



APPLICATION FOR PLANNING PERMISSION (11/00847/DPP) ERECTION OF 9 WIND TURBINES AND ASSOCIATED TRANSFORMERS; ERECTION OF ANEMOMETER; FORMATION OF ACCESS TRACKS; AND ASSOCIATED WORKS ON LAND AT FALA MOOR, FALA, MIDLOTHIAN

Report by Head of Planning and Development

1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION

- 1.1** The application is for the erection of 9 large scale wind turbines (up to 115 metres in height) as part of a cross boundary wind farm partially located in the Scottish Borders (a further 7 turbines). There have been 14 letters of representation and consultations responses from Historic Scotland, the Scottish Environment Protection Agency (SEPA), Scottish Natural Heritage (SNH), Transport Scotland, the Ministry of Defence (MoD), the National Air Traffic Services (NATS), East Lothian Archaeological Services, East Lothian Council, the Wildlife Information Centre, RSPB Scotland, the Scottish Wildlife Trust, Scotways, the Forestry Commission, the Council's Policy and Road Safety Manager and Environmental Health Manager.
- 1.2** The most relevant development plan policies are RP5, RP6, RP7, RP10, RP19, and NRG1 of the Midlothian Local Plan. The Landscape Capacity Study for Wind Turbine Developments in Midlothian (January 2007) is a significant material consideration. The recommendation is to refuse planning permission primarily because of the proposed developments impact on the landscape.
- 1.3** The following is a summary of the determining issues;
- Landscape**
- 1.4** There are a number of issues relating to landscape impact which include the sensitivity of the site to development, the height of the turbines and the cumulative impact with other turbines.
- 1.5** The site is set within the designated Area of Great Landscape Value, and within an area that was defined in the Landscape Capacity Study for Wind Turbine Developments in Midlothian as being of high sensitivity, and not suitable for any wind energy development.

- 1.6 The turbines at 115 metres in height to tip would be very prominent in the landscape when viewed from certain key locations. The height of the turbines is substantially out of keeping with existing turbines at Dun Law leading to conflicts of scale and a distorted perception of the landscape.
- 1.7 The addition of a further wind energy development at Fala Moor will extend the cumulative impact of wind farms further westwards leading to a significant increase in the presence of wind turbines on the horizon when viewed from large areas of Midlothian.

Wildlife and habitats

- 1.8 There have been a number of concerns raised about wildlife interests, in particular relating to the adjacent Special Protection Area at Fala Flow. It has however been concluded that all concerns could be resolved by condition and in particular by means of the implementation of a Bird Protection Plan.

Peat

- 1.9 Concerns have been raised regarding the excavation and reuse of peat and the enhancement of peat bog habitats, as well as the removal of forestry and the need to replant on site or elsewhere. These issues are significant but have all been resolved either through the proposed habitat management plan in the Environmental Statement or following further supplementary information submitted by the applicant.

Aviation and Transport

- 1.10 There are no outstanding ground based transport issues. There remains an unresolved objection from the Ministry of Defence regarding interference with two radar stations in northern England. It is likely that these are resolvable, however the work has not yet been carried out to demonstrate this and the objection from MoD remains and planning consent could not be issued prior to this being resolved.

Noise

- 1.11 There are no issues regarding noise from the operation or the construction of the wind farm.

Other matters

- 1.12 Issues in respect of other matters including water supply, media reception, rights of way or public safety can be addressed by the applicant.

The Renewable Energy Benefits

- 1.13 The proposal would contribute towards meeting a number of international and national objectives for greenhouse gas emission reductions, including the Kyoto Protocol and the adopted Scottish Climate Change Programme. The carbon payback associated with the proposed development is given as 14 months (i.e. the period over which CO₂ generated by the construction work and peat excavation will be offset by CO₂ savings over fossil fuel based electricity generation).**

2 LOCATION AND SITE DESCRIPTION

- 2.1** The site is set within countryside in the foothills of the Moorfoot Hills and extends from Midlothian into the Scottish Borders. It sits 1.8 kilometres west of Dun Law Wind Farm. It is between the A68 Trunk Road to the north and the A7 to the south, about 2.5 kilometres south west of the A68 at Soutra. Access is via the B6368 which joins the A68 at Soutra Farm.
- 2.2** The site extends to 340 hectares, of which about half is located within Midlothian and the remainder within the Scottish Borders. The site is located to the south west of the village of Fala and to the south east of the village of Tynehead.
- 2.3** The area proposed for turbine development is located to the north-west and south-east of Brothershiels Burn which runs through the centre of the site. The burn forms the boundary between the two authorities at this point. The terrain varies from 305m above sea level at the Burn, to approximately 420m at the top of Brotherstone Hill.
- 2.4** The site comprises a mix of improved and semi-improved pasture with areas of open moorland towards Fala Moor and on the higher ground to the east of the burn. Several tree shelterbelts, which are typical features of this landscape, occur locally with larger areas of coniferous plantation to both the east and west of the site.

3 PROPOSAL

- 3.1** The applicant proposes to install and operate 16 wind turbines with associated infrastructure straddling the boundary of Midlothian and Scottish Borders. The two planning applications make provision for the proposed development of a wind farm within a total area of 340 hectares.
- 3.2** The maximum height of the turbines would be 115m to the tip of the blade (in the case of two turbines the tip height will be restricted to 100m). It is expected that each wind turbine would generate approximately 2 megawatts (MW) of energy and as a consequence the applicants consider that this wind farm would generate enough electricity to supply approximately 19,500 homes.

- 3.3 The key component parts across the wider total wind farm site include the following:
- the erection of 16 wind turbines each with externally housed transformers (14 of which would be 115m to tip and 2 of which would be 100m to tip). The turbines would be lit with an infrared light;
 - the construction of turbine foundations and associated crane hard standings and lay down areas;
 - the assembly and erection of a 70m anemometer mast;
 - the construction of approximately 9.2km of new access tracks;
 - the installation of underground cabling within the site to connect the turbine locations, the anemometer mast and electrical sub-station;
 - the creation of an access point from the B6368 to the north of Makimrich Wood;
 - the creation of an emergency access by way of upgrading the existing unsurfaced moor road leading from the A68 near to Fala village;
 - the creation of 11 water crossings and 3 pipeline crossings;
 - tree felling;
 - the erection of a substation and control room;
 - associated communications and other infrastructure;
 - the creation of temporary construction compound;
 - the creation of a temporary concrete batching facility; and
 - the creation of a temporary borrow pit.
- 3.4 The part of the wind farm site that is within Midlothian contains 9 of the turbines and the associated access roads crossings and cabling, and the anemometer mast. Eight of the turbines will be 115 metres to tip, and one will be 100 metres to tip. The lower turbine is to the west and on the highest ground (within Midlothian site). The highest turbine is on the 335 metre contour and the lowest is on the 310 metre contour.
- 3.5 The wind farm would connect to the electricity network through an onsite substation. This substation is on the Scottish Borders site.
- 3.6 It is anticipated that the proposed development would link into the electricity network in one of two ways. It may be connected to existing substations at the Dun Law Wind Farm or alternatively, to Cockenzie Power Station. It is expected that either connection would be by way of underground cabling.
- 3.7 The proposed development scheme includes the felling/removal of approximately 14.65 hectares of existing woodland. This woodland is within the Midlothian site.
- 3.8 A full description of the proposals has been provided in the Environmental Statement. This includes the provision of a draft Construction Method Statement.

3.9 The Environmental Statement (ES)

- 3.10 The development is a major development under the hierarchy of developments regulations, and is also a schedule 2 development under the 2011 EIA regulations.
- 3.11 A full environmental statement was submitted with the application and this included The non-technical summary (volume 1); the written statement summary (volume 2); the drawings summary (volume 3); the technical appendices summary (volume 4); and confidential wildlife information.
- 3.12 In addition to the ES a Planning Statement has been submitted by the applicant. It states that the proposed wind farm generally complies with the relevant development plan policy, it is supported by many of the relevant material considerations and that there are no material considerations that justify the refusal of the proposed wind farm.
- 3.13 The applicant has also submitted a report on the pre-application consultation procedure that was carried out prior to the submission of the full planning application.

3.14 Supplementary Environmental Information

- 3.15 Since the submission of the original ES, two sets of Supplementary Environmental information have been submitted by the applicant.
- 3.16 In May 2012 further landscape and visual amenity information was submitted in the form of a report and additional Zone of Theoretical Visibility (ZTV); viewpoint analysis. This was partly due to a request for further cumulative assessment to be carried out relating to proposed wind farms at Brunta Hill, Muircleugh, and Shaw Park. Also additional assessment was required at agreed viewpoints.
- 3.17 Also submitted was a technical report on peat which was in response an objection raised by SEPA. The document considers; the volume and nature of peat which is to be extracted as a result of the proposed development, the nature of peat covering the site, and the peat probing exercise that has been undertaken as part of the Environmental Impact Assessment (EIA). The document then considers the potential for the reuse of peat on the application site as a whole.
- 3.18 Also submitted in May 2012 was a further viewpoint assessment taken from south of Dewarton and looking across Crichton Church and Castle towards the wind farm site.
- 3.19 In September 2012 three further documents were submitted. These included an archaeology report (in response to comments from Scottish Borders Council), a landscape report (in response to submissions by SNH and Council officer comments), and a noise addendum which presents updates to the noise assessment presented in the ES.

- 3.20 Also submitted was a report entitled “Actual v Theoretical Visibility Assessment for Gilston Wind Farm”. The purpose of this document is to respond to some of the concerns raised by SNH and Council officers in relation to the visibility within 10 km of the site, particularly along the road network surrounding the site.

4 BACKGROUND

- 4.1 There have been two previous applications related to the current planning application;
- 4.2 Application **11/00054/DPP** for the erection of a 60m high temporary anemometer mast was granted conditional planning permission on 16 June 2011; and
- 4.3 Pre application consultation **11/00279/PAC** for erection of a windfarm was undertaken by the applicant in May and June 2011.

5 CONSULTATIONS

- 5.1 Consultation responses have been received from the following;
- 5.2 **Historic Scotland (HS)** confirms that there are no nationally important heritage sites within the proposed development site and that it is broadly content with the conclusions reached in the ES.
- 5.3 It had also reviewed the potential indirect impact on the setting of the surrounding assets, including the Fala Luggie Tower (AM No. 5653), Soutra Aisle (AM No. 3067), Dere Street Roman Road (AM No. 2962), Crichton Castle (AM No. 90084) and Nether Brotherstone Fort (AM No. 1177). Taking into account the proposed location of the turbines, as well as the intervening topography in some cases, HS is content that the proposed development will have no significant adverse impact on the setting of these sites.
- 5.4 Overall, HS is content with the findings of the ES in relation to predicted impacts on the setting of assets and concludes that there will be no significant impacts on any nationally important heritage assets. Therefore, it offers no objection to the proposal.
- 5.5 **The Scottish Environment Protection Agency (SEPA)** initially objected to the application on the grounds of a lack of information in relation to the re-use and disposal of excavated peat. However, following the submission of a technical statement on peat on 29 May 2012, SEPA withdrew its objection. SEPA requests that a condition be attached to any grant of planning permission requiring the submission of an Environmental Management Plan (EMP). SEPA strongly recommends that the submitted EMP also includes a Peat Management Plan.

- 5.6 SEPA is generally satisfied that the layout has avoided deeper areas of peat where possible. It is expected that final site infrastructure will be micro-sited (i.e. there will be some repositioning of turbines within the general layout area) and SEPA request that impact on peatland in this area is specifically considered through this process. It expects the requested EMP to detail any proposals for micro-siting, and any subsequent changes to the layout should be discussed with SEPA prior to the plan being finalised.
- 5.7 Six watercourse crossings are proposed within the Midlothian Council boundary and the proposed crossings will require authorisation from SEPA under the Water Environment (Controlled Activities) (Scotland) Regulations 2011 CAR). The design of the watercourse crossings must be agreed with SEPA prior to construction starting at the site.
- 5.8 SEPA require that a surface water drainage layout for the site should be submitted to them as part of the requested Environmental Management Plan and locations of any settlement areas should be clearly identified. Any sustainable drainage systems (SUDS) should be kept separate from areas of habitat enhancement which make up part of the Habitat Management Plan.
- 5.9 **Scottish Natural Heritage (SNH)** initially objected to the application due to unresolved concerns relating to possible impacts upon pink-footed geese and it also raised serious concerns relating to the impact on the landscape.
- 5.10 With regards to the Fala Flow Special Protection Area (SPA), the proposal could be progressed, however, the proposal raises natural heritage issues of national interest and SNH objects to this proposal unless it is made subject to the mitigation measures provided in its response.
- 5.11 With regards to landscape and visual impact, the key concerns relate to; the significant adverse landscape and visual effects arising from the scale and visual prominence of the proposal when seen within the local landscape context when viewed from various receptors within a 10km range; the significant adverse nature of landscape and visual effects that will be experienced from the key road corridors of the A7 and A68, and which will frequently be experienced cumulatively with other existing or consented wind developments; and 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 will result in significant adverse cumulative effects, potentially promoting a sense of uncoordinated windfarm development over a wider area.

- 5.12 SNH has not however objected on landscape grounds for the reason that it only raises objections for certain cases affecting nationally important protected areas, and for some cases outside such areas where a development proposal raises natural heritage issues of national interest. There were not considered to be any issues of national concern here.
- 5.13 SNH consider that other environmental issues can be adequately addressed through the use of conditions on any planning permission granted as is presented in their response.
- 5.14 SNH provide a very detailed response in the four annexes to its letter. Annex 1 relates to European Designated Sites, Annex 2 covers Landscape And Visual Impacts, Annex 3 deals with Other Environmental Issues, and Annex 4 is a Draft Management Plan For Fala Flow SPA/Ramsar site/SSSI.
- 5.15 In its later response dated 13 July 2012, SNH withdrew its objection relating to the impacts of the proposed emergency access route on the SPA. SNH was now satisfied that the road would only ever be used for vehicular access under exceptional circumstances. It maintains its objection relating to the securing of mitigation measures, as set out under the Bird Protection Plan (BPP) and all other matters relating to landscape and visual impacts.
- 5.16 Following the submission of the final round of Supplementary Environmental Information (SEI) submissions, SNH advised that having reviewed their response of 3rd July 2012 due to time restraints and in light of this further information and analysis it did not wish to provide additional or revised advice. SNH made it clear that this does not imply that it fully agrees with the analysis of our response as presented by the applicant. SNH advised that with regards landscape and visual impacts, these should be considered in their full state as set out in Annex 1 of its 3rd July 2012 response.
- 5.17 SNH maintains its objection relating to the securing of mitigation measures, as set out under the Bird Protection Plan (BPP), with particular regard to the proposed emergency access route through the SPA.
- 5.18 **Transport Scotland** has no objection as it considers that there will be a minimal increase in traffic on the trunk road during the operation of the facility.
- 5.19 It does advise that as it is likely that many of the construction loads would be categorised as abnormal, authorisation from our management organisations Amey and BEAR Scotland may be required. It is advisable that they are consulted as to the feasibility of transportation of these items to site. Due to the frequency and number of these loads it is UK policy to restrict these movements via the nearest suitable port. The following two conditions are required;

- 1. The proposed route for any abnormal loads on the trunk road network must be approved by the trunk roads authority and / or its Operating Company prior to the event. Any accommodation measures required including the temporary removal of street furniture, junction widening, traffic management etc must similarly be approved.*
- 2. Any additional signing or temporary traffic control measures deemed necessary due to the size or length of the loads being delivered must be undertaken by a recognised Quality Assured traffic management consultant, to be approved by Transport Scotland and / or its Operating Company before delivery commences.*

- 5.20 The **Ministry of Defence** (MoD) objects to the proposal as the turbines will be 63.8 km from, in line of sight of, and will cause unacceptable interference to the Air Traffic Control radar at Deadwater Fell (Kielder, Northumberland), and RAF Spadeadam (24 km north East of Carlisle).
- 5.21 Wind turbines have been shown to have detrimental effects on the performance of MoD radars. These effects include the desensitisation of radar in the vicinity of the turbines, and the creation of "false" aircraft returns which air traffic controllers must treat as real. The desensitisation of radar could result in aircraft not being detected by the radar and therefore not presented to air traffic controllers. Controllers use the radar to separate and sequence both military and civilian aircraft, and in busy uncontrolled airspace reliance on radar is the only sure way to do this safely.
- 5.22 The MoD has requested that if the developer is able to overcome its concerns, the MoD would request that all turbines be fitted with 25 candela omni-directional red lighting or infrared lighting with an optimised flash pattern of 60 flashes per minute of 200ms to 500ms duration at the highest practicable point.
- 5.23 The **National Air Traffic Services** (NATS) object to the application and have advised that the development is likely to cause false primary plots to be generated on radar. The radar safeguarding assessment reveals that the development is located within an area where there is insufficient terrain shielding from the Primary Radar Service at Kincardine. Due to the distance from the radar it is anticipated that the reflected power will be of adequate value to be detected and consequently generate false plots.
- 5.24 The **British Airports Authority** has indicated that it has no objection to the proposal.
- 5.25 The **Scottish Government's Rural and Environment Directorate**, Environmental Quality Division, whose response relates to the Scottish Ministers' responsibilities for air quality and noise, has advised that on the basis of the information available and without prejudice to any further consideration the Scottish Ministers may be required to give, it has no comments to offer on the Environmental Statement.

- 5.26 The **East Lothian Archaeological Service** (ELAS), which advises Midlothian on archaeological matters, has asked for a Programme of Works (Monitored Strip). A number of prehistoric and medieval remains have been identified in proximity to the proposed development area, and therefore there is a moderate to high potential for archaeological remains to be present. If deposits are identified there may be a requirement for further work or mitigation. The aim should be to preserve archaeological deposits and historical features in situ as a first option, but alternatively where this is not possible, the recording of upstanding historical features and buried archaeological remains may be an acceptable alternative.
- 5.27 It should also be noted that there is the potential for impacts upon peat deposits within the proposed development area. If peat deposits are to be impacted upon these should be assessed for potential to contain Palaeoenvironmental material.
- 5.28 **East Lothian Council** (ELC) as neighbouring planning authority has raised some concerns regarding wildlife and landscape impact issues.
- 5.29 It has objected to the proposed wind farm as it does not consider that it is clearly demonstrated that there will be no adverse impact upon the Firth of Forth Special Protection Area due to potential adverse impacts on the Pink Footed Goose. There is considerable pink-footed goose activity to the north of the proposed wind farm. Geese make regular migrations from Aberlady (part of the Firth of Forth SPA) in the morning to Fala Flow for feeding and back to Aberlady for the evening roost.
- 5.30 Concern has also been expressed about Black Grouse and it is requested that conclusions in the Habitat Management Plan need to be examined in more detail as some of them may be contradictory.
- 5.31 With regards to landscape and visual impact, ELC's main concern is potential cumulative visual impact with other wind turbines in the Lammermuirs and along the Lammermuir skyline. The turbines at Dun Law are widely visible in longer views across East Lothian, and the turbines at Gilston would be visible in many of the same views. The turbines proposed at Gilston are higher to blade tip than those at Dun Law, and have a considerably larger rotor diameter at 80m in comparison to those at Dun Law which are around 43m – 52m.
- 5.32 **The Wildlife Information Centre**, which advises Midlothian on such matters, has advised that due to the nature of this application and the potential to affect a wide range of habitats and species a report that addresses all potential impacts should be produced. The species that may be affected will cover more than those mentioned above and the report will need to justify which species have been considered and those not. The species considered should include pink footed goose, as Fala Flow is an important site for the geese. As wind turbines can affect bat species and as such a bat survey should be carried out in line with current guidance.

- 5.33 **RSPB Scotland** (RSPB) has serious concerns in relation to a number of potential impacts on bird populations, and has several observations to make on the proposed development and the findings reported in the ES. Despite the low recorded number of flights through the wind farm area, the RSPB remain concerned at the proximity of the development to a site where such a large number of roosting birds is involved, and consider that a potentially significant risk remains. A strategy of mitigation should, therefore, be employed that includes shutting down turbines at times when the geese are most at risk by dint of numbers and weather conditions
- 5.34 Black grouse is a Red Listed species of conservation concern and was recorded at the development site in both 2010 and 2011. Habitat restoration and creation for black grouse would, therefore, be expected in mitigation of this local population. The developer should contribute towards habitat restoration and other measures currently being undertaken to benefit the species in the Lammermuir Hills, details of which may be obtained from SNH.
- 5.35 Access by vehicular traffic and any construction works during the black grouse lekking season (March to May) should not take place between one hour before and two hours after sunrise to avoid disturbing the birds.
- 5.36 The global conservation status of the Curlew has recently been raised by the International Union for the Conservation of Nature to “Near threatened” on account of its more general decline. The survey found three pairs of curlew within the Midlothian section of the proposed development. Habitat improvement for curlew should, therefore, be provided.
- 5.37 With regards to the proposed woodland removal, where removal of plantation trees is to be undertaken a schedule of felling should be drawn up that avoids the bird breeding season (March to July, inclusive). If native or mixed woodland is removed, then this schedule should also be followed and mitigation in the form of new native-tree planting on the property or at some other suitable site in the region. UK Forestry Standard and the Soils Guidelines state that planting schemes should 'avoid establishing new forests on soils with peat exceeding 50 cm depth and on sites that would compromise the hydrology of adjacent bog habitats'. Peat habitat should, therefore, be restored but remain free of trees. A peat-management plan should be included as a condition of consent.
- 5.38 The **Scottish Wildlife Trust (SWT)** comments are for the entire proposal. It has serious concerns regarding the impacts of the proposed wind farm on several ecological receptors which are present within or adjacent to the proposed wind farm site. The main concern relates to the proximity of the development to the adjacent Fala Flow SPA. The qualifying feature of the SPA is the pink footed geese.

However, the EIA found a very low collision rate but does not account for collision risk at times of poor visibility. This could involve a large autumn flock of geese circulating around the area searching for the roost site and could result in multiple collisions on one night. The survey times have also been omitted from the report.

- 5.39 It is advised that Black Grouse are highly sensitive to disturbance. The enhancement of conditions for black grouse should be strictly enforced through planning conditions, and the Trust also recommends careful monitoring of lek activity during and post construction.
- 5.40 Monitoring will also be required for the Large Heath Butterfly.
- 5.41 Finally, Blanket Bog is an Annex 1 Habitat in the European Birds Directive and is also a priority habitat in the UK, and the Trust suggests that monitoring results are reported to a steering group and active management is undertaken if restoration of degraded bog and recovery of bog forming Sphagnum species does not occur.
- 5.42 The **Scottish Rights of Way & Access Society** (Scotways), a charitable organisation working to protect and develop access to the Scottish countryside, identifies that an established right of way (ref: LM29/BE4) crosses the site within Midlothian. Scotways asks that it be a condition of consent that right of way LM29/BE4 remains open and free from obstruction during construction, operation and de-commissioning of the proposed wind farm. Also, Scotways suggests that any signage or other measures deemed appropriate to safeguard recreational access should be agreed in advance with the access teams at Scottish Borders and Midlothian Councils.
- 5.43 It also requests that a distance of at least tip height is retained between turbine bases and the alignment of the right of way. Failing this, Scotways objects to the application on the grounds of the potential proximity of turbines 11, 13 and 14 to right of way LM29/BE4.
- 5.44 The **Forestry Commission Scotland** (FCS) advises that its main area of concern would be the removal of the 15 hectares of woodland within Midlothian. It refers to the Scottish Government's "Scoping Guidance for Wind Farm Developers", which advises that "*Scottish Ministers have now approved a policy on Control of Woodland Removal which seeks to protect the existing forest resource in Scotland, and supports woodland removal only where it would achieve significant and clearly defined additional public benefits.*" The Control of Woodland Removal Policy explains the criteria for determining the acceptability of woodland removal, both in cases with or without compensatory planting.
- 5.45 The FCS further advises that the Planning Authority should also be aware of the National Planning Framework 2 which reiterates Scottish Government determination to decrease the loss of existing woodland and aspiration for further expansion.

- 5.46 There is also concern about the peaty nature of the soil where the woodland areas are located. As part of any assessment regarding the need for compensatory planting, the viability of blanket bog restoration in the plantation areas should be considered. It is presently not clear whether or not this is achievable. The FCS suggests that as part of the Planning Authority's assessment, a clear conclusion on this matter is reached and detailed in an amended Peat Depth, Blanket Mire and Heathland Condition Assessment.
- 5.47 The FCS also wish to ensure that in the consideration of the Outline Habitat Management Plan, which is to be agreed prior to commissioning, they are included in the process of finalising this report. In particular with regards to establishing the total area or location for any new planting, and details of the distribution of the proposed planting coupes.
- 5.48 The **Policy & Road Safety Manager** has no objection in principle subject to a condition requiring details of the measures to accommodate the abnormal loads on the section of road from the A68 to the site access.
- 5.49 With regards to the gas pipeline, a **Health and Safety Executive** online assessment was carried out and the result was a sensitivity level of 1 with a recommendation "Do Not Advise Against".
- 5.50 **Scotia Gas Networks** have been consulted but no response has been forthcoming.
- 5.51 The **Environmental Health Manager** has no objection to the development subject to suitable conditions being imposed.

6 REPRESENTATIONS

- 6.1 Thirteen letter of representation have been received. The issues raised are as follows;
- Remaining wild moorland habitat areas should be protected;
 - Green energy subsidies lead to higher fuel bills;
 - Wind farms are now visible for miles across the Lothians leading to the industrialisation of the landscape;
 - The site is adjacent to a SPA/SSSI which should be protected;
 - The diversity of soils wildlife and unspoiled landscape is unsurpassed within Midlothian and would be destroyed by the wind farm;
 - Despite the conclusions in the ES, there will be a detrimental effect on birds in the area. Large numbers of geese have been witnessed flying through the wind farm site, contrary to the findings in section 7 (ornithology) of the non-technical statement;
 - The site is enjoyed by bird watchers, horse riders and walkers and it should be protected against development;
 - There is no need for a further wind farm in close proximity to existing wind farms;

- There is no clear indication as to how the continued use of the right of way will be maintained during construction;
- Noise generated by construction traffic, in particular borrow pit (Scottish Borders Council area);
- Dust and fumes from construction operations and traffic;
- Potential leakage of vehicle/plant oil into watercourses;
- Road safety on borrow pit route past Brothershiels Farm, also on the B6368, in particular with regards to children;
- The proposal is contrary to both the adopted local plan and to the Landscape Capacity Study which advises clearly that the site is unsuitable for wind turbine development of any nature;
- Release of CO₂ from the removal of large quantities of peat, which will have a greater negative impact than the positive impact of renewable energy production, and this is contrary to local plan policy RP19;
- Wind farms based on peat will probably not reduce emissions unlike those on mineral soils. In that case the rationale for constructing the wind farm on Fala Moor, to mitigate climate change, disappears;
- Soutra Aisle as a tourist attraction will be significantly adversely affected;
- There is becoming an over proliferation of wind turbines in this area;
- Renewable energy policy is badly planned in that it can lead to such concentrated groupings of turbines to the detriment of those living in or near these areas;
- The advertised benefits of wind energy generation are flawed;
- The benefits will not be appreciated locally, and possibly not even within Scotland;
- Many of the trees presently screening the site are soon to be due for felling leaving the wind farm much more prominent and open to views;
- The access road to the wind farm will scar the landscape;
- Both herons and kingfishers have been observed on the Armet Water and the Brothershiels Burn, as have otters, and these should be taken into account;
- Other important bird species are Curlew and Skylarks and input from RSPB and SNH is necessary on these matters;
- Access to the A68 will be restricted during construction; and
- Potential impact upon local private water supplies.

7 PLANNING POLICY

- 7.1 The development plan is comprised of the Edinburgh and Lothians Structure Plan 2015, approved in June 2004, and the Midlothian Local Plan (MLP), adopted in December 2008. The following policies are relevant to the present proposals;

- 7.2 Midlothian Local Plan policy **RP1 Protection of the Countryside** advises that Development in the countryside will only be permitted if it is essential for the furtherance of agriculture, or other uses appropriate to the countryside. Development complying with the terms of Policy DP1 will also be permitted;
- 7.3 Midlothian Local Plan policy **RP5 Woodland Trees and Hedges** does not permit development that would lead to the direct or indirect loss of woodland which has a particular value in terms of amenity, nature conservation, recreation, landscape character or shelter;
- 7.4 Midlothian Local Plan policy **RP6 Areas of Great Landscape Value** which advises that development will not be permitted where it may adversely affect the special scenic qualities and integrity of the Areas of Great Landscape Value;
- 7.5 Midlothian Local Plan policy **RP7 Landscape Character** which advises that development will not be permitted where it may adversely affect the quality of the local landscape. Provision should be made to maintain local diversity and distinctiveness of landscape character and enhance landscape characteristics where improvement is required;
- 7.6 Midlothian Local Plan policy **RP8 Water Environment** aims to prevent damage to water environment, including groundwater and requires compliance with SEPA's guidance on SUDs;
- 7.7 Midlothian Local Plan policy **RP10 Internationally Important Nature Conservation Sites** advises that development will not be permitted where it could adversely affect, either directly or indirectly, the integrity of a nature conservation site of international importance, or any other site which is proposed or designated as of international importance, unless it can be demonstrated that there are imperative reasons of overriding public interest and: A. the proposed development would have no significant effect on the habitats or species being safeguarded; or B. there are no alternative solutions;
- 7.8 Midlothian Local Plan policy **RP11 Nationally Important Nature Conservation Sites** (SSSI's or NNR's) states that development will not be permitted where it could adversely affect, either directly or indirectly, the integrity of a nature conservation site of national importance, or any other site which is proposed or designated as of national importance unless it can be demonstrated that: A. the objectives of designation and the overall integrity of the area will not be compromised; or B. any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social or economic benefits of national importance;

- 7.9 Midlothian Local Plan policy **RP12 Regionally and Locally Important Nature Conservation Sites** prohibits development where it could adversely affect, either directly or indirectly, the nature conservation interest of any sites, or wildlife corridors, of regional or local conservation importance unless the applicant can show that: A. the development has been sited and designed to minimise damage to the value of the site and includes measures that will appropriately compensate for any damage which cannot be avoided; or B. the public interest to be gained from the proposed development can be demonstrated to clearly outweigh the nature conservation interest of the site;
- 7.10 Midlothian Local Plan policy **RP13 Species Protection** requires that any development that would affect a species protected by law will require an appropriate level of environmental and biodiversity assessment. Where development is permitted, proposals will require: A. measures for mitigation; and B. measures for enhancement or sustainable habitat replacement, where appropriate;
- 7.11 Midlothian Local Plan policy **RP14 Habitat Protection Out with Formally Designated Areas** advises that, effects on the habitat, including the expected results of mitigation measures, will be taken into account, and where appropriate, planning conditions will be used and legal agreements sought to ensure protection of habitat during development and in the long term;
- 7.12 Midlothian Local Plan policy **RP15 Biodiversity Action Plan** requires that development proposals shall demonstrate compatibility with the aims and objectives of the Midlothian Local Biodiversity Action Plan and related plans, by identifying appropriate measures to protect, enhance and promote existing habitats and/or the creation of new habitats, and provide for the effective management of these habitats;
- 7.13 Midlothian Local Plan policy **RP19 Peat Extraction** advises that any development that has a deleterious impact upon peat will not be permitted where it is located within or adjacent to protected areas listed under policies RP10 to 12, and elsewhere it will not be permitted unless it can be demonstrated that there will be only limited local impacts or where the benefits of development are of overriding significant public benefit;
- 7.14 Midlothian Local Plan policy **RP22 Conservation Areas** which advises that within or adjacent to a Conservation Area development will not be permitted which would have any adverse effect on its character and appearance;
- 7.15 Midlothian Local Plan policy **RP24 Listed Buildings** advises that development will not be permitted which would adversely affect the character or appearance of a listed building, its setting or any feature of special or architectural or historic interest that it possesses;

- 7.16 Midlothian Local Plan policy **RP26 Scheduled Ancient Monuments** does not permit development which would adversely impact on any scheduled ancient monuments;
- 7.17 Midlothian Local Plan policy **RP27 Other Important Archaeological or Historic Sites** does not permit development which could adversely affect an identified regionally or locally important archaeological or historic site or its setting unless the applicant can show that: A. there is a public interest to be gained from the proposed development which outweighs the archaeological importance of the site; B. there is no alternative location for the proposal; and C. the proposal has been sited and designed to minimise damage to the archaeological interest;
- 7.18 Midlothian Local Plan policy **RP28 Site Assessment, Evaluation and Recording**, protects any potential archaeological resources by ensuring the site is assessed;
- 7.19 Midlothian Local Plan policy **RP32 Public Rights Of Way and Other Access Routes** protects established routes against development which could lead to the loss of a right of way, cycle path, bridleway, or other access route;
- 7.20 Midlothian Local Plan policy **ECON8 Rural Development** permits proposals that will enhance rural economic development opportunities provided they accord with all relevant Local Plan policies and meet the following criteria: the proposal is located adjacent to a smaller settlement unless there is a locational requirement for it to be in the countryside; the proposal is well located in terms of the strategic road network and access to a regular public transport service; the proposal is of a character and scale in keeping with the rural setting; the proposal will not introduce unacceptable levels of noise, light or traffic into quiet and undisturbed localities nor cause a nuisance to neighbouring residents; the proposal has adequate and appropriate access; it is capable of being provided with drainage and a public water supply, and avoids unacceptable discharge to watercourses; and it is not primarily of a retail nature;
- 7.21 Midlothian Local Plan policy **NRG1 Renewable Energy Projects** is supportive of renewable energy developments, including wind energy, and advises that these will be permitted provided any proposal:
- A. will not cause a significant adverse effect upon areas of nature conservation interest covered by policies RP10, RP11 and RP12, nor the following protected areas: Conservation Areas, Scheduled Ancient Monuments, Listed Buildings, Historic Gardens and Designed Landscapes, significant archaeological sites, Pentland Hills Regional Park, (and where relevant, the settings of the aforementioned designated areas or buildings), prime agricultural land, the Green Belt, Areas of Great Landscape Value, peat land and water supply catchment areas;

- B. will not have an unacceptable effect on the amenity of nearby residential properties;
- C. will not have an unacceptable effect on the wider environment by reason of landscape and/ or visual impact, noise, safety, traffic generation or pollution control;
- D. will not demonstrably damage the local economy in terms of tourism or recreation;
- E. includes a realistic means of securing the removal of the equipment when redundant, and restoring the site to a satisfactory condition;
- F. will not require infrastructure for access and/or power transmission which in itself has a significantly unacceptable environmental impact;
- G. accords with any other relevant Local Plan policies or proposals;
- H. will not significantly increase the risk of shadow flicker or driver distraction; and
- I. will be unlikely to cause interference with the flight paths of migratory birds or with military low fly zones.

- 7.22 It further states that the cumulative landscape and/ or visual impact of such proposals will be taken into consideration when assessing individual planning applications. And finally, in assessing wind energy proposals against this criterion, the Council will have regard to the findings of the Landscape Capacity Study for Wind Turbine Development in Midlothian (2007) which will be given significant weight as a material consideration. 45;
- 7.23 Edinburgh and Lothians Structure Plan policy **ENV 3: Development in the Countryside** advises that Development in the countryside will be allowed where it has an operational requirement for such a location that cannot be met on a site within an urban area or land allocated for that purpose, and is compatible with the rural character of the area. This includes diversification of an appropriate scale and character on agricultural land, including lowland crofting, as a means of supporting and diversifying the rural economy, maintaining communities and services or effecting landscape improvement. Such development should be well-integrated into the rural landscape; should reflect its character and quality of place; and should not result in a significant loss of prime quality agricultural land; and
- 7.24 Edinburgh and Lothians Structure Plan policy **ENV 6: Renewable Energy** which supports renewable energy development where this can be achieved in an environmentally acceptable manner. It further advises that Local Plans should set out criteria against which renewable energy developments will be assessed, including cumulative impact, and they should also consider defining broad areas of search suitable for wind or other renewable energy developments.
- 7.25 With regards to national planning policy, this is now contained fully within the **Scottish Planning Policy (SPP)**, which has superseded policy SPP6 and also PAN 45.

- 7.26 The SPP came into force in February 2010, and covers the topics of renewable energy at paragraphs 182 to 195, the Historic Environment at 110 to 124, and Landscape and Natural Heritage at 125 to 148.
- 7.27 The policy reflects the Scottish Government's commitment to increasing the amount of electricity generated from renewable resources, with the target of achieving 50% of Scotland's electricity from renewable sources by 2020, and 11% of heat demand. These targets are a minimum target and are not a cap. It recognises that there are many different forms of renewable energy that will contribute to these targets.
- 7.28 The SPP advises that planning authorities should support the development of a diverse range of renewable energy technologies in appropriate locations. Development plans should support all scales of renewable energy development, ensuring that an area's renewable energy potential takes account of economic, social, environmental and transport issues and maximises benefits. Development plans should support the wider application of medium and smaller scale renewable technologies and should also encourage microgeneration projects including those associated with or fitted to existing buildings. In this respect, the policy again reflects the tone of SPP6, whereby there is no overriding requirement to allow for large scale wind farms at all costs, rather it requires consideration of its various impacts, and it also clearly recognises the use of other technologies and other scales of the same technology.
- 7.29 It advises that policies should be clear in their explanation of what factors will be taken into account in making decisions on renewable energy developments, for example impacts on landscape, the historic environment, natural heritage, residential amenity etc. It is clear from the structure of policy NRG1 of the Midlothian Local Plan, that there is clarity on the factors that have to be taken into account in the decision making process, and the way in which the landscape capacity Study should be utilised in this judgement.
- 7.30 It advises on the use of agreements under section 75 of the Act, and that whilst financial guarantees for site restoration may be material considerations, the provision of, for example, a community trust fund is not material and fails the tests listed at paragraph 11 of Circular 1/2010 – Planning Agreements.
- 7.31 Paragraphs 187 to 191 of the SPP consider matters specific to Wind Farms. It is clear that support will be given to wind farms in locations where the technology can operate efficiently and environmental impacts can be satisfactorily addressed. The SPP advises that development plans should clearly indicate the potential for development of wind farms of all scales, and should set out the criteria that will be considered in deciding applications for all wind farm developments. The criteria are likely to incorporate; landscape and visual impact; effects on the natural heritage and historic environment;

contribution of the development to renewable energy generation targets; effect on the local and national economy and tourism and recreation interests; benefits and dis-benefits for communities; aviation and telecommunications; noise and shadow flicker, and cumulative impact.

- 7.32 The design and location of any wind farm development should reflect the scale and character of the landscape. The location of turbines should be considered carefully to ensure that the landscape and visual impact is minimised.
- 7.33 It is advised that cumulative impact should take into account existing wind farms and those with planning permission, and valid applications for wind farms that have yet to be determined. The development plan should advise on the factors to be taken into account when considering cumulative impact.
- 7.34 The SPP requires authorities to set out a spatial framework for wind farms of over 20 megawatts generating capacity, and it is advised that this may be used to consider smaller sized wind farms. It suggests the areas it should identify, namely areas requiring significant protection; areas with potential constraints; and areas where wind farms are likely to be supported. In considering the areas of potential constraint, authorities should look at amongst other things, the historic environment, areas designated for their regional and local landscape or natural heritage value, tourism and recreation interests, and likely impacts on communities, including long term and significant impact on amenity. In its formulation of policy NRG1, in particular to consider where larger wind energy projects could be located, Midlothian Council instructed the carrying out of a report to assess the capacity of the landscape in Midlothian to accommodate wind energy development. This concluded that there was no scope anywhere within the district where a development of this scale could be accommodated, and as such no areas of search were warranted. Had the landscape capacity study identified that there were some areas suitable for development, then these areas would then have been scrutinised under other criteria for their suitability for larger scale development.
- 7.35 The SPP at paragraphs 125 to 148 covers issues relating to landscape and to natural heritage. It looks at the hierarchy of landscape designations from international (such as SPA's) through national (such as Sites of Special Scientific Interest and National Nature Reserves), to local designations (local nature reserves and Areas of Great Landscape Value). It recognises the international renown and importance of Scotland's landscape and natural heritage, which supports significant industries such as the food, drink and tourism. They are a key component of the high environmental quality which makes Scotland an attractive place in which to live, do business and invest. At paragraph 131 the policy recognises that landscapes and the natural heritage are sensitive to inappropriate development, and the effects need to be assessed by planning authorities in determining

planning applications. It is clear that designation of a site does not necessarily imply a prohibition on development.

- 7.36 The SPP recognises that the historic environment is a key part of Scotland's cultural heritage and it enhances national, regional and local distinctiveness, contributing to sustainable economic growth and regeneration, in particular relating to tourism and leisure.
- 7.37 A significant material consideration in the determination of the planning application is the **Landscape Capacity Study for Wind Turbine Development in Midlothian** (MLCS) (approved by Midlothian Council in February 2007). This is approved non-statutory policy for assessing wind farm development in Midlothian, the findings of which have been incorporated into the Local Plan through policy NRG1 (see above).
- 7.38 The key objective of this study was to provide strategic guidance on the capacity of the Midlothian landscape to accommodate wind turbine development together with associated infrastructure. The aims of the study were to:
- Identify areas where turbines could be located causing least visual intrusion and impact on landscape character and where such development would be unacceptable in terms of potential landscape and visual impact;
 - Inform the local plan review on renewable energy and provide a tool for the evaluation of future planning and Section 36 applications for wind energy development within a study area that includes Midlothian and a 10km buffer beyond the Council boundaries.
- 7.39 In achieving these aims, the sensitivity of the landscape to windfarm development was assessed and the capacity for a number of defined development scenarios determined.

8 PLANNING ISSUES

- 8.1 The main issue to be determined is whether the proposal accords with the development plan unless material planning considerations indicate otherwise. The representations and consultation responses received and the Landscape Capacity Study for Wind Turbine Development in Midlothian are material considerations.
- 8.2 The assessment of the application addresses; whether or not the proposed wind farm will have any detrimental effect on; landscape character; ecology and nature conservation; traffic and transport; cultural heritage; hydrology; geology; existing infrastructure; socio-economics; whether it would result in unacceptable noise levels for nearby occupiers; and whether the proposed wind farm would result in savings in the form of reduced CO2 levels.

- 8.3 It also needs to be assessed as to whether the proposal complies with the recommendations of the Landscape Capacity Study For Wind Turbine Development in Midlothian, and if not, whether there are any overriding reasons as to why a departure should be supported.

Landscape

- 8.4 The site does not include any regional, national or international landscape designations; however the entire site is located within the Midlothian Area of Great Landscape Value (AGLV). The section of the AGLV within which the application sits is the Moorfoot and Lammermuir Hills area.
- 8.5 The AGLV in Midlothian is a single landscape designation and it is not a series of separate AGLV's with their own character assessment. This is a matter which was raised at the public inquiry into the refusal of the proposed wind farm at Auchencorth Moss (06/000676/FUL).
- 8.6 The AGLV designation covers a large and diverse area of Midlothian which includes: the rolling hill country of the Pentlands, Moorfoots and Lammermuirs; the incised river valleys of the North and South Esk and the Tyne; the estate landscapes of Penicuik, Arniston and Vogrie; Gladhouse, Edgelaw, Glencorse, Rosebery, Loganlea and North Esk Reservoirs.
- 8.7 It should be noted that the Council is at present undertaking a study and a review of the AGLV. The review is being driven by the requirements of the 2005 Guidance on Local Landscape Designations produced by Scottish Natural Heritage and Historic Scotland. The review will be used to inform the preparation of the replacement Midlothian Local Development Plan, which is progressing towards the publishing of its Main Issues Report (MIR).
- 8.8 The applicant's Landscape and Visual Impact Assessment (LVIA) has been largely based on guidance provided by the Landscape Institute, Institute of Environmental Management and Assessment, and Scottish Natural Heritage (SNH). The assessment process consists of: the establishment of the baseline conditions against which landscape and visual change can be assessed; examination of the proposed development to identify the elements likely to cause landscape and visual change; and assessment of how the identified change would affect the physical landscape of the development site, surrounding landscape character, and visual amenity at the chosen viewpoints.
- 8.9 The impacts are seen as two-fold. There are the impacts of the addition of the turbines to the landscape, and then there are the direct alterations to the fabric of the landscape including the proposed borrow pit, roads and excavations for foundations and pads.

- 8.10 The LVIA chapter of the ES illustrates the design process of the wind farm. The aim of this process has been to achieve a simple layout, relating to the landform of the site and surrounding area. The original number of proposed turbines has been reduced through the assessment process to arrive at the final layout of 16 turbines (9 in Midlothian). Two of the turbines in the final proposed layout have been reduced in height from 115 metres to 100 metres, in order to improve the overall composition of the proposed development, when viewed from the adjacent landscape.
- 8.11 Significant visual impacts are restricted to the ridgeline of the Moorfoot Hills and the north side of the ridge line where the proposed wind farm would be seen in conjunction with the Dun Law wind farm. Further to the north of the ridge significant effects would be more restricted in extent as the landform descends and crosses a number of river valleys, where high level of woodland and tree cover would reduce the number of open views.
- 8.12 There will be significant effects on parts of the Landscape Character Areas (LCAs) within which the development is sited, notably the Fala Moor and the Plateau Grassland areas. Significant effects would also occur to parts of the character of the Upland Fringes – Gladhouse/Auchencorth Moorlands and the Upland Fringes – North Lammermuir Platform, from distances of 2.8 and 2.4 km respectively. These effects would decrease with distance as these LCAs extend along the northern fringe of the Moorfoot/Lammermuir ridgeline away from the proposed development.
- 8.13 In the Lowland Hills and Ridges – Mayfield Tranent Ridge LCA, views of the proposed development would give rise to localised significant effects on landscape character for parts of this LCA with open views towards the Site. However, the various Lowland River LCAs (4 km and beyond from the nearest turbine) and LCAs to the south of the Moorfoot / Lammermuir ridgeline would not experience significant effects on their landscape character.
- 8.14 The conclusion of the LVIA was that the proposed wind farm would have significant effects on landscape character in 5 landscape character areas: the Uplands and Plateau Grasslands in which the wind farm would be located; and parts of two areas of the adjacent Upland Fringes, as well as the Lowland Hills and Ridges landscapes.
- 8.15 Landscape impacts effecting visual amenity of residential properties vary due to the undulating landform and vegetation. Fala and Humbie would not experience significant visual effects. Residential receptors at North Middleton would experience significant visual effects, due to the more open landscape.
- 8.16 The ES identified significant effects from roads at distances up to approximately 5 km. These relate to sequential cumulative effects when travelling north on the A68, where Dun Law and then the

proposed development would be viewed in sequence; and views from the B6458 near to Saughland.

- 8.17 Significant effects are predicted for the Fala Moor section of the Midlothian AGLV, but these would occur in the context of an area which is already affected by transmission lines, commercial forestry and wind farms.
- 8.18 The ES therefore concludes that the landscape would be able to accommodate the proposed development without loss of the key characteristics of the landscape.
- 8.19 SNH and East Lothian Council (ELC) have raised objections and concerns based upon landscape impact. The Council also raises objections on landscape grounds.
- 8.20 SNH has stated that it has serious concerns regarding the landscape and visual effects arising from the siting and design of the proposed windfarm at this location. These can be summarised as follows;
- 8.21 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;
- 8.22 The adverse nature of landscape and visual effects that will be experienced from receptors using the key road corridors of the A7 and A68. Such effects will also be frequently experienced cumulatively (both in combination and sequentially) with other existing or consented developments; and
- 8.23 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 SNH consider will result in adverse cumulative effects, potentially promoting a sense of uncoordinated windfarm development over a wider area.
- 8.24 SNH have also stated clearly that it notes and supports the findings of the Landscape Capacity Study for Wind Turbine Development in Midlothian. It considers that despite the addition of further wind farm developments to the landscape since the time of the survey its analysis and conclusions remain valid. The following extract was highlighted as being one that summarised well the issues presented by the present application;
- 8.25 *“Midlothian is a relatively small area but with a great diversity of upland and lowland landscapes. There is a strong inter-visibility between lowland and upland landscapes which lie in close proximity to each other and the diversity of landscape character is therefore readily appreciated. One of the key potential effects of siting wind farms in both upland and lowland landscapes may be the diminishing of landscape diversity through the introduction of an element of generic*

form, such as a modern wind turbine, into areas of notably different landscape character.”

- 8.26 Whilst SNH does not object, the Council concludes that independent of its own view on the application, it would not be in a position to approve the application without resolving the concerns SNH has raised in its role as a statutory consultee.
- 8.27 East Lothian Council has advised that its main concern is potential cumulative visual impact with other wind turbines in the Lammermuirs and along the Lammermuir skyline. It is evident from the submitted wireframe diagrams that there is a build up of wind farms along the skyline of the Lammermuirs when viewed from East Lothian and from Arthur's Seat in Edinburgh (which gives panoramic views across East Lothian). This extends from Aikengall in the East to Dun Law in the west. The proposed Gilston wind farm would extend the cumulative build up of wind turbines along the skyline further west when viewed from East Lothian.
- 8.28 The Landscape Capacity Study (LCS) for Wind Turbine Development in Midlothian, dated January 2007 is clear in its conclusion that there are no sites within Midlothian where commercial wind farms can be accommodated without serious harm on the landscape of the district. There are sites where turbines of around 45 metres maybe accommodated in the landscape, and no more than 5 in number. It is therefore clear that 9 turbines of up to 115 metres in height are well beyond that limit. This does not mean that careful assessment of each application is therefore ruled out , and it has been necessary to consider this application on its own merits, and in particular it is also necessary to factor in to this decision the benefits that such a scheme would provide in terms of renewable energy generation, a matter which was not part of the remit of the Landscape Capacity Study (LCS).
- 8.29 The impact of the proposal on Soutra Aisle, a scheduled monument, should the nearby woodland be cleared is a of concern especially as there is a large amount of windblown trees within this woodland. Furthermore the woodland is outwith the application site, and the likelihood of this woodland being clear-felled in the lifespan of the proposed wind farm is very high. It is furthermore considered that the visual impact may be more severe than is depicted in the submitted photomontage.
- 8.30 The main issue when viewed from longer distances is the cumulative impact of the proposed wind turbines at Gilston. The applicant's submission states that: 'If planning and scoping stage wind farms are considered, the effect of the proposed development would be reduced as it would become a small part of a more extensive view of wind farms. It is considered that this finding is not correct due to the height and number of proposed turbines the cumulative impact when viewed with the approved and proposed wind turbines at nearby Dun Law.

- 8.31 The landscape capacity study isn't detailed enough to account for smaller landscape variations. These localised landscape conditions might make it possible to accommodate fewer smaller turbines within the Plateau Grassland. However, the submitted visual representations clearly demonstrate that the proposals cannot be accommodated without a significant detrimental impact on this attractive open landscape leading up to the top of the ridgeline of the Moorfoot and Lammermuir Hills.
- 8.32 When assessing the landscape and visual impact of the proposal it is concluded that the proposed development is contrary to local plan policy NRG1: Renewable Energy Projects, as it would change the existing landscape character in a significantly adverse way, and would have an unacceptable adverse visual impact on the landscape both locally and in the wider context.
- 8.33 With regards to the visual impact of any electricity connection to the national grid, if this is by underground cabling then there will be no long term landscape impact. If this changes to an overhead cable this will have a significant visual impact, but this would be an application that would be handled by the Scottish Government under the Electricity Act 1989. The applicant has indicated that it is hoped to be by underground cabling but this is not yet definite. If underground cabling is not an option then further overhead pylons would be a significant landscape concern.

Wildlife and habitats

- 8.34 The site boundary does not incorporate any local, national or international wildlife designations. The Local Biodiversity Action Plan (LBAP) identifies the site as being within the Moorfoot Hills. This is an area of around 2000 hectares of mainly unimproved acid grassland with a mix of wet and dry upland heathland. It includes areas of upland scrub which is a local priority habitat. Blanket bog, dry and wet heath are also present and are all UK priority habitat types. The LBAP also identifies the moorland plateau as an important habitat for black grouse and mountain hare. The main threats identified by the LBAP are loss and deterioration of the open upland heathland vegetation, in particular the limited and more fragile bog communities.
- 8.35 The site is immediately adjacent to the Fala Flow Special Protection Area (SPA) and Ramsar site (The Convention on Wetlands of International Importance). The SPA description is as follows:
- 8.36 *"It is blanket mire, with some pools, developed at a lower altitude than most blanket mires in Midlothian. The vegetation comprises Heather Calluna vulgaris and Hare's-tail Cottongrass, Eriophorum vaginatum, with other characteristic species including Crowberry, Empetrum nigrum, and Sphagnum mosses. Such mires are scarce and declining in Midlothian and this example is relatively undisturbed. The mire and pools support an internationally important roost of the Iceland/*

Greenland population of Pink-footed Goose, Anser Brachyrhynchus. The geese feed in surrounding areas of agricultural land outside the SPA."

- 8.37 The main concern, and one that has been raised by SNH, RSPB, SWT, and East Lothian Council, as well as being raised in many letters of representation, is that of the impact both directly and indirectly on the ornithological interests of the SPA/SSSI.
- 8.38 The ornithological assessment is based on two years of bird surveys at the site and reference to information on regional and national bird populations. The ornithology impact assessment was undertaken by Natural Research Projects (NRP) Limited. Bird surveys were conducted in accordance with the recommended guidance. Targeted surveys were undertaken to look at the movements of pink-footed geese at dawn and dusk owing to the presence of a winter roost for this species adjacent to the site.
- 8.39 The conclusion of the applicants ornithological assessment is that pink-footed geese specifically associated with the Fala Flow SPA would not be affected by the proposed development. No significant effects on birds were predicted, therefore no mitigation has been proposed. However, the requirements of black grouse are addressed in the Habitat Management Plan (HMP) and other general measures within the HMP will contribute to the maintenance of habitats suitable for breeding birds.
- 8.40 Both the Scottish Wildlife Trust and the RSPB raise concerns that no assessment has been made regarding collision rates for during low visibility climatic conditions. The applicant has responded, advising that they undertook several watches in foggy and misty/low cloud conditions with poor visibility (as per SNH guidance). Watches in these conditions are recommended as wildfowl may continue to fly, and may alter their behaviour in response to these conditions. Because visibility may be effectively zero, surveys rely on auditory information to estimate the location of flight lines and areas. The applicant carried out a low visibility assessment and input the data into a Collision Risk Model (CRM), i.e. when records included an estimate of the number of geese on a mapped flight line or within a defined area. Data has therefore been included from periods of reduced visibility as per SNH guidance, and the CRM does in fact account for low cloud/mist and foggy conditions.
- 8.41 SNH has also raised concerns regarding the impacts upon pink footed geese in the SPA but this related to the impact of the emergency access road, which is proposed to come through the SPA from a point on the A68 near Fala village. However following further details about the circumstances under which this access would be used (i.e. only in the event of an emergency on site during construction and operation) SNH agreed to withdraw their objection. SNH did maintain their

objection relating to the securing of mitigation measures, as set out under the Bird Protection Plan.

- 8.42 The RSPB and SWT raise concerns regarding Black Grouse, but they are content with the findings of the survey in this respect and subject to the mitigation being implemented as per the report and subject to extra planning conditions particularly controlling construction traffic and activities.
- 8.43 The RSPB and SNH also raise some issues regarding Curlew, which were recorded as breeding within the site, and recommended habitat improvement, in particular appropriate habitat improvement measures at suitable sites elsewhere in the region should be considered as part of a broader contribution to community/environmental enhancement by the developers. In particular because evidence suggests that wind farm development causes the displacement of breeding birds and therefore existing breeding pairs on site are liable to migrate away to suitable nearby sites. This would be covered by condition and the implementation of the habitat management plan.
- 8.44 Other bird species that have been identified as being present on the site include heron, kingfisher and skylark.
- 8.45 The RSPB and SNH have both confirmed that they are content that bird surveys at the site have been conducted in accordance with the relevant guidance and agree with the overall results. As a general recommendation it has advised that the proposed mitigation measures for breeding birds can be secured by condition. Other conditions have also been advised.
- 8.46 With regards to other species, reference has been made to the large heath butterfly, and the need for active management of the degraded bog to enhance its condition and encourage the Large Heath butterfly population.
- 8.47 SNH are satisfied that adequate measures have been taken to assess the presence of otters and bats which are both European protected species.
- 8.48 With regards to the blanket bog habitat itself, this is a European protected habitat, and it is noted that the habitat management plan will undertake to restore these areas and to increase sphagnum cover. The progress of this should be monitored carefully via a steering group.

Peat

- 8.49 The site is recognised as having a significant area of peat habitat and concerns exist regarding its excavation resulting in the loss of habitat, the creation of an unstable soil mass and the release of CO₂ into the atmosphere which is counterproductive to the provision of a green, renewable energy resource.

- 8.50 SEPA initially objected regarding the lack of information provided on the reuse and disposal of excavated peat. In response further submissions from the applicant have enabled SEPA to withdraw their objection.

Aviation and Transport

- 8.51 There were some causes for concern in relation to air traffic control (ATC) radar raised by both the Ministry of Defence and National Air Traffic Services (NATS). The BAA had no objection.
- 8.52 In respect of the MoD, the turbines will be 63.8 km from the ATC radar at Deadwater Fell, RAF Spadeadam. The position of the turbines will be in line of sight of the radar and will cause unacceptable interference to them. In respect of NATS, the turbines will be 51.3 kilometres from the Kincardine Radar and again, false readings could be generated.
- 8.53 These matters are significant. Both MoD and NATS have advised that if technical solutions can be found then they would reconsider their current responses to the proposals.
- 8.54 In the event that a solution could be achieved the MoD is agreeable to conditioning the fitting of omni-directional red lighting or infra red lighting to the highest practicable point of each turbine.
- 8.55 In terms of the national road network, there is no objection to the impacts on the A68 Trunk Road, although it will be necessary to advise Transport Scotland in advance of any proposed abnormal loads, and to advise of the proposed haul route from the nearest harbour to the development site.
- 8.56 With regards to local road issues, there is no objection in principle to the application but it is recommended that prior to the commencement of building operations on site, details of the measures to accommodate the abnormal loads on the section of road from the A68 to the site access will require to be agreed with the planning authority.

Noise issues

- 8.57 There are two main aspects to the noise impacts. One is the operational noise, which is the mechanical and wind related noise caused by the movement of the turbine and the generators within the nacelle. The second is the construction noise; in particular the movement of lorries carrying materials and the excavation of foundations, crane pads, and borrow pit material.
- 8.58 Construction noise was assessed based on typical wind farm construction activities and are considered to be not significant.

- 8.59 The change in traffic noise levels from the A68 during the construction process would be imperceptible and has therefore also been assessed as not significant.
- 8.60 Operational noise effects were assessed against a set industry standard, as advised in by Scottish Planning Policy. The cumulative effects of the existing Dun Law and Toddleburn and consented Pogbie wind farms have been taken into account. Existing levels of background noise have been measured at a selection of the nearest noise-sensitive properties, from which noise limits have been derived. Operational noise levels have been predicted using a recognised calculation method, compared with these derived limits and found to comply with the set industry standards.
- 8.61 One issue that has arisen regarding noise relates to the extraction of material from the proposed borrow pit. Lorries carrying material from this site to the wind farm site will pass in close proximity to Brothershiels, and concerns have been expressed regarding noise (and public safety). It has therefore been agreed with the applicant if planning permission is granted that material can be taken from Soutra Quarry instead, thereby removing this concern. It should be noted that whilst part of the haul route from the borrow pit is in Midlothian, the borrow pit itself and the properties that would be effected are both in Scottish Borders.
- 8.62 It is therefore concluded that subject to conditions, noise is not a reason to refuse planning permission.

Other issues raised in the representations received

- 8.63 A number of other issues have been raised in the representations reviewed. None of these are deemed to be issues that would lead to a reason for refusal, but many are issues that would require to be dealt with by condition.
- 8.64 With regards to protecting existing rights of way, there is an established route across the site which is very well used and which would be affected by the proposals. In the shorter term, it is the applicant's intention that the right of way should remain open during the operation of the wind farm. They will also seek to ensure that the right of way is not impeded during the construction and decommissioning works whilst complying with health and safety.
- 8.65 During construction, there would be some redirection and appropriate signage can be agreed with Scotways. However during the operation of the wind farm it is understood that the route should be unaffected. There is evidence of this working satisfactorily at other wind farms, for example at Whitelees (Weaver's Trail).

- 8.66 It is concluded that with minor micro-siting the proposed turbines at Gilston would not oversail the Right of Way (LM29/BE4), this approach being consistent with the accepted guidance for turbines in the proximity of rights of way. This would be handled through the imposition of an appropriate condition.
- 8.67 With regards to any potential adverse impact upon tourism, there is no clear evidence which suggests wind farms will have an adverse impact on popular tourist destinations, and the Council is not of the opinion that this is a reason for refusal.
- 8.68 With regards to impact upon private water supplies, the applicant has stated that it has had correspondence from both local authorities regarding private water abstractions, and has discussed with local landowners regarding private water supplies. The only water supply which will require some form of mitigation is located in Scottish Borders (Brothershiels). Those at Blackcastle and Dere Street are concluded to be unaffected.

The Renewable Energy Benefits

- 8.69 With regards to national planning policy and advice on the development of wind energy projects, there is significant Scottish Government support for the exploitation of renewable energy resources, so long as it is carried out in a manner which is sensitive to the environment.
- 8.70 This is reflected in the Scottish Planning Policy document in its subject policy chapter on Renewable Energy. The current target is for 50% of Scotland's electricity to be generated from renewable sources by 2020 and 11% of heat demand to be met from renewable sources. Planning authorities should support the development of local renewable energy initiatives in an environmentally acceptable way.
- 8.71 The Scottish Government, through the Climate Change (Scotland) Act 2009 has set a target of an 80% reduction in greenhouse gas emissions by 2050, with an interim target of 42% by 2020. This will be achieved both by changing the manner in which we generate our electricity needs and also through the energy efficient design and layout of buildings.
- 8.72 One of the main issues to consider in the assessment of this proposal is the benefit of the turbines in respect of their contribution to renewable energy generation and their contribution towards meeting the targets of 42 per cent reduction in emissions for 2020, and an 80 per cent reduction target for emissions by 2050 (Climate Change (Scotland) Act 2009).

- 8.73 The ES highlights the carbon savings of the development. Based on recent figures for the release of carbon dioxide from electricity generation, over the estimated operational life of the project (25 years), the saving equates to 72323 tonnes of CO₂ per year, using the coal CO₂ emission factor; or 51046 tonnes of CO₂ per year, using the UK grid supply mix CO₂ emission factor.
- 8.74 According to the ES, taking into account the carbon cost of the development itself (construction and CO₂ release from peat) the payback period to repay the carbon exchange to the atmosphere (the CO₂ debt) would be 14 months.

9 CONCLUSION

- 9.1 Although many matters of concern have been raised by consultees and in representations received, most can be accommodated through appropriate mitigation planning and the imposition of planning conditions. However the proposals are fundamentally flawed due to their unacceptably significant adverse environmental impact: most particularly on the landscape and the adjacent Special Protection Area. Accordingly, the proposals are contrary to the provisions of the Midlothian Local Plan 2008, and the relevant provisions of the Scottish Government's Scottish Planning Policy.

10 RECOMMENDATION

- 10.1 It is recommended that planning permission is refused for the following reasons:
1. The proposed development will significantly exceed the capacity of the landscape around Fala Moor to accommodate a wind farm development of this scale, to an extent that it will have a significant adverse impact upon the landscape character and visual amenity of the area and the setting of the Moorfoot Hills contrary to Midlothian Local Plan policies RP6, RP7 and NRG1.
 2. The proposed development would, if built, be viewed from distance with a series of other operational and consented wind farms and this cumulative impact would significantly exacerbate the detrimental impact on the landscape contrary to Midlothian Local Plan policies RP6, RP7 and NRG1.
 3. Due to the significant difference in turbine size between the proposed wind farm and the operational wind farm at Dun Law, there would be an awkward relationship between the two wind farms which would lead to a confusion in the scale of the respective landscapes on which the opposing wind farms are located to the detriment of the landscape character of the area contrary to Midlothian Local Plan policies RP6, RP7 and NRG1.

4. The proposed wind farm development is contrary to the recommendations of the Landscape Capacity Study for Wind Turbine Development in Midlothian, adopted by Midlothian Council as a non-statutory guideline in February 2007, as this site, which is within the "Plateau Grassland" landscape character area as defined by that study, is classified as being of high sensitivity with no capacity to accommodate further wind farm development without significant adverse landscape and visual impacts.
5. The proposed wind farm development is contrary to policy NRG1 of the 2008 Midlothian Local Plan as it will;
 - a. have an unacceptable effect on the wider environment by reason of landscape and visual impact;
 - b. without the imposition of planning conditions, the development would have an unacceptable adverse impact upon the wildlife interests of the adjacent Special Protection Area, with particular regards to ornithological interests, and also to the peat land habitats of the development site itself;
 - c. with reference to policy RP6, it will have a significant adverse impact upon the special scenic qualities and integrity of the Area of Great Landscape Value; and
 - d. it fails to comply with the guidance provided on siting, design and location in the report "Landscape Capacity Study for Wind Turbine Development in Midlothian".

Ian Johnson
Head of Planning and Development

Date: 12 November 2012

Application No:	11/00847/DPP (Available online)
Applicant:	Ridge Wind
Agent:	SLR Consulting LTD
Validation Date:	20th December 2011
Contact Person:	Kingsley Drinkwater
Tel No:	0131 271 3315
Background Papers:	11/00279/PAC