from Haddington and the surrounding Lowland Farmed plain LCT at over 12km from the development.

Viewpoint 16 – A198 Dirleton

AOD 34.1m

Nearest turbine T5 at 20km

Located within the Lowland Farmed Plain LCT on the boundary with the coastal terrace LCT this viewpoint is representative of these LCTs as well as residents, local road users, tourists and recreational users. The ZTV shows a large swathe of hub and tip visibility across this section of the agricultural plain south and east from Dirleton. The viewpoint on the A198 is therefore representative of users of the A198 tourist route, residents of Dirleton, recreational users of the core paths and cycle ways within the area, including the John Muir Way, as well as the rail line to North Berwick.

This viewpoint affords a wide-ranging view along the Lammermuir skyline. The Garleton Hills obstruct a central area but the three groups of wind turbines, Crystal Rig and Aikengall to the east end, Fallago to the centre, and the Dunlaw grouping to the west are all visible.

The Lammermuir skyline is clearly visible from here. Although separated by distance it creates a natural backdrop and enclosure to the view to the south. At present the wind farms are spaced at intervals across the extensive skyline with the majority of the skyline retained as an unbroken element. The extent of the undeveloped skyline is gradually being eroded. The proposals extend the spread of development along the Lammermuir skyline when viewed from the north. This increased spread diminishes the undeveloped areas of the skyline. When considered cumulatively with the other proposals in planning it can be seen that although the cluster and space between the three areas of wind turbines along the skyline will still exist, if all the schemes in planning come forward, the spread of turbines would be greater than the gaps between. In addition the proposal sits higher and forward on the hills coming off the plateau tops.

The LVIA assess the scale of visual effect on this viewpoint to be negligible. This appears to be an underestimation of the scale of visual effect. The proposals would have a significant adverse impact on views from the A198 and the northern area of the Lowland Farmed Plain LCT at 20km from the site.

Lighting



Visible 2000cd aviation lighting is proposed on turbines T1, T10, T12, T13, T15, T16, T17,

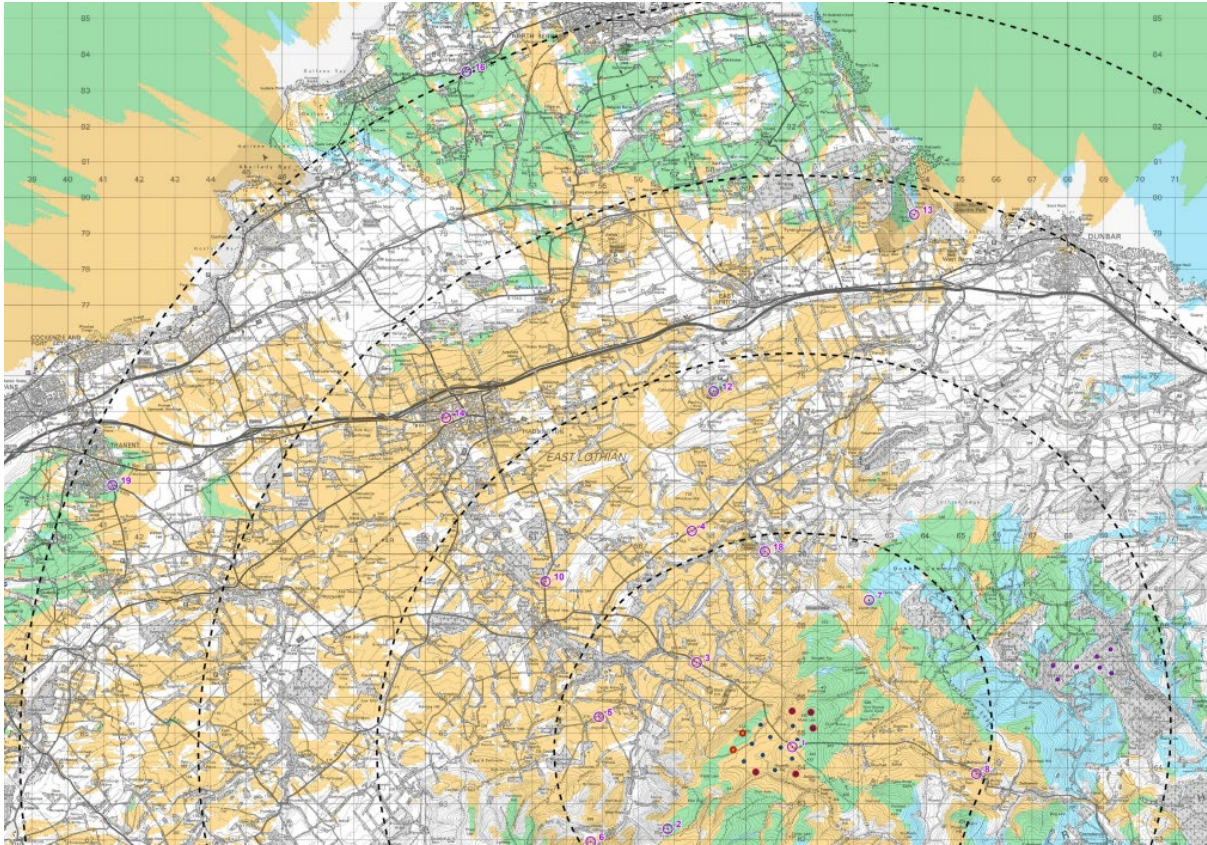
Reduced lighting scheme has been approved by CAA. 2000cd lights on turbines T01, T10, T12, T13, T15, T16 and T17. Capable of being dimmed to 10% peak intensity when visibility is greater than 5km at all points measured around the wind farm. Where are the visibility measuring devices to be located? This could still mean that visibility to the north is clear but due to reduced visibility to the south the lights will not be dimmed. Infrared lighting on turbines T01, T02, T05, T08, T09, T010, T12, T13, T14, T15, T16 and T17.

Turbine lighting has been assessed within Chapter 7 LVIA and a visual assessment of visible aviation lighting is provided in Technical Appendix 7.4 Viewpoint Analysis, Volume 4, which includes 3 night time viewpoints VP08, VP10, and VP14, Volume 3.

LVIA judges that at night, visual effects arising from the proposed aviation lighting would not be significant given the nearby presence of similar aviation lights on some of the consented Crystal Rig IV turbines within the same upland area and the wider settlement lighting present across the Lothian Plain in the northern part of the study area.

We do not agree with this assessment.

The aviation lighting ztv shows significant areas where the lights of the proposal will be seen alone (orange) and also in combination with the lights of Crystal Rig IV (green).



The proposals introduce nighttime lighting into areas where the darkness is identified as an important feature including the areas around the Hopes and Whiteadder Reservoirs.

The proposed lighting will affect settlements and routes particularly in the darker less developed areas of East Lothian where background light levels are low. This is more so to the north and northwest of the site, up to 15km from the site. This would extend significant adverse impact from the development into the nighttime as well as daytime.

In addition the proposals have seven lit hubs. The height and proximity of the proposals to the northern escarpment of the Lammermuir Hills, as shown in the submitted visuals, allows for little screening of the hubs and where lighting is visible it is likely to be from multiple hubs.

Visual conclusion

The proposal introduces more wind turbines and hubs into views from and of the East Lothian landscape and new turbines onto the Lammermuir skyline in views from the north. The proposals contrast with the scale and location of existing wind farm development, appearing prominent and forward on the hills. They introduce views of turbines into large areas of East Lothian where there are no current views of wind turbines and into areas valued for their undeveloped nature.

In particular the proposals have significant adverse visual effects on the Plateau Moorland LCT, the Upland Fringe LCT and the Lowland Farmed Plain LCT. These visual effects are widespread across these areas up to 20km from the site.

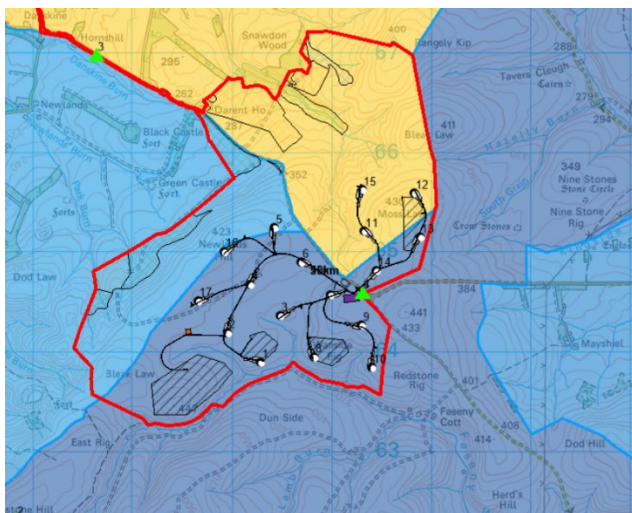
In addition the proposal has significant adverse visual effects on the Whiteadder SLA and Lammer Law, Hopes to Yester SLA.

The addition of visible aviation lighting extends the effects of these significant adverse visual effects into the night.

Landscape Impact

The WFA lies within the Upland Landscape Character Type: LCT266 Plateau Moorland – Lothians and the Lammermuir Plateau Landscape Character Area (LCA) defined in the East Lothian Landscape Character Review in 2018. It extends north slightly into the Upland Fringe - Lothians Landscape Character Type: LCT269 and the Eastern Lammermuir Fringe LCA, although no turbines are proposed within the fringe.

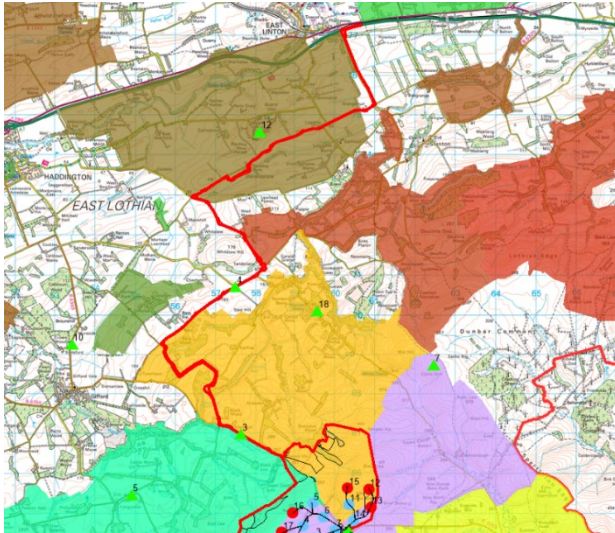
The East Lothian Special Landscape Areas Supplementary Planning Guidance also identifies the WFA as being within three Special Landscape Areas (SLA). The northwest part of the WFA lies within the Lammer Law, Hopes to Yester SLA (pale blue in the map below) (turbine 5), the southern part within the Lammermuir Moorland SLA (dark blue) (turbines 1, 2, 3, 4, 6, 7, 8, 9, 10, 13, 14, 16, 17, the BESS, On-Site Control Building and Substation compound and the Meteorological Mast), and the area to the northeast of the



B6355 within the Danskin to Whitecastle SLA (yellow) (turbines 11, 12 and 15).

There are several existing and consented wind farms in the surrounding area. The nearest operational and consented sites are Fallago Rig approximately 2.7km to the south and Crystal Rig and Aikengall approximately 3.9km northeast. There are also three windfarms at application stage close to the WFA. The nearest is Dunside approximately 3.7km to the south with Longcroft approximately 5.7km slightly southwest beyond Fallago Rig and then Ditcher Law 10.9km to the southwest.

The proposed AIL delivery route to the WFA is also within East Lothian. It is located mainly within LCT275 Lowland Farmed Plain - Lothians and Lower Tyne Valley Plain LCA, passing south into LCT269 Upland Fringes - Lothians and Eastern Lammermuir Fringe LCA. It impacts on three Special Landscape Areas – Traprain and Tyne Valley; Whittingehame to Deuchrie; and Danskin to Whitecastle. The applicant has stated that changes made to create the AIL will be present for the life of the development. As with the turbines themselves, there will be a permanent impact from this part of the development for the life of the development.



Plan showing the AIL route (in red) and SLAs

The LVIA submitted with the application assesses that significant adverse effects on landscape character would arise within Landscape Character Type (LCT) 266: Plateau Moorland – Lothians and LCT 269: Upland Fringes – Lothians. NatureScot note that Landscape Character Types (LCT) are areas of consistent and recognisable landscape character. They are not site specific though and this is why East Lothian Council carried out a local review to define Landscape Character Areas in 2018. We would expect these smaller more locally defined areas to be referred to in any assessment. I have made reference to this below. The LVIA judges that effects on other LCTs would not be significant. It says this is as a result of either the presence of existing wind farms within the nearby uplands being a stronger influence on character or there being limited potential visibility of the Proposed Development. We have addressed this suggestion below.

The LVIA notes that in considering landscape character sensitivity the identification (or not) of designated areas is used as the primary indicator of landscape value. The SLA SPG is referenced within the LVIA when considering the susceptibility of, and effects on, the designated areas that they describe. The LVIA judges that significant effects would occur on the designated special qualities of the Lammermuir Moorland SLA and the Lammer Law, Hopes to Yester SLA. It states that both SLAs host part of the Proposed Development and broadly coincide with the areas of significant effects on landscape character and views noted above. The LVIA notes that for both of these SLAs, these significant effects would also give rise to significant effects on the integrity of the designations taking into account the specific qualities affected, the degree to which those would be affected and the geographic extent of the effects. The wind farm site also lies within the Danskine to Whitecastle SLA.

LCTs assessed

LCT 266 Plateau Moorland – Lothians

The landscape character of this area is described in NatureScot's 2019 landscape character classification as a medium to large scale open upland of modest hills and moors forming broad plateaux with rounded smooth convex hill slopes dissected by multiple valleys of different forms. Key characteristics are the steep north-facing scarps with spectacular panoramic views overlooking the coastal plain of Lothian to the north with views across the Firth of Forth and the hills forming the skyline when viewed from the lower land to the north. It notes that a high degree of wild land character is derived from the exposure, and relative lack of roads, settlements or urban features in this area. The naturalness is detracted from in places by manmade elements including wind turbines. However within the valleys a strong sense of isolation and remoteness is retained.

The LCT description notes that "many wind farms are visible from within the this LCT but also from the Lowlands where they are often seen in small areas, spaced at intervals on the extensive skyline formed by the hills, with the majority of the skyline retained as an unbroken element".

The East Lothian LCA review identified three separate LCAs within this wider LCT due to differing characteristics: Lammermuir Plateau where the WFA is proposed; Whiteadder Upland Valley; and the Lammermuir Plateau with Windfarm.

As suggested by the name the wind farms currently within East Lothian are contained within the Lammermuir Plateau with Windfarm LCA. This area has a different landscape character with lower lying bowl landform set back from the northern escarpment of the Lothian Edge. As noted in the LCT description the location of the Crystal Rig wind farm within a bowl decreases both its visibility and prominence.

The less developed central area of the LCT has a more prominent and dramatic landform and a greater sense of wildness. This is the area identified as the Lammermuir Plateau LCA. Wind farm development currently does not have a strong influence on the character of this area. This is the area where the Newlands Hill development is proposed.

The Whiteadder Upland Valley LCA is a lower area of landform defined by farmland surrounded by the rising land of the surrounding hills of the plateau tops. Within the valley there is currently no influence from windfarm development.

The LVIA judges the LCT of the Lammermuir Plateau to be of Regional value given its designation within several SLAs. It judges it to be of High/Medium sensitivity. Combined with medium scale effects over an intermediate extent, the LVIA judges the effects of the proposal on this LCT to be major/moderate, adverse and significant.

We would agree that there will be significant direct effects from the proposals on this LCT as the WFA is within the LCT. At the landscape character area level the proposals spread the extent of windfarms into this LCA where previously they were seen beyond the LCA.

We agree that these effects will decrease in areas further from the site on the plateau tops where there is also increased influence from wind farms within neighbouring areas as demonstrated in viewpoints 2 and 7. However the proposals increase the number and extent of turbine visibility from the plateau tops by introducing direct views of turbines where the views are currently oblique as demonstrated in viewpoint 9 at over 5.5km. This has the effect of decreasing the sense of naturalness and remoteness over a wider area of the LCT.

In addition it should be noted that the proposals introduce visibility of turbines into areas of the Plateau where there is currently no influence from wind turbines as shown in figure 7.8. In particular to the valley bottoms of the Whiteadder, Faseney Water and Johnsleugh valleys up to 6km from the site as is illustrated in viewpoint 8. This would have a significant adverse effect on the sense of isolation and remoteness associated with these areas, reducing the sense of isolation and naturalness of these areas.

The proposed location of the large turbines on the Lothian Edge escarpment to the northern edge of the Lammermuir Hills would also reduce the dramatic impact of this landscape feature and diminish the prominence of the landform of the central area of the Lammermuir Hills

The impact on this LCT therefore appears greater than assessed within the LVIA.

LCT 269 Upland Fringe – Lothians

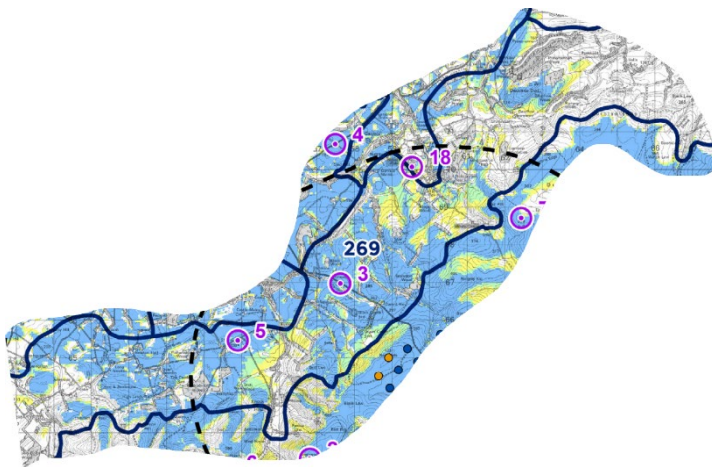
The LCT is described by NatureScot as a transitional landscape of a range of landcover from heather moorland and rough grassland on the higher slopes to improved grassland and arable land on lower elevations, on smooth rounded hills sloping gently from the Uplands northward to merge with rolling farmlands. Many deep cleughs contain incised watercourses. Settlements are dispersed between farmsteads, clusters of cottages and a few small villages. The road network is rural and distinctive in character. There is also much evidence of early settlement in the form of cairns, hill forts and enclosures.

The LCA review split this LCT into two areas within East Lothian with the Eastern Lammermuir Fringe LCA extending from the north of the site around to the eastern end of the Lammermuirs and the Western Lammermuir Fringe extending to the west.

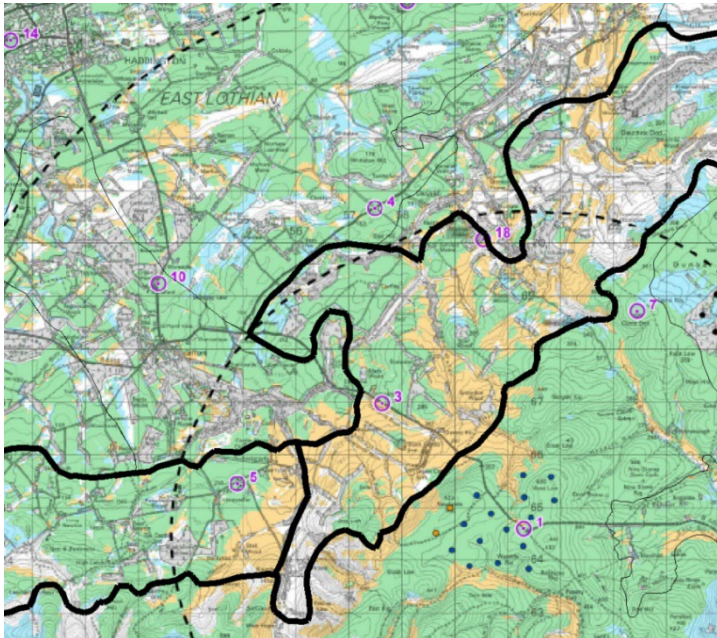
The LVIA judges the LCT of the Upland Fringe to be of Regional value given its designation within several SLAs. It judges it to be of High/Medium sensitivity. The extract from the ZTV below shows potential visibility of the proposed turbines within the central section of this LCT. The Cumulative ZTV in figure 7.8 indicates that the majority of the areas where there may be visibility of the proposed turbines within this LCT are where there is currently no influence from windfarms. In addition where there is existing visibility of turbines within this area it is generally limited to the tips of turbines.

The visuals from viewpoints 3 and 5 show that there is very little containment of the turbines in the WFA by the hills in these views given their location the north edge of the plateau. The turbines appear as a dominant element contrasting with the smaller scale rolling hills, incised valleys and complex landform of the fringe. Although the visuals suggest that the turbines will appear as within the heathery hills of the plateau, their proximity to the fringe and great size will bring turbines influence into the fringe landscape where there is little, and often no, influence from existing wind farm development at present.

The LVIA does judge that the proposals would give rise to Large scale effects on this LCT where the turbines would introduce a new, large scale feature onto the nearby ridgeline bordering the LCT. We agree that the effects on this LCT would be Major/Moderate, Adverse and Significant.



Extract from Figure 7.5



Cumulative ZTV overlaid with LCA. Yellow indicates possible visibility of the turbines of Newlands Hill Wind Farm with no visibility of operational or consented turbines.

In addition the AIL route is proposed through this LCT. It is proposed to take this on an offroad route along tracks at Bara and Townhead Woods before using the minor road east of Danskine.

The application notes that the "AIL route would generally have a running width of between 3.8-6m with a 0.5m verge to either side. The AIL route would include 16km of existing access tracks and public road network which would be suitably upgraded to support the expected loads as well as 3.1km of new access tracks which would be temporary for the life of the wind farm development".

The LVIA has made no assessment of the impact of the AIL route on this LCT. The AIL route is located within the Eastern Lammermuir Fringe LCA. The description of the Eastern Lammermuir Fringe LCA in the LCA review that forms part of the Special Landscape Area SPG notes the flowing form of the higher ground, emphasised by curving roads, walls, hedgerows and woodland, contrasts strongly with the heavily textured angular outlines of the stream valleys.

The assessment of the AIL route in the Transport Assessment notes that tree removal will be required at the new turning onto the access track south to Bara Wood. The track then passes Bara Wood and through Townhead Wood. These are areas of Ancient Woodland. The report notes that all obstacles should be removed. The formation of a wide formal access road through these areas will completely change the character of the area. No details have been provided on what "obstacles" require to be removed. We could not support the loss of ancient woodland.

The AIL route then joins a narrow twisting minor road. The survey shows loss of "vegetation" to both sides of the road for most of its length as well as widening of the roadway. The vegetation shown in the survey photographs is established woodland and hedgerows. In addition there are areas where the roadside boundaries are wall rather than hedges. Reinstatement of the rural road character will not be possible for the life of the wind farm.

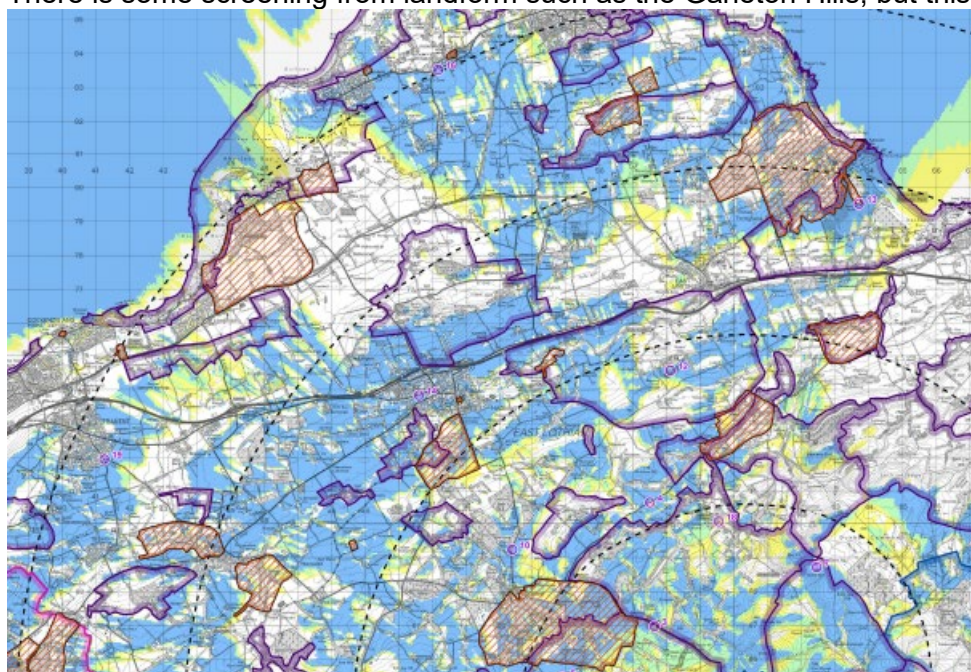
The LCT identifies the distinctiveness of rural roads as a key characteristic. The loss of this rural road distinctiveness to accommodate the AIL route by both loss of roadside boundary vegetation/ wall and widening of the roadway would appear therefore to have a significant adverse impact on the LCT. This significant change to the character of the area is not supported in landscape terms.

LCT 275 Lowland Farmed Plain – Lothians

The LCT is described by NatureScot as a landscape of smoothly rolling large scale arable plain divided in a chequerboard field pattern with the historic field pattern being retained in places (such as within the landscape around Traprain Law). The farmsteads, small clusters of houses and villages scattered throughout the area are connected by a network of straight minor roads and tracks that follow the field pattern, often with right-angled bends. Long distance views are available over much of the area. These are particularly good from higher ground with views from the coast to the north and hills to the south.

This LCT is split into three LCAs – the Mid Tyne Valley Plain to the southwest; Lower Tyne Valley Plain to the southeast; and the Coastal Plain to the north.

As noted in the LVIA the ZTVs indicate widespread visibility of the proposals across this LCT from the closest point at 5km to the proposal right out to 20km from the site. As can be seen in the extract from the Hub Height ZTV, this widespread visibility includes hubs. There is some screening from landform such as the Garleton Hills, but this is limited.



Extract from Hub Height ZTV including screening from woodland and settlement

The LVIA suggests that viewpoints 4, 10, 12, 14, 16 and 19 "illustrate that in the closest parts of the LCT effects would be no greater than Small or Small/Negligible scale over a Limited extent while more widely effects on the LCT would be negligible".

We disagree with this statement. NatureScot's LCT assessment states that from the lowlands windfarms "are often seen in small areas, spaced at intervals on the extensive skyline formed by the hills, with the majority of the skyline retained as an unbroken element".

In addition the East Lothian Local Development Plan (LDP) contains Appendix 2 – Cumulative Wind Turbine Issues. In the section on the Lammermuir Skyline it notes that windfarm development on the skyline can be prominent and it has three design principles:

- firstly, the horizontal skyline should continue to appear as the dominant feature;
- secondly, wind development should continue to appear set back from the East Lothian edge of the Lammermuir Hills; and
- thirdly, physical and visual spacing between windfarms should be maintained.

Landform at Viewpoint 4 limits views of the Lammermuirs towards the windfarm at this point and is therefore not representative of general views from the closest part of this LCT. Viewpoint 10 at the edge of this LCT shows how the proposal dominates the skyline from here. The turbines greater apparent height appear to set the wind farm forward on the edge of the hills.

Viewpoint 12 from Traprain Law and viewpoint 14 from Haddington show that the proposed turbines sit much higher and appear of a much greater scale than the turbines of the existing wind farms. The skyline no longer appears as the dominant feature. The turbines can be seen spilling over the edge of the hills, no longer set back from the East Lothian edge of the Lammermuir Hills. From these views the proposals extend the spread of the windfarms along the skyline, reducing the extent of the unbroken horizontal skyline element such that it could no longer be said that the majority of the skyline will be retained as an unbroken element.

Even at 20km from the site from viewpoint 16 the size and location of the turbines exerts a far greater than negligible effect on this LCT. The greater height of the turbines than those of existing wind farms makes these a dominant feature in this view. The turbines are clearly visible in this view extending the spread of the windfarms along the skyline reducing the physical and visual spacing between windfarms. The turbines can be seen spilling over the edge of the hills, no longer set back from the East Lothian edge of the Lammermuir Hills.

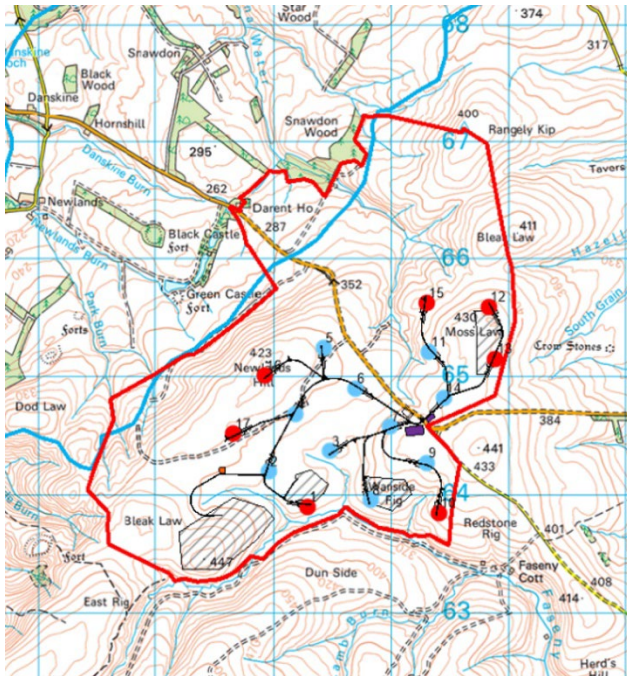
From viewpoint 19 representative of views from the northwest of the LCT the proposal introduces a distinctly separate group of turbines from the three established groupings along the Lammermuir skyline reducing the physical and visual spacing between windfarms.

The WFA proposals therefore appear to have an adverse significant effect on the Lowland Farmed Plain LCT up to 20km from the site.

The Lammermuir skyline has long been identified as important to the natural beauty of East Lothian in providing a pencil sharp skyline and a simple and largely uncluttered backdrop for the agricultural plain, settlements and volcanic outcrops of East Lothian. It is important that any new wind farms retain the cluster and space layout across the skyline and appear set back from the East Lothian edge of the Lammermuir Hills to retain this uncluttered backdrop to the plain.

Development that significantly reduces or removes the effect of space and undeveloped skyline between the clusters of windfarms is likely to be judged to be of negative impact to the landscape character of the Lammermuir Plateau. As noted above at present the wind farms are spaced at intervals across the extensive skyline with the majority of the skyline retained as an unbroken element. The extent of the undeveloped skyline is gradually being eroded. The Newlands Hill wind farm proposal extends the spread of development along the Lammermuir skyline when viewed from the north and in addition creates new focal points within the landscape when viewed from the northwest.

In addition development that extends forward from the escarpment of the Lammermuir Edge and is not contained by the hills is likely to be judged to be of negative impact to the landscape character of the lowlands by increasing its prominence and reducing the feeling of containment by the hills. The blue line in the image below is the edge between the Lammermuir Plateau and the Upland Fringe. The edge of the plateau uplands is clearly defined by the fault line scarp providing steep slopes to the northwest of Newlands Hill and Moss Law. The turbines come forward on the plateau to sit on the top of Newlands Hill and Moss Law with turbines 11, 12 and 15 extending off the plateau tops and onto the



downslope towards the fringe area.

In addition the AIL route is proposed to be taken from a new slip road from the A1 at East Linton along the minor road network with sections of offroad route through the Lower Tyne Valley Plain LCA of the Lowland Farmed Plain LCT .

The application notes that the "AIL route would generally have a running width of between 3.8-6m with a 0.5m verge to either side. The AIL route would include 16km of existing access tracks and public road network which would be suitably upgraded to support the expected loads as well as 3.1km of new access tracks which would be temporary for the life of the wind farm development".

The LVIA has one line on the effects of this "Minor changes to the road layout and vegetation on the AIL route would give rise to negligible effects given the presence of the wider road network in this settled area".

The roads proposed for use within this area are narrow with high hedges and areas of trees to the edges. Some information has been provided on specific sections that have been identified as too narrow or winding or where the corners are too tight to take the long vehicles required to transport the turbine blades in a horizontal position.

The description of the Lower Tyne Valley Plain LCA in the LCA review that forms part of the Special Landscape Area SPG notes that the area is accessed by a network of minor roads and tracks. The management guidelines include to retain the character of minor roads and to restore and maintain traditional hedge and stone wall field boundaries.

The upgrades required to form the AIL route will lead to road widening including carriageway widening, removal of hedgerows and stone walls, formation of new road section at the right angled corners identified as typical of the road network in the LCT description, leading to loss of hedgerows and landscape character and increased hard surfacing. This has been detailed to a certain extent within the Transport Assessment. However the background mapping is so poor in the plans that it is unclear where verges, hedgerows and trees will be lost.

The changes are noted to be "temporary" for the life of the wind farm development. The operational life of the wind farm development is proposed to be 40 years. Therefore as noted in the LVIA although not permanent, effects would arise for a longer time period than the 25 year period for long-term effects, and effects should be assessed as though permanent.

These changes will lead to a loss of the character of these minor roads for 40 years. The loss of this rural road distinctiveness to accommodate the AIL route by both loss of roadside boundary vegetation/ wall and widening of the roadway would appear to have an adverse impact on the LCT far greater than the negligible effect stated in the LVIA. This adverse change to the character of the area is not supported in landscape terms.

The proposed development therefore appears to have a greater impact on landscape character than assessed in the LVIA.

Special Landscape Areas

Lammermuir Moorland SLA

This SLA is a plateau moorland of heather clad hilltops and steep, narrow cleughs with small streams. An area of wildness, remoteness, peacefulness and high scenic value.

The Statement of Importance for this SLA notes that despite obvious human intervention in the landscape evident from the large scale infrastructure (including the wind farms of Fallago Rig and Crystal Rig) visible from within this SLA the area retains an 'away from it all' elemental feel, deriving from its remote location, topography and generally sparse built development. The area is dominated by the sky and moorland. The area has qualities of both peacefulness and wildness in particular deriving from the areas openness to the elements, remoteness and limited built development, roads or plantation forestry, as well as limited light pollution.

It notes that the Lammermuirs form the backdrop to East Lothian, an often dark band with a strong horizon line contrasting with the lighter, more varied colours of the fertile farmland below and the open sky above. And that the skyline, especially where unbroken, characterises East Lothian.

Turbines 1, 2, 3, 4, 6, 7, 8, 9, 10, 13, 14, 16, 17, the BESS, On-Site Control Building and Substation compound and the Meteorological Mast are all proposed within this SLA. As noted in the LVIA and shown on the ZTVs the turbines would be widely visible in the open moorland and from most of the SLA except localised valleys and the west and southeast peripheries of the SLA. The turbines will also introduce lighting into the area.

Viewpoints 1 and 9 show how the proposed development would have the effect of decreasing the sense of naturalness and remoteness over a wide area of this SLA, decreasing the sense of openness and dominance of sky and moorland.

The Statement of Importance for this SLA includes guidelines for development.

One of the guidelines states that any proposed development must not harm the overall open visual character focusing northwards towards the plain and the Forth and avoid development that interrupts key views. The proposed WFA is set to both sides of the B6355 as it drops north out of the hills. The photomontages from Viewpoint 1 on this road clearly show how the turbines impact on this view, introducing large structures and tracks across the hill slopes and interrupting the open visual character.

Another guideline states any proposed development must not harm the unbroken horizontal element of the Lammermuir skyline especially as viewed from the plain and foothills below and for key views from the Scottish Borders and within the Lammermuir Hills themselves. Development should be located and designed to limit wider visibility and protect the unbroken horizontal element of the Lammermuir skyline. Viewpoint 2 from Harestone Hill shows how the turbines spread forward to the edge of the hills in this view from within the hills. Viewpoint 9 is representative of the view from the plateau tops to the south of the development where the turbines appear as a large new element within the moorland. Viewpoints from the north from Sandy Hirst in the east, to Haddington in the centre of East Lothian, Dirleton to the north and Tranent to the west clearly show that the development has not been designed to limit wider visibility or protect the unbroken horizontal element of the Lammermuir skyline.

Another relevant guideline is that there should be preservation against further hill tracks on visually-sensitive slopes. When tracks are new or recently re-surfaced they can look very noticeable over a wide distance, and these can also look wrong by virtue of their straight lines heading straight up the moorland. This may have a negative impact on the 'natural' appearance and character of the area and tracks can be widely visible including from the plain below.

The proposed development does not appear to accord with these guidelines and we agree with the assessment in the LVIA that effects on the special qualities of the Lammermuir Moorland SLA would give rise to a Substantial/moderate magnitude of change to qualities of High/medium sensitivity and effects would be Major/moderate, Adverse and significant.

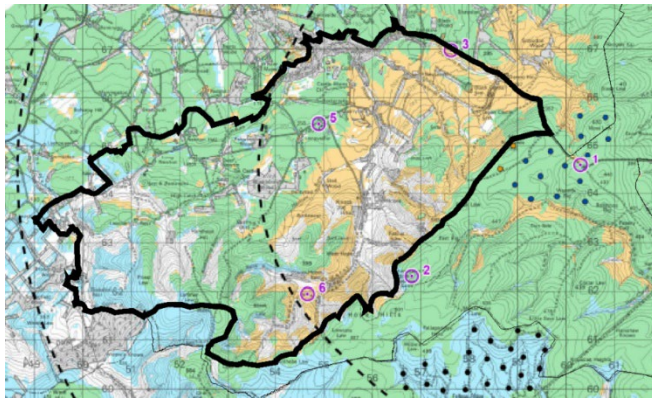
Lammer Law, Hopes to Yester Special Landscape Area

This SLA includes the hilltop of Lammer Law, but also the valley of Hopes Reservoir and the area of upland fringe to the north. The Statement of Importance for this SLA states that it includes East Lothian's most scenic area of moorland around Hopes Reservoir. Turbine 5 is proposed within this SLA.

It is a contrasting, complex and diverse landscape of high scenic and sensory value also providing a coherent area of important prehistoric settlement. Turbine 5 is proposed within this SLA. This is a highly scenic, contrasting area from the most prominent point of the East Lothian Lammermuir Hills at Lammer Law and dramatically steep hills around the Hopes Reservoir, to the transitional landscape of the hillfoots, to the edge of the rolling agricultural landscape of the plains down into the bowl of the Gifford Water and the southern end of the heavily wooded gorge-like valley of the Yester Garden and Designed Landscape.

The landscape of the heather moorland plateau hills with incised valleys and sparse built development read with the woods and arable farmland of the hillfoots and steeply wooded valley of the Gifford Water combine to give this SLA a strong sense of place. The expanses of heather covered open plateau, rounded summits including Lammer Law and the presence of reservoirs, with very little built development give strong aesthetic and sensory appeal. The relative wildness and remoteness means few artificial sounds.

Appendix 2 of the LDP notes that general lack of visibility of windfarm development at the Whiteadder and Hopes valleys should be retained.



The cumulative ZTV extract above shows that the proposals introduce visibility of turbines into a large area of this SLA where there are none at present. The green is visibility of Newlands together with operational and consented wind farms and yellow is Newlands alone.

We agree with the assessment in the LVIA that this SLA has high susceptibility to the introduction of large turbines which could alter the sense of place. However the impact of introducing views of turbines into the valley floor along the Hopes Reservoir has a greater impact than assessed. Although the reservoir is a manmade element it contains water making it appear more natural particularly in views from the south along the reservoir. The proposal introduces visibility of turbine hubs into a sensitive view along the reservoir bringing the perception of development into the valley. As previously noted Appendix 2 of the LDP notes that general lack of visibility of windfarm development at the Whiteadder and Hopes valleys should be retained.

In addition current views from the fringe to the northern part of this SLA have panoramic views along the Lammermuir skyline. Tips of turbines at Crystal Rig and Fallago are barely visible above the hills, set back beyond the skyline. The proposals form a prominent feature on the skyline of the Lammermuir Hills. This therefore does not accord with the guideline for development that states "Any proposed development must not harm the unbroken horizontal element of the Lammermuir skyline especially as viewed from the plain and foothills below. Development should be located and designed to limit wider visibility and protect the unbroken horizontal element of the Lammermuir skyline".

We agree with the LVIA assessment that there would be a Moderate magnitude of change to qualities of High/medium sensitivity within the Lammer Law, Hopes to Yester SLA. Effects would be Major/Moderate, Adverse and significant.

Whiteadder SLA

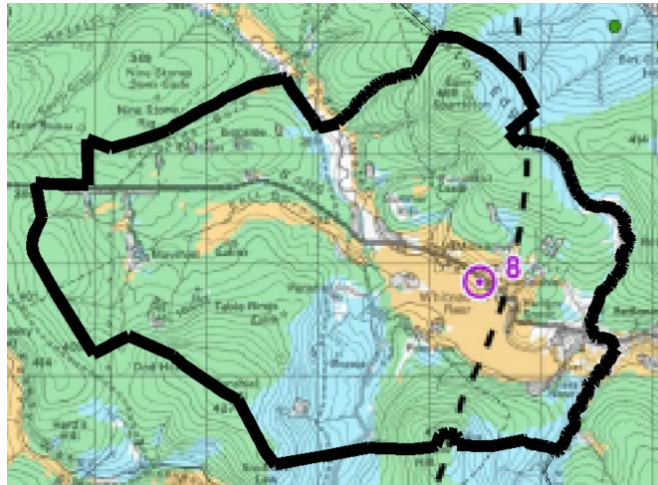
This SLA includes the hilltop of Spartleton as well as the Whiteadder Reservoir. It is described as an upland river valley with the large scenic body of the Whiteadder Reservoir at its heart, enclosed in a flat-bottomed valley of improved pasture surrounded by rising moorland. Spartleton Hill is a notable peak, with tremendous views in all directions. The valley has a peaceful, remote atmosphere due to the enclosure of the surrounding hills, which prevent views out to the lowland area. Appendix 2 of the LDP notes that the general lack of visibility of windfarm development at the Whiteadder and Hopes valleys should be retained.

Spartleton provides good views with moorland in the foreground. The SLA Statement of Importance notes that on a clear day, you can see Holy Island in the South, the Pentland

Hills and Dumyat to the West, the Sidlaws and peeps of the Angus hills to the north, as well as the Forth and Forth Islands. Its height also provides visibility of the surrounding wind farms, notably Crystal Rig and Aikengall wind farms to the north and east and Fallago Rig to the southwest. The proposal introduces a new wind farm into the view to the northwest as can be seen in the extract from the supplied wireline below.



The ZTV shows visibility of the turbines of the proposed development from within much of this SLA.



The cumulative ZTV extract above shows that the proposals introduce visibility of turbines into the valley of this SLA where no turbines are currently visible. The green is visibility of Newlands together with operational and consented wind farms, blue is only operational and consented wind farms and yellow is Newlands alone.

The Statement of Importance for this SLA includes guidelines for development.

The most relevant is that any proposed development must not harm the views of open undeveloped hill slopes and tops from within the Whiteadder valley by avoiding for example large scale wind turbine development that would be visually intrusive from the recreational area around the margins of the Whiteadder. Views of the reservoir are one of the special qualities and features of the SLA and as noted in the LVIA there is high susceptibility to visibility of the turbines distracting from views of the reservoir. Viewpoint 8 is taken from the B6355 on the north shore of the reservoir. It clearly shows the visibility of all seventeen of the proposed turbines sitting raised above the western end of the valley and the reservoir. The proposal does not accord with the guidelines for development of this SLA.



Extract from photomontage from viewpoint 8

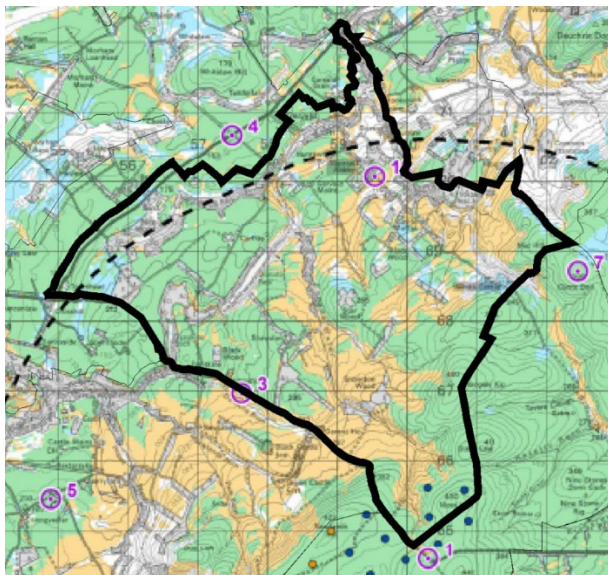
Another guideline notes that any proposed development must not harm the scenic appeal of the Whiteadder reservoir. It could be seen that the introduction of large development in the form of turbines that site high on the surrounding hill slopes detracts from the naturalness of the views and harms the scenic appeal of the Whiteadder reservoir. As shown in the ZTV above this will be for a considerable area of the Whiteadder valley. In areas where there is already visibility of wind turbines these tend to be oblique views of tips beyond the hill slopes from higher ground or looking away from the Whiteadder out of the valley such as from the hilltop of Spartleton.

Finally the guideline that states any proposed development must not harm the natural darkness of the area by prevention of development that introduces light pollution into the area has clearly not been complied with by the proposed development. A nighttime visual has been supplied for viewpoint 8 which shows that six of the seven lit turbines would be visible from the area around the reservoir.

The proposal will negatively impact the special qualities and features of the SLA both day and night and introduces views of turbines into an area important for its natural and undeveloped views. This is contrary to the guidance developed by East Lothian Council to protect its most valued landscapes. The impact on this SLA appears to have been underestimated within the LVIA.

Danskine to Whitecastle SLA

This SLA is a diverse area of Lammernmuir foothills and edge, containing several water bodies and rivers, widely visible from the East Lothian lowlands, containing part of a coherent area of important prehistoric settlement. It also contains three of the proposed turbines (Turbines 11, 12 and 15) within it to the southern end on the north-facing slope of



Moss Law.

The cumulative ZTV shows extract above shows that the proposals introduce visibility of turbines into this SLA where there are none at present. The green is visibility of Newlands together with operation and consented wind farms and yellow is Newlands alone.

The Statement of Importance for this SLA includes guidelines for development. The proposal accords with many of these. However the turbines within this area will be located on the northern slope of Moss Law. This hill slope is visible from the north in many views. Tracks to these are therefore also likely to also be widely visible. One guideline is -

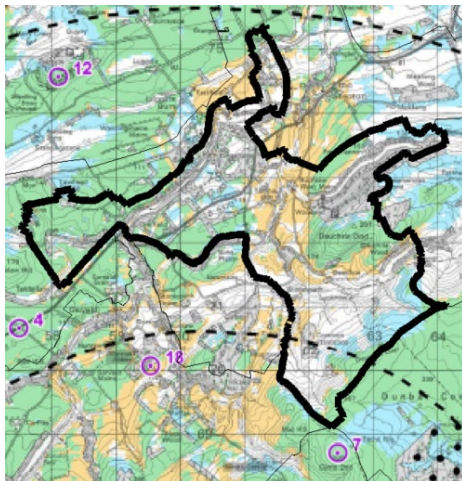
Preservation against further hill tracks on visually-sensitive slopes. It goes on to explain why - When tracks are new or recently re-surfaced they can look very noticeable over a wide distance, and these can also look wrong by virtue of their straight lines heading straight up the moorland. This may have a negative impact on the 'natural' appearance and character of the area and tracks can be widely visible including from the plain below.

Another guideline notes that any proposed development must not harm the unbroken horizontal element of the Lammermuir skyline especially as viewed from the plain and foothills below. As noted in the LCT 275 Lowland Farmed Plain – Lothians section above the turbines here are widely visible breaking the horizontal skyline in views from the north. The WFA proposals do not accord with this guideline.

In addition the AIL route proposals do not accord with the guideline that states that any proposed development must not harm the small-scale rural character of the roads, including characteristic features such as hedges and stone walls, passing places, cattle grids and stone bridges. The AIL route proposals include for removal of stone wall, hedges, trees and a cattle grid.

Whittingehame to Deuchrie SLA

This SLA is located to the northeast of the WFA. It is a contrasting, complex and diverse landscape of high scenic value from the foothills of the Lammermuirs to the incised valley of the Whittingehame Water, including the large water body of Pressmennan. A particularly good example of a landscape modified during glaciation as well as important areas of ancient native oak woodlands.



The extract from the cumulative ZTV shows that there is possible visibility of the proposed turbines from much of the area (all the green and yellow areas).

The turbines will be seen along the Lothian Edge, the north edge of the Lammermuir Hills from here when looking south. Views will be limited from the valley bottoms due to landform and the wooded nature of the area.

Views of other wind farms are limited from this area and where seen are often seen at a distance as tip and blades set back from the Lothian Edge. The proposed turbines will appear much larger and closer than any existing turbines. The visualisations from viewpoints 18 for the lower hill slopes and 7 for the hill tops give an idea of the scale and visibility.



Extract from photomontage 7 from Clints Dod



Extract from photomontage 18 from Nunraw

Traprain and Tyne Valley SLA

This SLA is centred on the iconic volcanic outcrop of Traprain Law, set within an historic, rolling, arable landscape within the Lower Tyne Valley landscape character area. The wooded valley of the River Tyne runs through the north of the area providing peaceful scenic area with an abundance of flora and fauna

Special quality and feature 9 within the Statement of Importance for this SLA notes that many of the roads through the area are single track, or at least rural in character, sometimes bending sharply to follow a field boundary in a way designed more for the pedestrian or horse than the car. The guidelines for development note that any proposed development must not harm the relict farming landscape, including its field boundaries; and any proposed development must not harm the small-scale rural character of the roads, including characteristic features such as hedges, stone walls and stone bridges.

The AIL route will require loss of "vegetation" to both sides of the road for much of its length as well as widening of the roadway. The vegetation shown in the survey photographs is established hedgerows. In addition there are areas where the roadside boundaries are wall rather than hedges. Reinstatement of the rural road character will not be possible for the life of the wind farm. In addition there are proposals to form new sections of track at corners and around settlements that will also be present for the life of the wind farm.

The proposals will lead to a loss of one of the special qualities and features of the SLA and is contrary to the Guidelines for Development within the Statement of Importance for this SLA. The loss of this rural road character to accommodate the AIL route by both loss of roadside boundary vegetation/ wall and widening of the roadway would appear therefore to have a significant adverse impact on the LCT. This significant change to the character of the area is not supported in landscape terms.

Design mitigation

In Chapter 3: Proposed Development of the EIR on page 15 the applicant states that landscape and visual mitigation is embedded within the design mitigation process as described in Chapter 2 Site Surrounding Context and Design Evolution. It states that this includes:

- Setting turbines back from the ridge of Newlands Hill to reduce impacts on views towards the escarpment from the north and west. The proposed micro-siting allowance for turbine 16, closest to the ridgeline, has also been constrained (see Figure 3.2, Volume 3) in order to maintain this set back.
- Reducing the height of turbines from 230m to tip on the northwest edge of the array to reduce impacts on views towards the escarpment from the north and west.
- Siting of the substation and BESS compound in a lower lying area, away from the B6355 and rotating it to minimise visual impact.
- Agreement of a reduced aviation lighting scheme with the Civil Aviation Authority (CAA), removing the requirement for lights on turbine towers and limiting the requirement for nacelle lights to just seven of the perimeter turbines.
- Reinstatement of hedgerows/vegetation required to be removed for road widening or track upgrades along the edge of the new carriageway/track on the AIL route wherever practicable following completion of construction. Additional compensatory planting may also be provide as required.

It is agreed that some of these measures will provide a small degree of mitigation for the impacts of the proposals, such as the siting of the substation and BESS compound in a lower area of the site which reduces its overall visibility. However the location of the wind farm at the north edge of the Lammermuir Hills on the feature of the Lothian Edge leads to much greater prominence in views from East Lothian, and particularly in views from the north, compared to existing and other proposed wind farms within the Lammermuir Hills. There is unlikely to be mitigation that would address these adverse landscape and visual impacts. Even smaller turbines in this location are likely to be visually prominent and would not address the issue of the turbine sitting forward from the edge on the outward facing hill slopes.

It also seems unlikely that the proposed mitigation to reinstate hedgerow/vegetation removed to form the AIL route could be undertaken. The AIL route is to be retained for the life of the wind farm. It might be possible to provide road boundary treatments along the new road edges, but this will be subject to the swept path routes and new road widening sections / off road sections. It would not replace the landscape character of narrow roads lined by hedges. That character would be lost with wider roads and could not be mitigated for.

Conclusion

The proposal introduces large wind turbines in the WFA into a landscape character area where there are no turbines at present. It reduces the area of undeveloped moorland and the area of moorland without influence from wind development. It creates a wind farm of turbines that sits separate from the three clustered group of turbines that exist presently along the Lammermuir skyline in many views from East Lothian. It introduces a separate windfarm from the existing established clustered groups in views from within the hills. The turbines sit forward on the north edge of the Lothian Edge escarpment in these views. The proposal introduces views of turbines including hubs and lighting into SLAs particularly those valued for their undeveloped nature – notably the Hopes valley of the Lammer Law, Hopes to Yester SLA and the Whiteadder SLA. The location and scale of the WFA to the north of the Lammermuir Hills introduces visibility of large turbines from pole to tip turbines into widespread areas of East Lothian where there are currently no views or views of just tips including the Lammermuir Fringe and southern areas of the Agricultural Plain.

The proposed turbines at Newlands Hill are larger than any other turbines granted within the Lammermuirs, although of a similar size to recent applications at Longcroft, Dunside and Ditcher Law.

At present there are three groups of wind farms set in clusters across the Lammermuir skyline, with Crystal Rig and Aikengall to the east and Dunlaw, Keith Hill and Pogbie to the west end. The central area has Fallago Rig wind farm visible as mainly tips with a number of hubs kept low to the horizon. The recent proposals at Dunside and Longcroft, if built, would extend the spread of wind turbines within the central section of the Lammermuirs, reading with Fallago Rig wind farm and retaining this pattern of cluster and space in most views. In general in views from the agricultural plain to the north of East Lothian the turbines of these proposals would be mainly kept lower on the horizon with only blades and hubs visible. This generally gives a sense of containment of the proposed Dunside and Longcroft wind farm by the hills. The turbines appear set back and contained within the hills. This ties in with the designs of Fallago Rig and Crystal Rig wind farms.

The proposals at Newlands Hill, however, in contrast, sit at the front of the hills spilling onto and over the Lothian Edge, not contained by the hills. In addition their greater size increases their visual prominence. They also read as a separate group to the three established clusters along the Lammermuir skyline in many views from East Lothian. In some views they actually create visual coalescence between the eastern Crystal Rig / Aikengall wind farm group and the central Fallago Rig wind farm group.

In addition the AIL route passes through East Lothian and will lead to changes to special qualities within SLAs and key characteristics of landscape character for the life of the project.

There are two policies of relevance with NPF4:

NPF4 policy 4 – Natural Places part d) states that Development proposals that affect a site designated as a local nature conservation site or landscape area in the LDP will only be supported where:

- i. Development will not have significant adverse effects on the integrity of the area or the qualities for which it has been identified; or
- ii. Any significant adverse effects on the integrity of the area are clearly outweighed by social, environmental or economic benefits of at least local importance.

NPF4 policy 11 – Energy part a) states that development proposals for all forms of renewable, low-carbon and zero emissions technologies will be supported. This includes wind farms.

However it also states in section e) that project design and mitigation will demonstrate how the following impacts are addressed:

- i) impacts on communities and individual dwellings, including, residential amenity, visual impact, noise and shadow flicker, and
- ii) significant landscape and visual impacts, recognising that such impacts are to be expected for some forms of renewable energy. Where impacts are localised and/ or appropriate design mitigation has been applied, they will generally be considered to be acceptable.

The LVIA has assessed the impact of the proposals on the designated Special Landscape Areas within East Lothian. This has identified that the proposals will lead to significant adverse effects on the integrity of the Special Qualities of two Special Landscape SLAs: the Lammermuir Moorland SLA and the Lammer Law, Hopes to Yester SLA. This is contrary to policy 4 part d(i) of NPF4 as noted above.

The LVIA also concludes that significant adverse landscape effects would occur on LCT 266 Lammermuir Plateau Moorland - Lothians and LCT 269 Upland Fringes - Lothians.

In addition the LVIA identifies significant adverse visual effects on receptors within 5km of the WFA. This includes dispersed settlement and routes, the settlement of Gifford and the Inventory Garden and Design Landscape of Yester House.

Significant adverse effects from cumulative impact with the proposed Dunside wind farm on the Lammermuir Moorland LCT are also identified within the LVIA.

We agree with the above conclusions. However we also consider that the sensitivity, magnitude of change and therefore the degree of significance of both landscape and visual effects are underestimated in some instances. Particularly within the Whiteadder SLA.

We also consider that visual impacts are far greater than assessed, across a wider area up to the edge of the 20km study area. This includes particularly impacts on views from LCT 275 Lowland Farmed Plain – Lothians.

The inclusion of visible red aviation lighting on seven of the turbines extends the adverse impacts from the development into the night. Aviation lighting would affect settlements and routes particularly in the darker less developed areas of East Lothian where background light levels are low. This is more so to the north and northwest of the site, up to 15km from the site.

The impacts from the proposals are in our opinion not localised.

In addition the impact of the AIL has been given little consideration in the LVIA.

The distinctiveness of rural road network is a key characteristic LCT 269 - Upland Fringe - Lothians. The loss of this rural road distinctiveness to accommodate the AIL route by both loss of roadside boundary vegetation/ wall and widening of the roadway would appear therefore to have a significant adverse impact on the LCT.

The Traprain and Tyne Valley SLA identifies the rural character of the roads within the SLA as Special Quality and Feature 9. The loss of this rural character to accommodate the AIL route by both loss of roadside boundary vegetation/ wall and widening of the roadway would appear therefore to have a significant adverse impact on the Traprain and Tyne Valley SLA contrary to policy 4 part d(i) of NPF4. This has not been assessed in the LVIA.

The proposals, both the WFA and the AIL, lead to Significant Adverse landscape and visual impacts over a wide area of East Lothian. These effects cannot be mitigated such that the significant impacts will be removed or even reduced. As such we recommend objection on landscape grounds.

Object to micro siting of 50m for the AIL route.

Object due to loss of special qualities and features of SLA by WFA

Object due to loss of special qualities and features of SLA and character of LCT by AIL

Object due to the significant adverse landscape impacts

Object due to the significant adverse visual impacts

REPORT TO: Planning Committee
MEETING DATE: 3 September 2024
BY: Executive Director – Place
SUBJECT: Application for Planning Permission for Consideration

3

Application No. **24/00672/P**
Proposal Erection of 3 houses and associated works
Location **Land West of The Stables
Main Street
Elphinstone
East Lothian**

Applicant Mrs Carol Auld
Per Apt Planning & Development

RECOMMENDATION Application Refused

REPORT OF HANDLING

This application relates to a 1,390 square metre area of land on the south side of the B6414 public road currently in agricultural use as a paddock for the grazing of sheep. The application site is located to the west of the village of Elphinstone and is defined as being located within the countryside by Policy DC1 of the adopted East Lothian Local Plan 2018. It is bound to the south by agricultural land to the west by a working farm and agricultural land to the north by the B6414 public road on the opposite side of which lies an allocated housing site currently being developed by Bellway Homes. To the east it is bound by the former Old Chapel and Church Hall which has been converted to residential use.

The application site is designated as prime quality agricultural land grade 3.1. It is also within a Coal Authority Development Risk Area, the majority of the site being in a low risk area but with the south eastern part of the site being within a high risk area.

BACKGROUND

A pre-application enquiry ref: 23/00026/PREAPP was submitted in 2023 by the applicant's agent for the erection of three new build houses on the current application site. A pre-application meeting was held and follow up detailed written pre-application advice was sent to the agent which detailed the site's planning policy designations and as such that the principle of the erection of three houses on this site would be contrary to development plan policies and would be unlikely to be supported. Internal consultations were also

undertaken in relation to the pre-application enquiry and the applicant was also provided with the pre-application comments of ELC Road Services, Policy and Projects Manager, Senior Environmental Health Officer and ELC Contaminated Land Officer with regards to their requirements should an application be submitted.

Following the pre-application enquiry and advice given, the applicant submitted planning application 24/00123/P for the erection of 3 houses on the current application site. Planning application 24/00123/P was refused planning permission in April 2024. The reasons for refusal being:

1 The erection of three houses on the application site would be new build housing development in the countryside of East Lothian on land which is not allocated for housing development, is not brownfield land where a return to a natural state will not happen without intervention, does not reuse a redundant or unused building, and for which a need to meet the requirements of the operation of an agricultural, horticultural, forestry, countryside recreation, or other business, leisure or tourism use has not been demonstrated, and which is not proposed as affordable housing development of an existing rural settlement. The proposal is therefore contrary to Policy 17 of NPF4 and Policies DC1 and DC4 of the adopted East Lothian Local Development Plan 2018 and Government policy guidance regarding the control of new housing development in the countryside expounded in Scottish Planning Policy: June 2014.

2 The erection of three houses on the application site would be new build housing development in the countryside of East Lothian for which a desirable primary use supported in principle by criterion b of Policy DC1 and with benefits that outweigh the normal presumption against new build housing in the countryside has not been demonstrated; and which is not an appropriate use of a historic environment asset or promoted to fund the restoration of a listed building, building of recognised heritage value or significant designated feature of the built or natural environment, the retention of which is desirable. The proposal is therefore contrary to Policy 17 of NPF4 and Policy DC5 of the adopted East Lothian Local Development Plan 2018.

3 The proposed scheme of development would not provide on-site resident and visitor parking in line with ELC's parking standards. It has not been demonstrated that the required visibility splay could be achieved and none of the proposed houses would be provided with an on-site turning area such that vehicles would be capable of accessing or egressing the site in a forward gear and as proposed vehicles would require to reverse onto or off the classified B6414 public road to the detriment of pedestrian and road safety. The proposal is therefore contrary to Policy T2 of the adopted East Lothian Local Development Plan 2018.

4 The proposed scheme of development would result in the formation of three residential houses with no evidence submitted that the future occupants of these houses could be adequately protected from noise from existing neighbouring agricultural businesses, contrary to Policy NH13 of the adopted East Lothian Local Development Plan 2018.

PROPOSAL

Notwithstanding the advice given for pre-application enquiry 23/00026/PREAPP and the refusal of planning permission for application 24/00123/P this application has been submitted by the same applicant and agent and seeks planning permission for the erection of three new build houses on the same application site as that which was the subject of pre-application enquiry 23/00026/PREAPP and planning application 24/00123/P.

The current application site is the same application site as that which was the subject of the pre-application enquiry and previous application 24/00123/P it has a largely rectangular footprint measuring at most some 28.5 metres by some 51.5 metres. The three proposed houses are the same as those proposed through the previous scheme of development the subject of planning application 24/00123/P which was refused planning permission. The proposed houses would provide living accommodation over two floors and would have a ridge height of some 8.5 metres. Their walls would be finished externally in white render with anthracite tiled roofs and rainwater goods and UPVC windows and doors. Each of the three houses would be accessed directly off the B6414 public road and provided a garden to the rear. The layout of the proposed scheme of development has been altered slightly from the scheme of development which was the subject of planning application 24/00123/P in that the current scheme of development indicates the provision of hard surfaced vehicle turning areas now proposed between the house frontages and the B6414 public road rather than the front gardens which were proposed to serve the three houses in the previously proposed scheme of development the subject of planning application 24/00123/P.

A supporting statement has been submitted with the application that states that 'given the scale of development to the north redefining the shape and size of the Elphinstone settlement the applicant wishes to create three new homes for her and her daughters on land they own immediately to the south of the Bellway development site and on land that would be within the new extent of Elphinstone. The context of the site has changed dramatically. It no longer has the character of a grass field/paddock just outside the village, but will be very much part of the western edge of Elphinstone providing visual (and stylistic) balance to the development on the north of the road into the village. The village sign lies adjacent to the site and the speed limit changes to 20mph further to the west. Further context is provided by the existing buildings to the west of the site that also signify a more built up environment we acknowledge that they are more agricultural in appearance but do reflect a busy site on the edge of the built environment. They will soon be very much part of the village as the Bellway site is completed. There is evidence that the site previously accommodated a row of workers cottages known as Top Row. We are unsure when they were demolished but historically the site was very much part of Elphinstone.'

A Noise Impact Assessment report has also been submitted with this current application.

DEVELOPMENT PLAN

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

The development plan is the approved National Planning Framework 4 (NPF4) which was adopted by The Scottish Government on 13 February 2023 and the adopted East Lothian Local Development Plan 2018.

The relevant policies contained within the National Planning Framework 4 consist of Policies 1 (Tackling the climate and nature crises), 2 (Climate mitigation and adaption), 3 (Biodiversity), 4 (Natural Places), 5 (Soils), 14 (Design, quality and place), 16 (Quality Homes) 17 (Rural Homes) and 29 (Rural Development). Policies DC1 (Rural Diversification), DC4 (New Build Housing in the Countryside), DC5 (Housing as Enabling Development), DP1 (Landscape Character), DP2 (Design), NH5 (biodiversity and Geodiversity Interests), NH7 (Protecting Soils), T1 (Development Location and Accessibility) and T2 (General Transport Impact) of the adopted East Lothian Local Development Plan 2018 are relevant to the determination of the application.

The application site is defined as being located within a countryside location within East Lothian by Policy DC1 of the adopted East Lothian Local Development Plan 2018. It is not identified in the adopted East Lothian Local Development Plan 2018 as being within a residential area nor is defined as being within the settlement of Elphinstone. The Local Development Plan does not allocate the land of the site for housing development.

Consequently, the principle of the erection of three houses on the application site must be assessed against national, strategic and local planning policy relating to the control of new housing development in the countryside.

It is stated in Policy 17 of NPF4 that:

(a) development proposals for new homes in rural areas will be supported where the development is suitably scaled, sited and designed to be in keeping with the character of the area and the development: (i) is on a site allocated for housing within the Local Development Plan (LDP); (ii) reuses brownfield land where a return to a natural state has not or will not happen without intervention; (iii) reuses a redundant or unused building; (iv) is an appropriate use of a historic environment asset or is appropriate enabling development to secure the future of historic environment assets; (v) is demonstrated to be necessary to support the sustainable management of a viable rural business or croft, and there is an essential need for a worker (including those taking majority control of a farm business) to live permanently at or near their place of work; (vi) is for a single home for the retirement succession of a viable farm holding; (vii) is for the subdivision of an existing residential dwelling; the scale of which is in keeping with the character and infrastructure provision in the area; or (viii) reinstates a former dwelling house or is a one-for-one replacement of an existing permanent house;

(b) Development proposals for new homes in rural areas will consider how the development will contribute towards local living and take into account identified local housing needs (including affordable housing), economic considerations and the transport needs of the development as appropriate for the rural location;

(c) Development proposals for new homes in remote rural areas will be supported where the proposal: (i) supports and sustains existing fragile communities; (ii) supports identified local housing outcomes; and (iii) is suitable in terms of location, access, and environmental impact;

(d) Development proposals for new homes that support the resettlement of previously inhabited areas will be supported where the proposal: (i) is in an area identified in the LDP as suitable for resettlement; (ii) is designed to a high standard; (iii) responds to its rural location; and (iv) is designed to minimise greenhouse gas emissions as far as possible.

It is stated in paragraphs 5.1 and 5.2 of the adopted East Lothian Local Development Plan 2018 that while the LDP's spatial strategy guides the majority of new development to existing settlements in the interests of promoting sustainable travel patterns, it also seeks to support the diversification of the rural economy and the ongoing sustainability of the countryside and coast through support in principle for agriculture, horticulture, forestry and countryside recreation, as well as other forms of appropriate business, leisure and tourism developments. New rural development should be introduced sensitively to avoid harming the characteristics that attract people to live, work and visit East Lothian's countryside and coast.

Paragraph 5.10 of the adopted East Lothian Local Development Plan 2018 states that the LDP has a general presumption against new housing in the countryside but exceptionally a new house may be justified on the basis of an operational requirement of a rural

business. In such circumstances, appropriate evidence clearly demonstrating the need for a new dwelling on the particular site in association with the business will be required. Such evidence should include that no suitable existing dwelling has been recently made unavailable for that purpose and that there is no existing building that could be converted to a house.

Policy DC1 sets out specific criteria for new development in the countryside, stating that there will be support in principle for new development where it is for agriculture, horticulture, forestry or countryside recreation; or other businesses that have an operational requirement for a countryside location, including tourism and leisure uses.

Policy DC4 sets out specific criteria for the erection of new build housing in the countryside, and allows for new build housing development in the countryside where the Council is satisfied that a new house is a direct operational requirement of an agricultural, horticultural, forestry or other employment use. Policy DC4 also allows for other small scale housing proposals that form a logical addition to an existing small scale rural settlement where they are promoted for affordable housing and evidence of need is provided and the registered affordable housing provider will ensure that the dwelling(s) will remain affordable for the longer term.

Policy DC5 sets out specific criteria for the exceptional circumstances where the erection of housing as enabling development in the countryside may be supported. Any such new housing development in the countryside should: (a) enable a desirable primary use supported in principle by criterion by Policy DC1 and the benefits of the primary use outweighs the normal presumption against new build housing in the countryside; or (b) fund the restoration of a listed building or other buildings of recognised heritage value, or other significant designated feature of the built or natural environment, the retention of which is desirable, and should satisfy the terms of Policies CH1 and where relevant CH6, and can be clearly demonstrated to be the only means of preventing the loss of the asset and secure its long-term future; and (c) the proposal satisfies the terms of Policy NH1. In all cases, the benefits of the proposed development must outweigh the normal presumption against new build housing development in the countryside.

On the matter of Policy DC5, the principle of the erection of three houses on the application site is not promoted to enable a desirable primary use supported in principle by criterion b of Policy DC1. Thus, there are no benefits of such a primary use that would outweigh the normal presumption against new build housing in the countryside. Nor is the principle of the erection of three houses on the application site promoted to fund the restoration of a listed building.

REPRESENTATIONS

Three letters of public written representation have been received to the application objecting to the proposed scheme of development.

The main grounds of objection are:

- i) The proposed site lies beyond the settlement boundary and is designated as a countryside location, consequently the proposal fails to comply with planning policies regarding residential development in such areas;
- ii) Contrary to development plan, land not allocated for development;
- iii) The application proposes the construction of three properties, which constitutes a development that should be subject to the same planning regulations as other local developments. Elphinstone's current housing stock is more than adequate, making further development on this site unnecessary;

- iv) The proposed development is not set 10m back from the road, encroaching on this sensitive area of the village. The front facing parking bays will create an unsightly line of cars along the B6414. This development of two-storey houses is at odds with the single-storey bungalows which surround the site on the south side of the B6414;
- v) Under section 12 of the application written statement it appears APT (the agent) are suggesting that any land adjacent to the development plan boundary should be available for development. Approving this project may set a precedent for larger-scale development;
- vi) In the proposed development each property will have a driveway creating three new entrances onto the B6414 rather than sharing a single dedicated site entrance. The site is next to a blind bend in the road which can be seen on approach to the village. Speeding issues have been prevalent in the village for a number of years and while there has been improvement the issue still persists. Vehicles turning onto the road from driveways or parking kerbside in front of the proposed development causing blockage could be a serious safety issue;
- vii) The Noise Impact Assessment report states "The Applicant has also confirmed that there are no operational activities during the night-time period (23:00-07:00); as such, this assessment only considers evaluation of these noise impacts during the daytime period (07:00-23:00)." The noise survey is not complete as the above statement is incorrect. Alongside agricultural activities this business also operates as an Evri parcel delivery depot and receives lorry deliveries 24/7;
- viii) The proposed development poses a significant privacy concern for residents of Primrose View by allowing the new two-storey structures to directly overlook these existing homes. The proximity of the proposed buildings to the road exacerbates the issue, potentially compromising the current amenity and seclusion enjoyed by the neighbours;
- ix) Currently walkers and cyclists heading west to access the Right of Way leading to Faside and Elphinstone Football Ground are greeted by beautiful views towards the Lammermuir Hills and the south as they travel along the edge of the village. The construction will result in the loss of important public views that contribute to the character and enjoyment of the area, which is protected under the Local Development Plan;
- x) The proposed development site is regularly visited by many mammals and birds including a Common Buzzard. The land clearly provides a rich source of food and is a good hunting ground. This development poses a direct threat to this habitat and the overall biodiversity of the area. Any planned development should avoid disturbance of local and protected wildlife species;
- xi) Increase in traffic, congestion, noise, pollution which will be problematic in the future for all Elphinstone residents;
- xii) Road safety;
- xiii) Objector makes rebuttals to points raised in this new application statement:
 - (a) Character of the Area (Point 3): The claim that the area no longer resembles a grass field/paddock is inaccurate. Objector alleges from their vantage point, only paddocks and fields are visible;
 - (b) Appearance of the Location (Point 4): Contrary to the application's assertion, the area retains a distinctly rural and agricultural character, with sheep and horses housed permanently;
 - (c) Housing Stock and Scenic Views (Point 13): The ongoing Bellway development across the road provides ample housing. Additional homes would obstruct scenic views of the rolling hills and landscapes, detracting from the village's appeal without the benefit of a 10-meter landscaped edge like the Bellway development. This is clearly the most scenic view in the area;
 - (d) Parking and Access (Point 14): The road and virtually non-existent pavement are too narrow to accommodate the revised plans. The absence of a soft landscaped approach, unlike the Bellway development, exacerbates this issue. Existing and entering the proposed driveways could be dangerous as any on street parking down the road would obscure any car pulling out as the road is so narrow;
 - (e) Noise Concerns (Point 15): The

adjacent green agricultural buildings serve as a delivery depot, generating noise late into the night. This would undoubtedly disturb new residents, a factor seemingly overlooked in the noise impact assessment. The depot is very busy and noisy, objector alleges his family are often disturbed by the noise;

(f) Urbanization Limits (Points 17-20): Sufficient new housing stock is already being built. Continuous development threatens to encroach upon the countryside, which should not be deemed inevitable. The planning application's photographs fail to capture the agricultural nature of the land and the breath-taking views from the opposite side of the road;

Matters raised regarding the loss of a private view are not material considerations in the determination of this planning application.

COMMUNITY COUNCIL

Tranent and Elphinstone Community Council have been consulted on the application but have provided no comments.

PLANNING ASSESSMENT

The Coal Authority as a consultee on the application advise that they have reviewed the proposals and confirm that part of the application site falls within the defined Development High Risk Area. The Coal Authority records indicate that within that part of the application site and surrounding area there maybe coal mining features and hazards which should be considered as part of development proposals. The Coal Authority's general approach in cases where development is proposed within the Development High Risk Area is to recommend that the applicant obtains coal mining information for the application site and submits a Coal Mining Risk Assessment to support the planning application. However, when considering this particular proposal; the specific part of the site where the buildings are proposed actually falls outside the defined Development High Risk Area, as such the Coal Authority do not consider that a Coal Mining Risk Assessment is necessary for this proposal and do not object to this planning application.

Scottish Water as a consultee on the application raise no objection to it.

ELC Waste Services as a consultee on the application advise they have no objection to the proposed scheme of development however residents would have to present containers at the kerbside for collection.

ELC Contaminated Land Officer as a consultee on the application advises that while there is no direct evidence to suggest any previous contaminative uses associated with the site, with the current use being a rough grazing paddock. It should be noted that according to the latest Radon Mapping data the site falls within a Radon Affected Area (Class 5: 10-30% of properties are at or above the radon action level). This means that the any new builds would potentially require full radon protection measures to be installed. It should be noted that this will be picked up by Building Standards as an issue to be addressed when considering the granting of a Building Warrant for the development. The southern part of the site may also be underlain by shallow coal mine workings thus there is the potential for mine gas to impact on the proposed development. Given the above and due to the nature of the proposed development (residential), further information will be required to determine the ground conditions and potential contamination issues impacting on the site (with the minimum of a Phase I Geo-environmental Assessment being carried out). As such the Council's Contaminated Land Officer recommends that a condition be attached to any grant of planning permission requiring a suitable Geo-Environmental Assessment to be carried out prior to any site development. This matter could be controlled through a

condition of a grant of planning permission.

The Council's Senior Environmental Health Officer has been consulted on the application and advises that he has perused the noise impact assessment that was requested due to the proximity of existing operational agricultural buildings to the proposed housing. Operational noise from the existing agricultural buildings have been assessed per BS4142 methodology and noise impacts are within the required 5dB limit above background for daytime activities. In event of any nighttime operations within the agricultural buildings, the LAmax limit of 45dB within the bedrooms of proposed housing will be met with closed window attenuation. Accordingly, The Council's Senior Environmental Health Officer advises that a condition be attached to any grant of planning permission requiring the installation of standard double-glazed units incorporating acoustic trickle vents be provided to any habitable rooms (bedrooms/living rooms) within the proposed housing. This matter could be controlled through a condition of a grant of planning permission.

Road Services as a consultee on the application advise that drawings submitted with the application indicate that:

- o an adoptable 2m wide footway will be provided along the full length of the site to tie into the footway being installed by Bellway on the south side of its access junction. This is welcome to ensure each property has pedestrian access into the town.
- o parking for each dwelling will be provided in line with ELC's parking standards.
- o in line with ELC standards for direct access taken from a classified road, a turning area will be provided within the driveway of each dwelling to enable vehicles to access and egress the properties in a forward gear.
- o the height of the boundary walls of each property are appropriate in relation to ELC requirements for visibility splays, i.e. below a height of 1.05m.

Drawings also indicate that the required westward (left) visibility splay of 2.5m by 70m from the driveways of Plots 2 and 3 crosses enclosed land that is not within the site boundary. Vehicles have been observed to park within the enclosed area and land within the splays contains a number of trees. The applicant confirms that the land crossed by these splays is within their ownership and any works required to achieve visibility splays can be undertaken without third party consent.

On this basis Road Services therefore advise they have no objection to the proposals but were consent to be granted, Road Services request that conditions be attached to any grant of planning permission in relation to the requirement for the installation of EV chargers on each house, the requirement for the visibility splay as indicated in Drawing 0823-PL-21 to be provided and retained and the requirement for a Construction Method Statement to be submitted and agreed with the Roads Authority before commencement of construction.

These matters could be controlled through conditions of a grant of planning permission.

The Council's Policy and Projects Manager has been consulted on this application however has not provided a response. However, the Council's Policy and Projects Manager previously provided a detailed response to the pre-application enquiry submitted by the applicant for the erection of three houses on the application site. The Council's Policy and Projects Manager stated that the main planning policy consideration is the principle of allowing the development of housing in the countryside. Policy DC3 and DC4 set out a number of caveats for allowing housing in the countryside. These include the housing being linked to a rural business, being for affordable housing or is a replacement for an existing, or substantially complete existing house. None of these criteria apply to this proposal. There is a reference in the submission that the housing would be for family use but without any linkage to rural business this is not a relevant consideration. The case

is also made that the site is not that rural due to the development across the road. However, this does not change the fact that the proposals site is in the countryside. Development elsewhere does not change the sites status and it cannot be considered less of a countryside location. NPF 4 policy 14 allows housing development in the countryside where it 'reinstates a former dwelling house or is a one for one replacement', assuming the proposal fits with the character of the settlement. It appears from the information provided that there was housing on this site previously but there is no evidence of this now. The buildings here have been demolished for many decades. The planning statement comments on the possibility of the site being farmed and dismisses this due to its fragmented nature from the other areas of farmland, not for any other previously developed reasoning. This highlights that the area has long been restored to agricultural use and should be seen as such. It is too tenuous a link to the past to justify that these houses are restoring previous village form. The site is in the countryside and as there is no justification presented that highlights a need for housing in this countryside location as such the proposal as presented would be contrary to NPF and LDP policy with regards to the erection of new build houses in the countryside.

In assessing whether or not a proposed new development would result in harmful overlooking and therefore loss of privacy to existing neighbouring residential properties it is the practice of the Council, as Planning Authority to apply the general rule of a 9 metres separation distance between the windows of a proposed new building and the garden boundaries of neighbouring residential properties and an 18 metres separation distance between directly facing windows of the proposed new building and the windows of existing neighbouring residential properties. The windows within the rear elevations of the houses to be erected on plots 1 and 2 would be less than 9 metres from the proposed rear garden boundaries while the closest windows within the rear elevation of the house to be erected on plot 3 would be some 9.5 metres from the proposed rear boundary. While the closest windows within the rear elevations of the houses to be erected on plots 1 and 2 would be less than 9 metres from the rear garden boundary given that the land to the south is in agricultural use there are no buildings located on the land to the rear of these proposed houses and as such there be no would directly facing windows on any buildings to the rear. Given the proposed location and orientation of the proposed houses there are no neighbouring houses with directly facing windows within 18 metres as such the proposed houses would not result in harmful overlooking and therefore loss of privacy to existing neighbouring residential properties.

Policies DP2 and DP7 require, amongst other considerations, that new development should not result in any significant loss of daylight, sunlight or privacy to adjoining properties as a result of overshadowing or overlooking.

On the matter of the impact of the proposed house on daylight and sunlight on neighbouring properties, guidance is taken from "Site Layout and Planning for Daylight and Sunlight: A Guide to Good Practice" by P.J. Littlefair.

In their position and due to their orientation the proposed houses would not have a harmful impact on the sunlight and daylight received by the any neighbouring residential properties.

The application site is located within the countryside as defined by Policy DC1 of the adopted East Lothian Local Plan 2018. The site is not located within the residential settlement of Elphinstone rather it is part of a wider area of agricultural land located on the south side of the B6414 which is prime quality agricultural land category 3.1.

The supporting statement submitted with the application is seeking to justify the development of the application site for the proposed three houses on the basis that there is a housing development currently under development on the opposite side of the B6414

public road. However, that site is an allocated housing site under proposal TT11 Elphinstone West of the adopted East Lothian Local Plan 2018. The application site the subject of this application which is located on the opposite side of the B6414 public road is not allocated for development either as a housing site or for any other use, rather the application site and the surrounding land to the west and south are classified as prime quality agricultural land which are in agricultural use, as such they are defined by Policy DC1 of the adopted East Lothian Local Plan 2018 as being within the countryside and it is against these relevant Development Plan Policies the application requires to be assessed.

NPF4 sets out the intent to minimise disturbance to soils from development while the adopted East Lothian Local Plan 2018 sets out the Council's aims to reduce adverse impacts on soils, avoid where possible development on prime agricultural land, and consider climate changes impacts of developing certain soil types. The proposal would result in the loss of the entire application site which is an area of Prime Agricultural Land currently in agricultural use to a residential land use. As such the proposal would not be consistent with Policy 5 of NPF4 or Policy NH7 of the adopted East Lothian Local Plan 2018.

Policy 17 of NPF4 sets out the circumstances in which new homes in rural areas will be supported. Policy 17 (a) (i) echoes the LDP policy approach in that development will be allowed on a site that is allocated for housing within the LDP. The proposed site is not allocated in the current LDP for development, rather it lies within the designated countryside area. Policy 17 (a) (ii) relates to brownfield land which by definition is land that has been previously developed. While the supporting statement states that the application site historically contained a row of workers cottages it acknowledges that it is not known when they were demolished, the site does not have the appearance of a previously developed brown field site, it is an area of mature grassland which is used for the agricultural grazing of animals.

Policy 17 (a) (iv) and (v) also states that the development is necessary to support the sustainable management of a viable rural business or croft, and there is an essential need for a worker to live permanently at or near their place of work or a single home for the retirement succession of a viable farm holding. This is in line with Policies DC1 (Rural Diversification) and DC4 (New Build in the Countryside) of the LDP. Rural economic agility, innovation and diversification should be encouraged. The proposal for three houses does not meet the requirements of the relevant Policies in NPF4 or the LDP. Also Policy 16 (Quality Homes) (f) states 'Development proposals for new homes on land not allocated for housing in the LDP will only be supported in limited circumstances where: (f) (iii) the proposal is consistent with policy on rural homes. In conclusion having assessed the application against NPF4, specifically Policy 17, and the existing LDP, the proposal is contrary to the Development Plan and is therefore not supported in policy terms.

The site is not allocated for housing development in the adopted East Lothian Local Development 2018, nor is it a brownfield, vacant or derelict site as it is currently agricultural land in use for the grazing of sheep. The proposed three houses do not reuse a redundant or unused building(s). The proposed three houses are not an appropriate use of a historic environment asset. There is no agricultural or other employment use presently in operation to justify the need for three new houses on the application site. Neither has the applicant advanced any such case of justification of need for the principle of the proposed three houses, it is stated only that the three houses are proposed for the applicant and her daughters. No case has been put forward that the three proposed houses have an operational requirement for their countryside location or that they would be required to support a use which in principle requires a countryside location. In the absence of any such direct operational requirement or justified supporting case for the erection of three houses on the application site, the principle of such proposed development on the site is

inconsistent with national, strategic and local planning policy and guidance concerning the control of development of new build houses in the countryside. Specifically, the proposal to erect three new build houses on the application site is in principle contrary to Policy 17 of NPF4 and Policies DC1 and DC4 of the adopted East Lothian Local Development Plan 2018.

The adopted East Lothian Local Development Plan 2018 states that designs for new development must evolve from and respond to an analysis of the proposed development site and its wider context. Furthermore it states that the designs, materials and finishes proposed must complement those of existing buildings in the local area.

In relation to this the development brief for the allocated housing site Proposal TT11 Elphinstone West of the adopted East Lothian Local Plan 2018 currently under development by Bellway Homes on the opposite side of the B6414 classified public road to this current application site states that 'Vehicular site access to be taken from the B6414. A high quality, minimum 10m deep formal, structured landscape edge with grass and specimen tree planting is required to the west of this access to create a gateway or landscape edge to the village. The gateway landscape edge may be continued part way up the western boundary opposite the existing playing field to help accommodate development on this sensitive edge. A shared use footpath should be provided along the B6414. Built form along the B6414 should front towards the road with front gardens defined by hedging. Buildings should not be overly dominant in terms of scale or impact on the wider village character on this important approach and should reflect the nearby built form.' Consistent with the requirements of this development brief the approved scheme of development for the Bellway site has a landscape strip measuring some 10 metres deep between the main approach into the village of Elphinstone along the B6414 and the houses within the southern part of the site which front towards the B6414 are set back from the road frontage. While the main access into the allocated Bellway site is taken off the B6414 classified public road all houses within the allocated Bellway site are provided with vehicle accesses off the internal site road network there are no houses accessed directly off the B6414.

The proposed scheme of development the subject of this application proposes three detached two storey houses. The house proposed for plot 1 would be a detached 5 bedroom house which would provide an entrance vestibule, hall, lounge, bedroom with ensuite, w.c., open plan dining/kitchen/sitting room and utility room at ground floor level and four further bedrooms, one with an ensuite, family bathroom and store cupboard at first floor level. The house proposed for plot 2 would be a detached 4 bedroom house which would provide an entrance vestibule, hall, lounge, single garage, w.c., open plan dining/kitchen/sitting room and utility room at ground floor level and four further bedrooms, one with an ensuite, family bathroom and store cupboard at first floor level. The house proposed for plot 3 would be a detached 4 bedroom house which would provide an entrance vestibule, hall, lounge, study, w.c., open plan dining/kitchen and utility room at ground floor level and four further bedrooms, one with an ensuite, family bathroom and store cupboard at first floor level. The three proposed houses would be positioned on the south side of the B6414 public road with vehicle accesses in the form of three individual driveways directly off the B6414 public road. It is proposed that each of the three houses would be provided with a hard surfaced drive and turning area between the front elevations of the proposed houses and the B6414 public road. The proposed scheme of development indicates the formation of a new 2-metre-wide footpath along the south side of the B6414 public road with and front boundary walls to be formed immediately behind the proposed footpath.

Given the depth of the site which is at most some 28.5 metres the site is not of a sufficient size to enable a 10-metre landscape strip to be provided between the front elevations of

the proposed houses and the road frontage. With such an arrangement the three proposed houses would be visually prominent on the south side of the B6414 public road and rather than being set back from the road frontage with an area of landscaping between the road and the proposed houses to minimise their visual impact and create a gateway or landscape edge to the village as has been required on the allocated Bellway Homes site on the opposite side of the road the proposed houses would front directly onto the main approach road into the village. Existing buildings on the south side of the B6414 road are the agricultural buildings to the west of the application site which are set back from the B6414 and the former Old Chapel and Church Hall buildings which are now in residential use located to the east of the application site, with the exception of these buildings all other buildings on the south side of the B6414 public road are located to the east of Bellyford Road within the historic village of Elphinstone and while these buildings front directly onto the public footpath they are predominantly terraced buildings single storey in height or single storey with living accommodation within the roofspace.

While there is an allocated housing development of two storey houses under development on the opposite side of the B6414 to the application site this development is set back from the main approach into the village on the north side of the B6414 road with a 10 metre wide landscape area and tree planting to soften the approach into the village. The scheme of development proposed through this application of three detached two storey houses directly fronting and accessed off the B6414 would not be in keeping with or complement the existing buildings on the south side of the B6414 road. As such the proposed houses would be inappropriate to their setting and would be out of keeping with its surroundings contrary to Policies 14, 16 and 29 of NPF4 Policies DP1 and DP2 of the adopted East Lothian Local Development Plan 2018.

In conclusion the proposed scheme of development is not in accordance with the Development Plan and there are no material planning considerations that outweigh the fact that the proposed scheme of development is not in accordance with the Development Plan.

REASONS FOR REFUSAL

- 1 The erection of three houses on the application site would be new build housing development in the countryside of East Lothian on land which is not allocated for housing development, is not brownfield land where a return to a natural state will not happen without intervention, does not reuse a redundant or unused building, and for which a need to meet the requirements of the operation of an agricultural, horticultural, forestry, countryside recreation, or other business, leisure or tourism use has not been demonstrated, and which is not proposed as affordable housing development of an existing rural settlement. The proposal is therefore contrary to Policy 17 of NPF4 and Policies DC1 and DC4 of the adopted East Lothian Local Development Plan 2018.
- 2 The erection of three houses on the application site would be new build housing development in the countryside of East Lothian for which a desirable primary use supported in principle by criterion b of Policy DC1 and with benefits that outweigh the normal presumption against new build housing in the countryside has not been demonstrated; and which is not an appropriate use of a historic environment asset or promoted to fund the restoration of a listed building, building of recognised heritage value or significant designated feature of the built or natural environment, the retention of which is desirable. The proposal is therefore contrary to Policy 17 of NPF4 and Policy DC5 of the adopted East Lothian Local Development Plan 2018.