

Appeal Decision Notice

T: 01324 696 400
F: 01324 696 444
E: dpea@scotland.gsi.gov.uk



Decision by Richard E Bowden, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-140-2043
- Site address: Land north-west of Gilston Farm, Heriot, Scottish Borders EH38 5YS
- Appeal by RidgeWind Ltd c/o SLR Consulting against the decision by Scottish Borders Council
- Application for planning permission (ref: 11/01680/FUL) dated 10 January 2012 refused by notice dated 10 December 2012
- The development proposed: construction of a windfarm comprising 7 wind turbines (up to 115m height to blade tip); transformers; access tracks; temporary construction compound; concrete batching area and other associated infrastructure
- Date of site visits by Reporter: 18 April 2013 and 18 June 2013

Date of appeal decision: 29 August 2013

Decision

I dismiss the appeal and refuse planning permission.

Note: I have today issued a separate decision notice in respect of a planning appeal concerning the proposed construction of a windfarm comprising 9 wind turbines and associated infrastructure for an adjoining site on land at Fala Moor, Fala Midlothian (appeal ref: PPA-290-2022).

Reasoning

The context

1. The appeal concerns a proposal for 7 wind turbines and associated works close to the northern boundary of Scottish Borders Council's administrative area. At the time that this planning application was lodged the same applicant submitted another proposal for a further 9 wind turbines and supporting infrastructure, all to be located on an adjoining site situated within Midlothian Council's administrative area. That separate application was refused planning permission by Midlothian Council.
2. The appellant has lodged separate planning appeals for the proposals outlined above, as the two planning applications were each made with and determined by different planning authorities. Nevertheless, the documentation provided in support of each set of proposals has included a common Environmental Statement and other duplicated material



based on and reflecting the appellant's aspiration for both schemes to proceed as a unified, single Gilston windfarm of 16 turbines with associated support infrastructure.

3. For the avoidance of doubt, this particular decision notice relates solely to the proposal within the Scottish Borders Council area. The appeal regarding the proposals on an adjoining site within Midlothian is separate and has been determined in its own right, even though the decision notice for it is being issued at the same time as this one. In both cases the assessments I have made takes into consideration that the appellant is seeking and envisaging a "cross-boundary" windfarm combining the two proposals for the adjoining sites.

4. The combined site extends over 340 hectares, of which approximately half is within the Scottish Borders area and the remainder in part of Midlothian that is designated as an Areas of Great Landscape Value (AGLV). The site in question is situated on upland grazing moorland between the A68 trunk road 2.5km to the north and the A7 road further to the south. The site adjoins Fala Moor and is located south west of the village of Fala and north of Gilston Farm. Brothershiels Burn, which runs through the middle of the combined site, defines the boundary between Midlothian and Scottish Borders in this locality. There are several coniferous woodland plantations forming shelterbelts to the east and west of the site in question.

5. The windfarm site rises from the burn at 304m AOD up to a maximum elevation of 420m AOD at Brotherstone Hill. This hill represents the north-eastern extent of the Moorfoot Hills – and joins the Lammermuir Hills to form the northern edge of the Southern Uplands, at this point adjoining the appeal site and the remainder of the lower lying plateau that includes Fala Moor. North of Fala Moor the landform steps further downwards towards rolling farmland of Midlothian and East Lothian, to the north and north-east respectively.

6. The blade tip height of 14 of the turbines proposed overall for the combined windfarm would be 115m above ground level and the other 2 turbines would have a blade tip height of 100m, including one of those proposed in the Scottish Borders. The Gilston windfarm would require, in total, approximately 9.2km of new access tracks and these would connect with the B6368 road, to the north of Makimrich Wood. Originally the proposed scheme included the construction of a new borrow pit. In response to concerns raised in that regard, the appellant has expressed a willingness to remove this from the proposals and instead to source from nearby Soutra Quarry the aggregates required for construction.

Appraisal

7. I have taken into account all the supporting documentation lodged on behalf of the appellant. This includes supplementary information to the Environmental Statement - and the original and updated versions of the figures and maps showing Zones of Theoretical Visibility (ZTV), wire diagrams and photomontages. I have also had regard to the documentation received from the council and its consultees, as well as the submissions made on behalf of those individuals and organisations that lodged representations.

8. In response to the consultations initiated by the council, the current, updated position is that no formal objections to the proposal within Scottish Borders are now in place from Historic Scotland, the Scottish Environment Protection Agency, Scottish Natural Heritage,

Transport Scotland (or from the council's Roads Service), the Ministry of Defence, National Air Traffic Services or from the British Airports Authority.

9. One of the neighbouring planning authorities, East Lothian Council, has objected to both the Gilston windfarm proposals, based on its concerns regarding wildlife and landscape impact issues. In particular, it contends that the appeal proposal would have adverse impacts on the Firth of Forth Special Protection Area, as a result of its potential effects on the activities of pink-footed geese. During the migration season those geese move back and forth on a daily basis between Aberlady Bay and Fala Moor, immediately to the north of the appeal site. East Lothian Council also expresses concerns about likely impacts on black grouse in the area, as well as regarding the potential cumulative visual impact of the Gilston proposals. The latter is when considered in conjunction with other existing and committed wind turbines along the Lammermuir Hills skyline – in particular when viewed at the same time as existing turbines at the two Dun Law windfarms.

10. RSPB Scotland raises similar issues regarding the black grouse, a 'Red List' species of conservation concern, as well as about what it regards as significant risks posed by the proposal on the numerous other roosting birds in the vicinity of the appeal site. In particular it highlights the potential risks to pink-footed geese if poor visibility and wind direction combine to divert these geese towards the turbines - given the proximity of the appeal site to Fala Flow Special Protection Area (SPA) and Site of Special Scientific Interest (SSSI). Along with the RSPB, the Forestry Commission Scotland (FCS) expresses concerns about the removal of 15 hectares of woodland in Midlothian to make way for the proposed combined Gilston windfarm. They note that the Scottish Government's scoping guidance for windfarm proposals seeks to protect the existing forest resources of Scotland and "supports woodland removal only where it would achieve significant and clearly defined additional benefits."

11. At the time it was processing the planning application within the Scottish Borders area the council received 15 letters of objection to the proposal - from 12 households and 2 estate and farming interests. During the appeal process a further 6 individuals or organisations also lodged representations objecting to the proposal. The concerns raised cover a wide range of topics, including reference to: the need to protect woodland; the likely effects on the diversity of birds and other wildlife and the remaining wild moorland habitats - in particular the adjoining SPA and SSSI - that are enjoyed by local people and visitors to the area; noise issues arising, particularly during the construction phase; other adverse effects, including landscape and visual impacts, on the amenity of local residents and visitors (for example to Fala Moor, Crichton Castle and Soutra Aisle). There are also concerns expressed that the various adverse effects would not be offset sufficiently by any economic benefits – and in any event the extent of those benefits is a matter of contention. Other frequently raised criticisms relate to the proliferation and cumulative impacts of wind farms in the local and surrounding area - and a perceived lack of need for this additional one. A number of objectors draw attention to the close proximity of the appeal site to existing windfarms, in particular the ones at Dun Law.

12. A total of 4 representations have been lodged by individuals in support of the proposal. These point to the contribution that it would make to meeting government targets on renewable energy generation and carbon emission reductions, as well as providing local community benefits, including jobs. They also argue that, in addition to achieving efficient energy generation, the proposal would have minimal environmental impact - with no nearby

villages or towns being affected and the turbines being hardly visible - for example, from Brothershiels Farm or from the A68 and A7 roads. The supporters also contend that the visual and landscape impacts of the proposal are mitigated by the fact that wind turbines are already a well-known and accepted feature of the local landscape.

13. Section 25 of the Town and Country Planning (Scotland) Act 1997 requires the appeal to be determined in accordance with the provisions of the development plan unless material considerations indicate otherwise. In this case the development plan comprises the South East Scotland Strategic Development Plan (SESplan) approved by Scottish Ministers on 27 June 2013 and the Consolidated Scottish Borders Local Plan adopted in December 2011.

14. In the above context, the determining issues in this appeal are:

- whether the proposal would have significant adverse landscape and visual impacts, including cumulative impacts taking into account other existing and planned wind turbine developments in the surrounding area;
- the impact on residential amenity;
- the impact on the natural and cultural heritage of the area; and
- then weighing any such adverse impacts or effects against the potential benefits of the proposal.

15. At the national level, Scottish Planning Policy (SPP) in paragraphs 187-188 indicates support, in principle, for windfarm developments where environmental and cumulative impacts can be satisfactorily addressed - taking into account existing and committed windfarms in the area, as well as proposals for others at the planning stage. It states that cumulative impact will largely relate to the scale and proximity of further development. The SPP also indicates that assessment of the potential for acceptance of a new or extended windfarm should include consideration of the scale of the development in its local context.

16. More specifically, the SPP indicates that the design and location of any windfarm should be carefully chosen to reflect the scale and character of the landscape, as well as ensuring that landscape and visual impacts are minimised for the surrounding area. The Scottish Government's advice on wind turbine developments also refers to the Scottish Natural Heritage (SNH) Landscape Character Assessments that should be used to define the characteristics of the landscape in which any proposed wind turbine development would be located.

17. The Energy section of the SESplan includes policy 10: Sustainable Energy Technologies. This, like the introductory text that precedes it, was modified in the version of the plan recently approved by Scottish Ministers. The policy confirms that the plan seeks to promote sustainable energy sources. It also states, amongst other things, that local development plans (LDPs) will "set a framework for the encouragement of renewable energy proposals that aims to contribute towards achieving national targets for electricity and heat, taking into account relevant economic, social, environmental and transport considerations, to facilitate more decentralised patterns of energy generation and supply and to take account of the potential for developing heat networks."

18. The approved SESplan, immediately preceding policy 10, sets out some of the key national targets on renewable energy and energy consumption to be achieved by 2020. It then states, amongst other things, in paragraph 124 of the plan that “The potential for low carbon and renewable energy developments encompasses a range of technologies with varied impacts. Consideration of location, landscape, environmental quality and community impacts will be required for onshore developments. For example windfarms in East Lothian, the Scottish Borders and West Lothian currently contribute to the power generating capacity of the SESplan area; however concerns have been expressed about cumulative impacts and LDPs should undertake an assessment of the impact of development.”

19. Policy D4 of the adopted local plan supports renewable energy proposals, including commercial windfarms, “where they can be accommodated without unacceptable impacts on the environment. The siting and design of all renewable energy developments should take account of the social, economic and environmental context.” It then sets out a long, detailed list of criteria to be met satisfactorily if commercial windfarm proposals are to be approved.

20. In addition to cross-referring to national planning policy and (the now superseded) structure plan policy I19, with regard to preferred areas outwith environmental designations, policy D4 includes reference to: the effects on high sensitivity receptors such as major tourist routes and important landscape viewpoints; impact on landscape character and areas exhibiting remote qualities; views of the turbines from residential properties and other sensitive receptors including prominent visitor landmarks and tourist routes and important landscape viewpoints - including those outwith the Scottish Borders; locations within large scale landscape settings (Upland Type in the Landscape Classification of the Borders Landscape Assessment (BLA) normally being more acceptable than other types) – subject to assessment of the ‘fragility of the area to change’; more favourable consideration being given to locations where:

- the surrounding landform minimises the external visibility of the development
- there is no interference with prominent skylines
- there is no conflict with sensitive habitats.

21. Under policy D4 other specified criteria to be addressed satisfactorily by windfarm proposals include reference to: ecological interests - notably statutorily protected habitats and species and others of conservation concern, as well as birds that are potentially vulnerable to turbine developments; noise generation; and the need for a visual impact assessment, to include shadow flicker and potential for driver distraction – taking into account distance from the receptors and screening. Lastly the policy states that account will be taken of the cumulative impacts likely to arise, taking into consideration developments in adjoining local authority areas and “perceived visual impact” – and points out that “unacceptable cumulative impact may restrict development potential in otherwise appropriate areas.”

22. Against this policy background, the determining issues in this appeal are each explored in more detail below.

Landscape and Visual Impacts

23. No part of the appeal site is covered by any regional, national or international landscape designations – but there are two National Scenic Areas (NSAs) within the surrounding 35km radius study area. These are at Eildon and Leaderfoot and at Upper Tweeddale - both of which are in excess of 25km from the appeal site, to the south and south-west respectively. The Pentland Hills Regional Scenic Area is located around 30km to the west of it.
24. The appeal site is located close to and clearly visible from the Fala Moor and Fala Flow Special Protection Area (SPA) and Site of Special Scientific Interest (SSSI), just across the adjacent border with Midlothian. The Soutra Aisle and Dere Street Scheduled Ancient Monuments, east of Fala Moor, are also close to the proposed windfarm site. Nevertheless, at present for Dere Street and Soutra Aisle there is a degree of separation and screening from the appeal site provided by the intervening plantation of commercial forestry.
25. The Landscape and Visual Assessment (LVIA) put forward by the appellant has been based largely on the appropriate guidance provided nationally on such matters. The process followed includes reference to the establishment of baseline conditions against which any landscape and visual change can then be assessed. In particular, the assessment is intended to identify the extent and significance of change - arising from the turbines and associated infrastructure of the proposed windfarm - that would affect the physical landscape of the development site, the surrounding landscape character and visual amenity from particular viewpoints.
26. The stated aim of the appellant for the Gilston windfarm was to achieve a simple layout of turbines relating to the landform of the site and the surrounding area. I note that the LVIA process undertaken led, firstly, to a reduction in the number of turbines to the total of 16 now proposed overall, including 7 in the Scottish Borders area and, secondly, to a reduction in height (to blade tip) from 115 metres to 100 metres, for 2 of the 16 turbines. Those changes were intended to improve the overall profile of the proposed development when viewed from the surrounding landscape.
27. The Scottish Borders part of the proposed windfarm site is identified in SNH's national landscape assessment as being within the Lauder Common area of the Plateau Grassland Landscape Character Type (LCT). The LCTs are sub-divided geographically into Landscape Character Areas (LCAs) and there are a total of 35 LCAs within the study area that has been assessed.
28. Based on the Environmental Statement, the appellant contends that the proposal would have a “moderate/minor” effect on the landform, “principally due to the proposed borrowpit” on the site that was previously included in the proposed development package. Now that a new borrowpit is no longer part of the bundle of proposals now at appeal, the implication is that the effect of the proposed windfarm development on the landscape would be reduced, according to the appellant's logic. The appellant also anticipates a “moderate” landscape effect on the land cover as a result of the construction of access tracks and areas of disturbance caused by the proposed windfarm. These assertions of, at most, only moderate/minor effects on the landscape fabric are hard to reconcile with the appellant's acknowledgement that the proposed development would require clearance of

14.65ha of coniferous woodland as well as the loss of 12.21ha of rough grazing land for the 25 year period being sought for the windfarm's operation.

29. The appellant notes that within 10km of the appeal site there are 9 LCTs, some incorporating several different LCAs, within the Scottish Borders, Midlothian and East Lothian council areas. Taking into consideration the limitations on visibility of the proposed development from particular locations, due to the intervening topography and structures including commercial woodlands, the Environmental Statement (ES) concludes that only 4 out of the 9 LCTs concerned would be likely to experience significant effects on their landscape character and visual amenity. These comprise: the Plateau grasslands of Lauder Common; the Uplands of Fala Moor in Midlothian; Upland Fringes – Gladstone/Auchencorth Moorlands and North Lammermuir areas; and Lowland Hills and Ridges – Mayfield Tranent Ridge. Nevertheless, the appellant argues that, in the appellant's view, the overall effect of the proposal should be regarded as "limited" - on the basis that the significant effects of the proposal, considered on its own or cumulatively, would be confined to those 4 LCTs and to only 5 out of the 15 component LCAs.

30. This is not a persuasive argument and certainly not a reasonable basis on which to disregard such adverse impacts, particularly when one of the LCAs that would be most affected is the nearest one within Midlothian at Fala Moor, which is of importance locally and strategically significant for various reasons – including the fact that it has SPA and SSSI designations and is also part of an AGLV. The AGLV designation of itself is not necessarily an indicator that windfarm developments cannot be located there, as the possible scope for accommodation of a windfarm depends on the character of the local landscape within the AGLV, as well as taking into consideration consented and operational windfarm developments in the surrounding area.

31. Nevertheless, the available evidence suggests there is likely to be a continued acknowledgement of the area's importance in landscape terms, when the current reviews of AGLVs are completed and new Special Landscape Areas (SLAs) are formally designated. I note that the council's area wide review of its own AGLV designations has resulted in a proposed new SLA designation being extended along the edge of its administrative area right up to the A68 and A697 roads - in the area of the Lammermuir Hills closest to the appeal site. I also note that Midlothian Council is proposing a new SLA designation for the adjoining land immediately across the site boundary in Midlothian, to replace the existing AGLV designation there.

32. I note that Scottish Natural Heritage (SNH) did not formally object to the proposal on landscape grounds. This is consistent with SNH's general approach whereby it normally only registers a formal objection in cases where a proposal raises concerns regarded as being of national importance. Nevertheless, SNH does raise a number of issues of significance with regard to the potential impacts of this proposal – and similarly in respect of the proposal for the other part of the proposed windfarm on adjoining land in Midlothian.

33. In summary, SNH highlights its "serious concerns regarding the landscape and visual effects arising from siting and design of the proposed (combined) windfarm at this location." In particular, it draws attention to what it regards as "the adverse landscape and visual effects arising from the scale and visual prominence of the proposal when seen within its local landscape context and as will be experienced by a wide variety of receptors within 10km." It clarifies its position by stating that one of its key concerns is the adverse

landscape and visual impacts that would be experienced along the key road corridors of the A7 and the A68 roads and “cumulatively (both in combination and sequentially) with other existing or consented developments”. In that regard, SNH draws particular attention to “the generally poor siting and design relationship of the proposal to the existing windfarm development developments at Dun Law (Phases 1 and 2) and the consented proposals at Pogie and Keith Hill, which we consider will result in adverse cumulative impacts, potentially promoting a sense of unco-ordinated windfarm development over a wider area.”

34. This range of concerns is consistent with the comments by East Lothian Council in its consultation response with regard to landscape impact. In particular, that council highlights concerns regarding the cumulative effects that would result along the Lammermuir skyline when the appeal proposal is viewed from the north and north-east. The issues raised by SNH are also broadly echoed by the Scottish Borders Council, as well as in local representations lodged by those opposing the proposal.

35. The council acknowledges that the scale and location of windfarms means that all of them will have some visual impact on the landscape. Accordingly, the council argues that the key question is whether or not in this particular case the proposal's impact would be acceptable – having regard to the terms of the SESplan and the criteria set out in policy D4 of the local plan. The council's position regarding conformity of the proposal to the SESplan is summarised later.

36. Whilst noting that the second criteria of policy D4 regards Upland type landscape settings as generally more acceptable than others for windfarms, the council points out that the appeal site is located on the very edge of its landscape character area. Based on the available evidence and my own site visits, I consider that the appeal site is part of a transitional landscape forming the backdrop for the lower lying agricultural landscape to the north of it, linking to the upland landscape of the Lammermuir/Moorfoot Hills to the south. My site visits also confirmed that, when viewed from many locations in the surrounding area, the hills to the north of the Lammermuirs – in particular Brotherstone Hill, Hangingshore Hill and Crookston Mains Hill – are visually separated from the main Lammermuir Plateau.

37. The council contends that the appeal site - being “more akin to an upland fringe landscape type and visually relating more to the rolling farmland of the Fala Moor and North Lammermuir Platform landscape character areas” is therefore “less able” to satisfactorily accommodate very large turbines, in excess of 80m to blade tip - as proposed in this case. I agree with the council in that regard and find this to be a reasonable basis on which to assess the proposal, rather than simply following the general policy principles that would be normally applied to Upland Landscape type areas when considering windfarm proposals.

38. I note that there is no disagreement between the council and the appellant that the intervening topography of the Southern Uplands, that run in a south-west to north-east direction, would greatly limit views of the proposal from further to the south within the Scottish Borders although it would be highly visible from many viewpoints within 5km of the outermost turbines. This effect of the local topography is demonstrated by the Zones of Theoretical Visibility (ZTV) as well as by other photomontage and wire diagram imagery provided by the appellant - and also confirmed by my own site visits.

39. The available evidence also accords with the broad consensus between the parties that the most major visual effect would be when the proposal is viewed from the north. The council notes, quite reasonably, that there would also be a high degree of visibility from the section of the Lammermuir Hills, immediately to the east of the A68 road, from the Moorfoot Hills immediately to the west of the A7 road and from the uplands immediately to the east and south of the appeal site – which lie between Dun Law and Hangingshaw Hill.

40. The council points out that when the proposals for the existing Dun Law windfarm development to the south-east of the Gilston appeal site were being considered, every effort was made to ensure in that case that the development would be kept away from the northern edge of the Southern Uplands landmass. This was in order to create the best relationship with the Southern Uplands and to minimise the visual impact on settlements in the Lothians to the north and north-east. The 61 turbines now operating at Dun Law were sited accordingly and have tip heights ranging from 63.5m up to a maximum height of 75m to blade tip. As the council points out this means that, when travelling south along the A68 road, views of the Dun Law turbines are restricted to only a few stretches of road and generally at distances over 5km from the nearest turbine – resulting in its visual impact not being prominent, as that windfarm is seen as part of the wider landscape. Based on the available evidence, the council is justified in contending that this would not be the case with the appeal proposal – as its siting and much larger turbines would have the effect of dominating much of the immediate landscape, particularly to the north of the appeal site.

41. Accordingly, I am persuaded by the council's argument that the location and turbine height of the Gilston proposal "negates the efforts made to limit the landscape and visual impact of Dun Law windfarm by introducing an even larger scale windfarm into this visually sensitive landscape." Furthermore, I share the concern raised by the council that the proposal "would introduce large turbines into a medium scale landscape and create a visual intrusion on the Southern Uplands, when viewed from the north, both from surrounding settlements and from the A68 (a sensitive receptor)." In respect of one criterion (No.4) of policy D4, on the matter of landscape impacts on high sensitivity receptors, the council is also rightly concerned about views of the proposal from along a 7.5km stretch of the A68 road when heading south towards Soutra Hill – noting that those viewpoints are generally within 5km of the proposed Gilston turbines.

42. The council is also justified in seeking to safeguard the landscape setting of Soutra Aisle - noting that the screening currently provided by an intervening woodland plantation would be lost if those trees were felled. It also highlights significant issues regarding likely adverse visual impacts at selected other receptors, including at Fala Kirk and at residential properties at the southern end of Fala.

43. In respect of criterion No.5 of policy D4, having justified its contention that the landscape character of the appeal site is transitional between an upland and upland fringe moorland landscape adjoining agricultural lowlands to the north, the council highlights "significant negative effects" on the character of the area that would result from installation of turbines of the size now being proposed at the appeal site. I share those concerns and am persuaded by the council's contention that the proposal could appear discordant, "dominating and destroying to a high degree the characteristics that make this medium scale landscape special."

44. Based on the available evidence, as well as my own site visits, I consider that the most significant visual impact of the proposal would be within 10km of the proposed windfarm and on a diminishing basis from viewpoints further afield within the 35km radius study area. From significantly further distances within the study area the proposed development would progressively be seen as part of a wider range of developments and landscape features.
45. In summary, I share the concerns expressed by the council, SNH and others who have criticised the proposal in terms of its likely overall landscape and visual impacts on the immediate and surrounding area within a 10km radius. The principal concern with regard to visual impact arises with regard to views from the north – and also from selected viewpoints further afield northwards and north-eastwards within the study area, as highlighted by East Lothian Council.
46. Whilst acknowledging that the appeal site itself does not exhibit remote qualities, the council is justifiably concerned that the prominence of the appeal proposal, if implemented, would adversely affect the remote qualities exhibited by Fala Moor and its environs. It also draws attention to likely significant adverse impacts that would arise with regard to the landscape and visual amenity of the Fala Moor Uplands LCA and the AGLV more generally. In that context, like the council, I do not accept the contention made by the appellant in the Environmental Statement that the appeal site is in an area that has ‘medium’ rather than ‘high’ sensitivity to change. Instead, I am more persuaded by the council’s argument that the distinctive natural character of Fala Moor itself would be severely compromised by the proximity and dominance of the proposed turbines on the appeal site.
47. The detailed photomontages produced by the appellant are useful in the assessment of the likely or potential visual impact of the proposal that would be experienced from a range of viewpoints in the surrounding area up to 35km from the appeal site. Whilst these are beneficial tools, they require careful interpretation and in reality landscape features are likely to appear closer and more prominent to the observer than is indicated in the computer-generated photomontages illustrating views from the same location, with and without the proposal.
48. I note that for the assessment made in the Environmental Statement, the original choices of viewpoints by the appellant were broadly agreed with SNH and the council. Nevertheless, the “micro-siting” of the photographic viewpoints actually used in several cases has been questioned by the council and others. In particular they contend that the precise sites used by the appellant for photographs intended to represent particular viewpoints – for example west of Fala and near to Soutra Aisle – appear to have been selected to favour less visually prominent locations and to increase the likelihood of intervening features screening any views of the proposed development.
49. Further doubts regarding the general quality, reliability and usefulness of the appellant’s photographs and wire diagrams have been raised based on the relatively poor visibility on the days when the pictures were taken and the fact that some of the precise viewpoints chosen were marred by excessive foreground clutter and other visual intrusions. The appellant rejects these criticisms and contends that the photographs used are representative of the respective viewpoints and are of the best quality possible given the adverse weather conditions available during the limited time available for this fieldwork.

50. The appellant does acknowledge that most windfarms with more than 5 turbines of a blade tip height in excess of 100m “could be expected to give rise to significant effects fairly extensively within 10km.” In that context the appellant also accepts that there are areas from which the Gilston windfarm would be clearly visible – for example along much of the B6368 road – and notes that the viewpoints originally agreed were chosen specifically because they were expected to have visibility of the proposed windfarm. As the appellant points out, the ZTV shows the locations from which some or all of the 16 turbines of the combined windfarm would be visible, theoretically. This is based solely on the height and location of the turbines and the topography of the surrounding land areas – and assumes “bare ground visibility.”

51. I am aware of the limitations of ZTV maps, if considered in isolation, given their lack of consideration of the effects of intervening features, such as woodland and buildings. These might well provide some visual screening of all or part of the proposed windfarm from particular vantage points and so mitigate the likely landscape and visual impacts of the proposal. I am also in agreement with the appellant and the council that views from the south and to a lesser extent from the west and east would be effectively screened by the local topography, in particular by the intervening higher hills, notably the Lammermuirs and the Moorfoot Hills, as well as by the areas of coniferous woodland near to the appeal site – although that is likely to change over the planned lifetime of the windfarm as mature trees of commercial woodlands are felled.

52. In any event, I endorse the concerns expressed by the council, SNH and others that an additional windfarm at this location, whether solely on the appeal site or extending over into Midlothian as a larger combined development, would contrast with the existing windfarms on Dun Law – in terms of scale and in relation to the Southern Upland landmass, when viewed from the north. In that regard, based on the available evidence and my own site visits, I find that the council is justified in contending that the proposed windfarm would create a confusing image that would relate neither to the skyline nor to the horizontal emphasis of the Southern Uplands.

53. It is widely agreed that the principal concerns with regard to visual impact relate to local views, particularly from the north – and also from selected viewpoints further afield within the study area, again mainly north and north-east of the appeal site, as highlighted by East Lothian Council. Nevertheless, the appellant argues that the ZTV mapping has given rise to a misconception that the proposal would be highly visible over much of the surrounding area - and that this has provoked unwarranted concerns being expressed regarding the landscape and visual impacts of the proposal, whereas in reality it represents a “worst case scenario.”

54. With the aim of providing reassurance that the various concerns and criticisms that have been articulated are largely unfounded or not merited, the appellant produced a new document entitled “Actual versus theoretical visibility of the Gilston wind farm”. This includes a range of new photographs, photomontages and wire diagrams from viewpoints within the Zone of Theoretical Visibility (ZTV), additional to those that accompanied and supported the planning application and Environmental Statement. The appellant also provided a “Landscape Rebuttal” document at that time to address other related concerns that had been expressed, as summarised above.

55. The new assessment of theoretical versus actual visibility covers 30 viewpoints chosen by the appellant within 10km of the appeal site - and mainly to the north of it, as this was the area of most potential visibility and concern, due to the topography of the surrounding area. The assessment made for each chosen viewpoint categorised the actual visibility of the proposal from that location as being: visible; moderately visible or no visibility – and photographic montages and wire diagrams were presented to support those findings. The appellant argues that this new assessment demonstrates that in most cases, including from many of the places suggested by the ZTV to have visibility of the proposed windfarm, in reality there would be only limited or no visibility of it - including from most points along the A7 and A68 road corridors.

56. This attempt by the appellant to provide reassurance failed to convince the council, SNH and others that made representations. For example, SNH was not persuaded to review its position on these matters, having looked at the supplementary evidence provided by the appellant. One of the local community councils challenged the whole basis of the theoretical versus actual visibility paper produced by the appellant – noting, for example, that all the selected viewpoints were chosen by the appellant, rather than being agreed, and appeared to comprise locations mostly predicted by the appellant to have limited or no view of the proposal. In summary, the community council argues that this, together with the photographs being taken on days with poor visibility, contribute to the new document's potential to mislead rather than enlighten. The council highlights similar concerns, prompting its questioning of the validity and usefulness of that evidence and therefore regarding the associated conclusions on which the appellant relies.

57. I do not find the appellant's response to those and related criticisms persuasive. Accordingly, I am in agreement with the council that the basis of this particular assessment made by the appellant is questionable, rendering that document's findings potentially misleading, such that no significant weight should be given to its conclusions. Most importantly, I conclude that the appellant has failed to demonstrate that the landscape impact and visibility of the proposal would be so limited that it should be deemed acceptable in landscape and visual amenity terms, even when viewed from the north.

58. I am also not persuaded by the arguments put forward by appellant that the siting of the proposal should be regarded as acceptable partly on the basis that the appeal site is set in a "bowl" that would contain it. Instead I find the council's description of the transitional nature of the landscape here as one proceeds southwards and upwards from the farmed lowlands of the Lothians - traversing the Fala Moor plateau by the appeal site and then upwards again to the higher slopes of the Lammermuir and Moorfoot Hills - more persuasive in setting the context for the appeal proposal.

59. In any event the appellant acknowledges that of the 11 viewpoints agreed with SNH and the council within 10km of the site, 8 would be likely to experience significant effects in terms of visual impact. It is not acceptable for the appellant to simply dismiss this as broadly acceptable on the basis that "commercial windfarms may be expected to give rise to significant effects on visual amenity, particularly for high sensitivity residential or recreational receptors within 10km" - even taking into consideration the fact that the locality already accommodates electricity transmission lines, commercial forestry and other windfarms.

60. There are no individual dwellings, large villages or towns in the immediate vicinity of the appeal site - the nearest house being at Upper Brotherstone, approximately 1km to the south of the proposed turbines. Moving slightly further afield, there are small clusters of residential properties on lower ground, for example at Gilston, and Brothershiels as well as a few isolated single dwellings and farmhouses. The nearest villages are Fala, Heriot and North Middleton, to the north-east, south-west and north-west respectively. In general, as the council acknowledges, the changing levels of the local landform and in some cases the presence of coniferous woodland plantations mean that the nearest residents would be effectively screened from the proposed turbines. This was also evident from my site visits.

61. Nevertheless, more direct, close views of the site would be experienced by those visiting Fala Moor. The excellent track, signposted as a public footpath, that traverses Fala Moor provides uninterrupted close views towards the appeal site and beyond to the higher hills to the south – as well as offering panoramic vistas across the Lothians to the north, east and west. Furthermore, residents at North Middleton and at other hamlets and settlements slightly further afield, such as Edgehead – and local people and visitors travelling southwards along road corridors such as the A7 and the A68, as well as along the B6368 and other more minor roads nearby – would experience significant visual awareness of the proposed windfarm. In many cases this would be seen in the context of the Dun Law windfarms and other smaller ones recently consented nearby, in particular Pogie and Keith Hill. This is because of the more open landscape to the north offering extensive views southwards towards the appeal site, as well as taking in one or more of the other (existing and consented) windfarms in the surrounding area. Concerns about cumulative impacts are considered in more detail below.

62. In my view the appellant has not effectively addressed the outstanding concerns summarised by SNH that appear to be widely shared locally, based on the representations lodged and also articulated by the local planning authorities of the Scottish Borders, Midlothian and East Lothian. In summary, I am persuaded by the arguments put forward by the council and others that the appellant's particular selection of viewpoints, its assessments made and conclusions drawn in that regard combine to under-represent the likely landscape impacts locally and the loss of visual amenity from a number of surrounding viewpoints. For the reasons outlined above, I am concerned that the scale and form of the proposed development would represent a significant and inappropriate change to the existing landscape character and visual amenity of the surrounding area - even though the site is generally well screened from almost all viewpoints to the south, principally by the local topography.

63. More specifically, given the scale and configuration of the local landscape, which shapes its character, I conclude that the height and number of turbines, combined with their prominent, elevated situation would result in the proposed windfarm being perceived as dominant and even overbearing for those in the immediate vicinity. This would be the case even for the proposal solely within the Scottish Borders - and those concerns would be exacerbated if this was combined with the proposed turbines now being sought for the adjoining site in Midlothian. I am particularly concerned about the unacceptable adverse effects on the special character of Fala Moor and its environs and the significant loss of visual amenity along sections of the A68, A7 and B6368 roads, as well as from settlements slightly further afield, such as North Middleton and Edgehead, that would experience views of the appeal proposal.

64. Accordingly, I find that SNH is justified in expressing its significant concerns regarding the adverse nature of landscape and visual effects that would be experienced if the proposal was implemented - noting that “such effects will also be frequently experienced cumulatively (both in combination and sequentially) with other existing or consented [windfarm] developments.”

Cumulative Impacts

65. A number of parties have expressed concerns about the likely cumulative impacts of the appeal proposal, when considered in the context of proposed and consented as well as existing windfarms in the surrounding area. The appellant has provided appropriate maps and related documentation to enable those other sites to be taken into consideration. Nevertheless, for the reasons outlined below, I agree with the council and others who argue that the extent and significance of the likely cumulative impacts arising from the proposal have not been fully recognised or given due weight by the appellant.

66. In that regard SNH quite properly draws particular attention to “the generally poor siting and design relationship of the proposal to the nearby existing windfarm developments at Dun Law (Phases 1 and 2) and the consented proposals at Pogie and Keith Hill, which we consider will result in adverse cumulative effects, potentially promoting a sense of unco-ordinated windfarm development over a wider area.”

67. In March 2012 SNH issued revised guidance on the assessment of cumulative impacts of windfarm proposals. This defines cumulative impacts as “the additional changes caused by a proposed development in conjunction with other similar developments or as the combined effect of a set of developments taken together.” The latest guidance from SNH makes reference to its earlier document “Siting and Designing Windfarms in the Landscape” issued in 2009. On page 37 this sets out a number of key principles on designing windfarms in landscapes with multiple windfarms. Whilst the appellant contends that the proposal is compliant with each of those principles, this is not conclusive from the evidence presented.

68. One of those principles identified by SNH recognises that some landscape character types will be able to accommodate multiple windfarms whilst this may be inappropriate within others. It then expresses a general preference for windfarm development to be limited in its range of landscape character types within a particular area and seeks to avoid any reduction in the distinction between those character types. In addition, SNH points out that windfarms should maintain visual separation from one another in a landscape - as well as stating that multiple windfarm developments should not change distinctive skylines or occupy the major proportion of a skyline from key viewpoints or receptors. Furthermore, the guidance states that windfarms should take account of existing focal points in the landscape, which may be neighbouring windfarms. In this regard I have included in my consideration schemes in the surrounding area that are committed with planning permission and others at the planning stage, as well as windfarms already built in the area.

69. The appellant, in response to the concerns expressed by the council and others with regard to cumulative environmental impacts, argues that these were fully assessed and considered to be limited in magnitude and extent. This is explained by the appellant as resulting from the proposal being screened from most locations - including from anywhere south of the site, as well as from many potential views from the north, east and west

because of intervening vegetation. I do not find this argument persuasive, having taken into account the scale and location of the proposal, with or without the proposed turbines on the adjoining site in Midlothian, when considered in the context of the existing, committed and proposed commercial windfarm developments closeby and in the surrounding area.

70. In that context I share the concerns expressed by the council, SNH and others making representations, that approval and implementation of the appeal proposal in the Scottish Borders in isolation – and more so in the case of a combined 16 turbine windfarm as a whole - would represent a further, significant erosion of the landscape character and visual amenity of the wider area, given the other windfarm developments already existing and committed in that area. More specifically, in the context of the other existing and consented windfarms nearby – most notably those known as Dun Law 1 and 2, Pogbie and Keith Hill - I am concerned that approval and implementation of the Gilston windfarm, in whole or part, would mean that windfarms would become an almost continuous feature along the visually striking skyline of this section of the Moorfoot and Lammermuir Hills, particularly when viewed from the north. These cumulative impacts would be experienced, to varying degrees, from a range of different viewpoints to the north - in or near neighbouring settlements and along sections of the A7 and A68 corridors, as well as from along the minor roads that link them. I am concerned that this would be to the significant and unacceptable detriment of visual amenity for local residents and visitors alike.

Conclusions regarding landscape and visual amenity considerations

71. On first reading, the appeal proposal might well be regarded as broadly in line with the Scottish Government's policy to support renewable energy generation in rural areas - and the general encouragement for renewal energy proposals set out in Policy 10 of the newly approved strategic development plan, as discussed in more detail below. Nevertheless, on closer inspection, I find that the proposal would not satisfy key conditions or qualifications on which those statements of policy support for such developments are based – in particular regarding protection of the environment and other likely adverse consequences, including cumulative impacts, affecting the amenity of the local community and visitors to the area. Most importantly, for the reasons outlined above, I conclude that the scale, form and location of the development proposed on the appeal site would represent a significant, detrimental change to the existing landscape character and visual amenity of the immediate locality and the wider area and would also result in unacceptable cumulative impacts.

72. In particular, as stated earlier, the SPP support for wind energy proposals is dependent on the environmental and cumulative impacts of proposed developments being satisfactorily addressed taking into account existing and committed windfarms in the area, as well as proposals for others at the planning stage - noting that cumulative impact will largely relate to the scale and proximity of the development in question. The SPP also states that the potential for acceptance of a new windfarm should be based on consideration of the scale of the proposed development in its local context. In this case, for the reasons outlined earlier, the proposal raises significant concerns in respect of these various requirements.

73. Similarly, the appeal proposal would not satisfy the requirement of policy 10 of the SESplan for the scheme to be achieved in an acceptable manner, taking into account,

amongst other matters, relevant environmental considerations - including its location and likely landscape, environmental quality, community and cumulative impacts. For the reasons outlined above, I conclude that the proposal does not accord sufficiently with the government policy set out in SPP and associated national guidance or with the development plan policy requirements, in particular those related to policy 10 of SESplan.

74. For the same reasons - and again irrespective of whether or not there were other wind turbines approved on the adjoining site in Midlothian - I conclude that the appeal proposal would not accord with all of the criteria set out in policy D4 of the adopted local development plan concerning renewable energy proposals, having regard to its requirement to take account of the social, economic and environmental context. In particular, for the reasons outlined above, I am not persuaded that the proposal can be accommodated “without unacceptable impacts on the environment”. In reaching this conclusion I have had regard to its likely significant adverse effects on the landscape character of the area and on visual amenity for high sensitivity receptors, such as the viewpoints along the A68 and A7 road corridors, which are major tourist routes, and from Fala Moor which has important landscape designations as well as having remote qualities that are justly valued by many. For the reasons previously outlined, I am also concerned that the proposal would result in interference with a prominent skyline and its visibility would pose an unacceptable threat to the area’s “fragility to change.”

75. Furthermore, having had regard to the appeal site’s surroundings, including existing and committed wind energy developments there, I conclude that the proposal would not satisfactorily accord with the detailed SNH guidance on the siting and design of wind turbines, including with regard to cumulative impacts.

Residential Amenity

76. A number of representations have been lodged arguing that the proposal would adversely affect the amenity of those living in the surrounding area. It is evident, however, that there are no houses offering a direct view of the appeal site within 1km of its boundary. Indeed, as stated earlier, there are no individual dwellings, large villages or towns in the immediate vicinity of the appeal site - the nearest house being approximately 1km to the south of the proposed turbines and the nearest villages being slightly further to the north, north-east, south-west and north-west respectively.

77. As the council acknowledges, the screening effects of the undulating local hills and woodland plantations mean that the nearest residents would not be likely to experience significant, if any, visual, shadow flicker or noise effects of the proposals, and this was reaffirmed by my site visits. Furthermore, the Moorfoot and Lammermuir Hills effectively screen views of the site from almost all nearby vantage points to the south.

78. I also note that the council has not challenged the detailed findings or overall conclusions of the assessment made by the appellant with regard to residential amenity. Instead it considers that any outstanding concerns set out in representations on these matters could be dealt with by means of appropriate planning conditions, if planning permission was granted. I note that, apart from individual expressions of concern, no substantive evidence has been lodged to challenge the assertions made and conclusions drawn by the appellant with regard to residential amenity.

79. I have taken into consideration the distances separating the proposed wind turbines from the nearest dwellings as well as the effects of screening provided by the changes of level of the local topography and by intervening structures, such as woodland plantations. Based on the available evidence and my own site visits, I conclude that there would not be significant detrimental effects on residential amenity with specific regard to shadow flicker and noise disturbance, for those living in the nearest houses to the appeal site. In those respects I find no basis on which to question the findings or conclusions of the appellant. Accordingly, I am not persuaded that there would be sufficient reason to refuse the appeal solely on the basis of concerns raised about those aspects of residential amenity for those living in houses surrounding the appeal site.

80. For the reasons outlined earlier, however, I do share the concerns expressed by local objectors and others that, when seen from local and other viewpoints, the number, height and siting of the turbines and their elevated position would make the appeal proposal appear prominent and out of scale and character, having had regard to its local context. Those wider visual amenity considerations and associated issues arising, for local residents and visitors alike, have been explored in detail earlier and have informed my overall conclusions.

Natural Heritage

81. The appeal site itself is not covered by any local, national or international wildlife designations – but it is within the Moorfoot Hills Local Biodiversity Action Plan (LBAP) area. The site is part of a larger area of unimproved grasslands with a mix of dry and wet upland heath. It also includes some upland scrub that I note is a local priority habitat, whilst blanket bog, such as that found here and on the adjoining Fala Moor, along with dry and wet heath, are all UK priority habitat types. The main threats identified in the LBAP are loss and deterioration of the open upland heath vegetation, in particular with regard to the limited and more fragile bog communities there.

82. As noted earlier, the site adjoins the Fala Flow Special Protection Area (SPA) and Ramsar Site (Convention on Wetlands of International Importance) and a Site of Special Scientific Interest (SSSI). The main concerns in this regard have been highlighted by the council, SNH, RSPB, Scottish Wildlife Trust as well as East Lothian Council. They include, most notably, the likely direct and indirect impacts of the proposed development on the ornithological interests of the SPA – particularly in respect of the migratory movements and winter roosting here of pink-footed geese. RSPB, like SNH, are now content that the bird surveys carried out by the appellant are satisfactory and that appropriate mitigation measures could be secured by planning conditions attached to any permission granted for the proposed windfarm.

83. I also note that, after further consideration of the available evidence presented, SNH now agrees with the conclusion reached by the appellant's specialist advice that "the proposed development is not likely to have a significant effect on the pink-footed geese interests for which the Fala Flow SPA/SSSI was designated despite the proximity of the site." Furthermore, I have no reason to question the latest position of SNH, which concludes that "in relation to other impacts on the natural heritage, it is our opinion that these can be adequately addressed through the use of conditions on any planning permission granted." Similarly, SNH is satisfied that although there is connectivity between the appeal site and the River Tweed SAC, there would be no significant effect on its

qualifying interests from the construction and operation of the proposal – provided that all appropriate mitigation measures are implemented to prevent any impact on local watercourses.

84. Based on the available evidence I conclude that, if approved, the proposal could be controlled by means of planning conditions in such a way that it would not contravene the adopted local plan – at least in respect of the need to safeguard the most important natural heritage features of the area concerned, including with regard to migratory and roosting birds.

Cultural Heritage

85. As outlined earlier, the local topography and some commercial woodland plantations would effectively screen views of the proposed windfarm from many surrounding vantage points. Nevertheless, concerns have been expressed about the likely effects of the proposal on the settings of places of historic interest in the surrounding area – including, amongst others, Crichton Castle to the north and Soutra Aisle to the north-east. I am satisfied that Crichton Castle, being flanked immediately to the south by a small hill is effectively screened from the proposed windfarm. This was confirmed by my site visit to the castle.

86. It was also evident on another site visit that views from the elevated site of Soutra Aisle in the direction of the nearest turbines of the proposed combined windfarm, little more than 1km away, would be effectively blocked by an intervening woodland plantation, for the time being at least. Nevertheless, given the fact that this and other commercial forestry in the vicinity of the appeal site appears to be approaching maturity, it is likely that tree felling in the area would reduce to some extent the effect of existing woodland screening for the turbines during the planned 25 years life of the windfarm. Clearly that would potentially impact adversely on the setting of Soutra Aisle, which occupies a prominent hill-side location from which long, uninterrupted open vistas of the surrounding countryside, particularly to the north, east and west, can be enjoyed by visitors.

87. Historic Scotland confirms that there are no nationally important heritage sites within the development site. It has also reviewed the potential impacts on the settings of surrounding assets – including with respect to Fala Luggie Tower, Soutra, Aisle, Dere Street Roman Road, Crichton Castle and Nether Brotherstone Fort. Based on the location of the proposed turbines and taking into consideration the local topography, Historic Scotland is satisfied that the proposed development would have no significant adverse effects on the settings of those sites. My own concerns regarding the potential adverse effects of the proposal on the setting of Soutra Aisle, in the event of intervening woodland policies being felled during the period of operation of the proposed windfarm, have already been set out above.

88. There is no disagreement that there are likely to be a number of sites with remains of archaeological and historical interest in the vicinity of the appeal site. The general aim in such cases is to preserve archaeological deposits and historic features in situ as a first option but where this is not possible they should be recorded. These are matters that can be dealt with by means of planning conditions attached to any planning permission granted. No substantive evidence to the contrary has been lodged.

89. Based on the available evidence and notwithstanding my concerns outlined earlier regarding the setting of Soutra Aisle in the longer term, I conclude that the likely impact on the cultural heritage - including the local and wider historic environment, including archaeological sites and scheduled monuments - is not of itself sufficient reason to warrant dismissal of the appeal or refusal of planning permission. Accordingly, I am satisfied that with regard to conservation of the historic environment the proposal would accord with the terms of the development plan, including policies BE2 of the adopted local plan, which deals specifically with archaeological sites and ancient monuments.

Other considerations, including the likely benefits of the proposal

90. The appellant points out that the site in question is broadly flat and readily developable with good ground conditions and has an excellent wind resource - as well as being in a location that would not require significant local grid reinforcement to enable its connection to the national grid. The appellant also draws attention to the fact that the appeal proposal would contribute to meeting the important national targets for renewable energy generation, as outlined in the version of the SESplan approved by Scottish Ministers – noting that the SESplan is supportive of such developments, subject to them satisfactorily addressing various criteria. The appellant points out that the national targets highlighted in the SESplan will only be met if additional new renewable energy schemes are consented. In that context it is argued that the appeal proposal could make a valuable contribution to meeting those targets.

91. In summary, the appellant contends that the appeal proposal accords with the SPP and the SESplan, on the basis that there are no significant negative economic, social or transport considerations and its negative environmental impacts are limited to visibility, which is common to all windfarms. The appellant points out that the term ‘environment’ includes other matters in addition to visual appearance and argues that wind energy contributes to the maintenance of the environment in that broader sense meant by part b) of policy 10 the approved SESplan.

92. Clearly the appeal proposal, with or without the associated development proposed on the adjoining site in Midlothian, would provide a source of renewable power generation, in line with the government’s general policy principle of supporting renewable energy developments. As a sustainable energy development, this scheme would contribute towards meeting associated national targets on power generation from renewable sources and offer some environmental benefits, including reducing carbon dioxide emissions. It would also generate jobs and revenue for the operator over the planned 25 year life of the windfarm. There is also general encouragement in principle for such developments set out in policy 10 of the recently approved SESplan, the strategic development plan that includes this area. There the national targets on energy generation from sustainable sources are restated. Nevertheless, I as I have noted earlier, there are qualifications placed on such support set out in those national and regional energy policy statements.

93. As previously stated, there have been some representations lodged in support of the appeal proposal. In addition to citing the contribution this would make towards meeting government objectives and targets regarding renewable energy, like the appellant they argue that the proposal would result in minimal environmental impact - with no nearby

villages or towns being affected and no direct views of the scheme from the nearest residential properties. A number of the supporters also contend that the visual and landscape impacts of the Gilston proposals would be mitigated by the fact that wind turbines are already a well-known and accepted feature of the local landscape. I note, however, that these opinions are not shared by the majority of those that made representations - who have highlighted a range of concerns, as summarised earlier, based on which they oppose the development. In many cases opponents state that their objection is partly based what they regard as a recent proliferation of windfarm consents in the locality, to the detriment of the local landscape and its amenity for local people and visitors alike.

94. In summary, irrespective of the differences of opinion summarised above, it is evident that in the event that planning permission was granted there would be some economic benefits arising that would be in accordance with the policy aims and associated targets regarding sustainable energy generation set out in the SPP and SESplan. Clearly, the extent of such benefits – as well as the associated adverse environmental impacts arising - would vary depending on whether permission was granted for the scheme on the appeal site in isolation or for the whole proposed combined windfarm extending over into Midlothian. In any event, the fact that there would be tangible economic benefits is not of itself a sufficient reason to grant planning permission in this case – as the terms of the SPP and SESplan make clear.

95. The council, with regard to the SESplan, states that it is supportive of the need to develop the energy sector and the contribution that can make to sustainable economic development and to meeting government targets for renewable energy, which include but are not limited to wind farm schemes. As the council points out, the SESplan, like the Scottish Borders Structure Plan that it replaced, continues to require that the likely effects on the built and natural environment from proposed developments are weighed against energy production benefits that would arise, to check the extent to which they balance. For the reasons outlined earlier, I agree with the council that in this case the benefits of new energy provision are outweighed by the disbenefits of the proposal's unacceptable levels of environmental impact, in particular on the landscape and visual amenity, including in terms of cumulative impacts. On this basis I conclude that the council is justified in stating that the appeal proposal would not accord with one of the stated aims of the SESplan, in paragraph 17, to “conserve and enhance the natural and built environment” – and would also detract from ‘the Vision’ of that plan for a healthier, more prosperous and sustainable place that is recognised as an outstanding area to live and work.

96. In my view, notwithstanding the number of windfarms already built and others recently consented in the surrounding area, this locality remains a relatively attractive rural area. This is consistent with Midlothian Council's intention to include the part of the proposed combined windfarm site that falls in its administrative area within a new Special Landscape Area, when its status as an Area of Great Landscape Value is formally reviewed and updated.

97. Based on all of the available evidence and for the reasons previously stated, I find that the council is justified in concluding that the economic benefits that would accrue from a windfarm on the appeal site are outweighed by the need to safeguard what is a locally

and strategically important area of land close to Fala Moor from inappropriate developments such as the appeal proposal. I also conclude that this approach of balancing the competing considerations is all in accordance with national planning policy, associated guidance and the development plan policies on such matters.

Overall Conclusions

98. For the reasons outlined earlier, I conclude that the proposal would give rise to an unacceptable number of significant adverse landscape and visual amenity impacts, including cumulative impacts. In my view these have tended to be understated by the appellant in the assessments made, when categorising them overall as being acceptable. Furthermore, the appellant, whilst seeking to demonstrate that the case in favour of the proposal was based on a balanced assessment, has unreasonably diminished the significance of even the adverse impacts that are acknowledged. In doing so the appellant has unfairly dismissed the issues of concern raised by the council, SNH and others.

99. As outlined earlier, I broadly share the concerns expressed by the council with regard to the likely adverse impacts of the proposed scheme and related issues arising. I note that similar, significant issues of concern have been highlighted by others, through consultations and in representations – including by SNH, even though SNH did not formally object to the proposal.

100. In summary, for the reasons outlined, I conclude that the economic case and related sustainability benefits put forward in support of the appeal proposal do not provide sufficient justification to override the outstanding concerns regarding likely adverse impacts - notably with regard to significant local and wider landscape and visual amenity issues, including in respect of cumulative impacts. Accordingly, I conclude that the appeal proposal would not accord with all relevant policies of the development plan and national planning policy and associated guidance on these matters.

101. I have considered all the other matters raised but none of these, individually or in combination, outweigh the considerations on which my decision is based.

Richard E Bowden

Reporter