Midlothian

PLANNING COMMITTEE
TUESDAY 12 MARCH 2024
ITEM NO 5.5

APPLICATION UNDER SECTION 36 OF THE ELECTRICITY ACT 1989 (AS AMENDED) FOR THE ERECTION OF A WIND FARM COMPRISING 18NO THREE-BLADED HORIZONTAL AXIS TURBINES UP TO 180M TO TIP HEIGHT, INSTALLATION OF ASSOCIATED TRANSFORMERS AND SWITCHGEAR, TURBINE FOUNDATIONS AND HARDSTANDING, A NETWORK OF ACCESS TRACKS INCLUDING WATERCOURSE CROSSINGS, FORATION OF SITE ENTRANCE, FORMATION OF BORROW PITS, A SUBSTATION COMPOUND, ERECTION OF TELECOMMUNICATIONS MAST, ERECTION OF A BATTERY ENERGY STORAGE SYSTEM WITH CAPACITY FOR 50MW, AND ASSOCIATED WORKS ON LAND AT TORFICHEN HILL, BROAD LAW AND WULL MUIR ON LAND TO THE EAST OF GLADHOUSE RESERVOIR AND SOUTH WEST OF MIDDLETON.

Report by Chief Officer Place

1 PURPOSE OF REPORT

1.1 The purpose of this report is to advise the Committee of progress to date in assessing the stated wind farm development comprising 18, 180m turbines and associated equipment and works at Torfichen Hill, Broad Law and Wull Muir on land to the east of Gladhouse Reservoir and southwest of Middleton, hereafter referred to as the Torfichen Wind Farm. The report outlines the proposal, the site and the procedures relevant to the determination of the application. The report recommends the Committee note the update and approve the issuing of an interim response to the Scottish Government's Energy Consent Unit (the determining body).

2 SUMMARY OF APPLICATION

2.1 The proposal comprises an 18 turbine wind farm with associated works. The turbines would reach a maximum height of 180m. The development is expected to generate a total of 158MW (at any one point in time) and includes a battery energy storage system with the capacity of up to 50MW. The case is administered by the Scottish Government's Energy Consent Unit and is available to view on their website under reference ECU00004661. The development is a National Development as defined by the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations and National Planning Framework 2023 (NPF4). The development is also EIA Development as defined by the Electricity Works (Environmental

Impact Assessment) (Scotland) Regulations 2017. The application is accompanied by an Environmental Impact Assessment Report (EIAR).

2.2 The proposed development comprises:

- The erection of 18no 180m high wind turbines, including the formation of foundations;
- The installation of transformer and switchgear around each turbine;
- The formation of construction hardstanding around each turbine which will also be retained during the operational phase of development;
- The formation of site access tracks, including watercourse crossings;
- The formation of construction compounds;
- The installation of substation and control building;
- The erection of energy storage facility (battery energy storage system) with an installed capacity of 50MW;
- The formation of 1m wide, 0.5m deep cable trenches;
- The erection of a staff welfare building;
- The installation of a 10m high telecommunications mast;
- Engineering works to form 2no borrow pits to source stone for access track and compound construction;
- The siting of plant to win and crush rock from borrow pits;
- The potential siting of a batching plant to make concrete onsite; and
- The potential installation of a borehole to extract groundwater for the batching plant.

2.3 The proposal has the potential to generate 411,544 MWh annually. If an average electricity consumption per UK household of 3.295 MWh/year is adopted, then this would be sufficient to meet the needs of 124,899 households. For context, there are an estimated 41,676 households in Midlothian according to Mid-2022 Household Estimates published by the National Records of Scotland.

3 SITE DESCRIPTION

3.1 The site comprises an area of ground measuring approximately 853 hectares and located on the north slope of the Moorfoot hills. The topography of the site is part of the wider hillslopes of the Moorfoot Ridge that borders the southeast edge of the site. The profile then falls to a gentler elevation towards the northeast. The site here is part of an upland fringe area of undulating hills, open farmland and watercourses. The south boundary follows the high ridge line of the Hunt Law, Wull Muir, Broad Law and Torfichen Hills. This ridge provides a backdrop to views south across Midlothian towards the Scottish Borders. The east boundary in part follows Whitelaw Cleuch as it transects the B7007. Tree belts form the majority of the east boundary north of the B7007. The north boundary is an unmarked and varied boundary to the open countryside beyond. The northwest and west boundaries are similarly unmarked and rejoin the south at the peak of Mauldslie Hill.

3.2 The site is not allocated for a specific development proposal in the Midlothian Local Development Plan 2017 (MLDP) and is outwith any defined settlement boundary. The site is entirely within the extent of the Gladhouse Reservoir and Moorfoot Scarp Special Landscape Area. There are no designated Core Paths through the site with the exception of Core Path 8-58 which incurs into the southwest corner of the red line boundary on the north slope of Mauldslie Hill. National Cycle Route 1 follows the route of the B7007 through the site. Other statutory designations affect the site and its surroundings are set out in the relevant chapters of the EIAR.

4 PROCEDURES

4.1 An application was submitted to Scottish Ministers on the 28 November 2023 seeking consent under Section 36 of the Electricity Act 1989. Applications made under Section 36 of Electricity Act 1989 differ from applications for planning permission. In this instance, the Council is a statutory consultee rather than the determining authority. If the Energy Consents Unit grants consent under Section 36, this engages Section 57 of the Town and Country Planning (Scotland) Act 1997 (as amended). Subsection 2 provides that Scottish ministers may give a direction for planning permission to be deemed to be granted, subject to such conditions (if any) as may be specified in the direction. In simple terms the scale of the development means it is determined by the Scottish Government's Energy Consents Unit rather than Midlothian Council as the local planning authority.

4.2 In response to the consultation request issued by the Energy Consents Unit, the Planning Service has reviewed the EIAR. This review includes consultation requests received from internal consultees. It is the duty of the Energy Consents Unit to consult with other statutory consultees such as Scottish Environment Protection Agency (SEPA), NatureScot and Historic Environment Scotland. Any third-party representatives from members of the community, including Community Councils, are directed towards the Energy Consents Unit.

4.3 The result of the review is set out in the Midlothian Council Interim Response Letter appended to this report. Appended to this are the internal consultee response received from services within Midlothian Council. The review finds that there is insufficient information provided in the EIAR to conclude an assessment of the proposal. Detailed further information requests are set out in the letter.

4.4 The intention is to present a final consultation response to Committee for consideration at a future meeting once a response to the interim letter has been received and hopefully additional information has been provided.

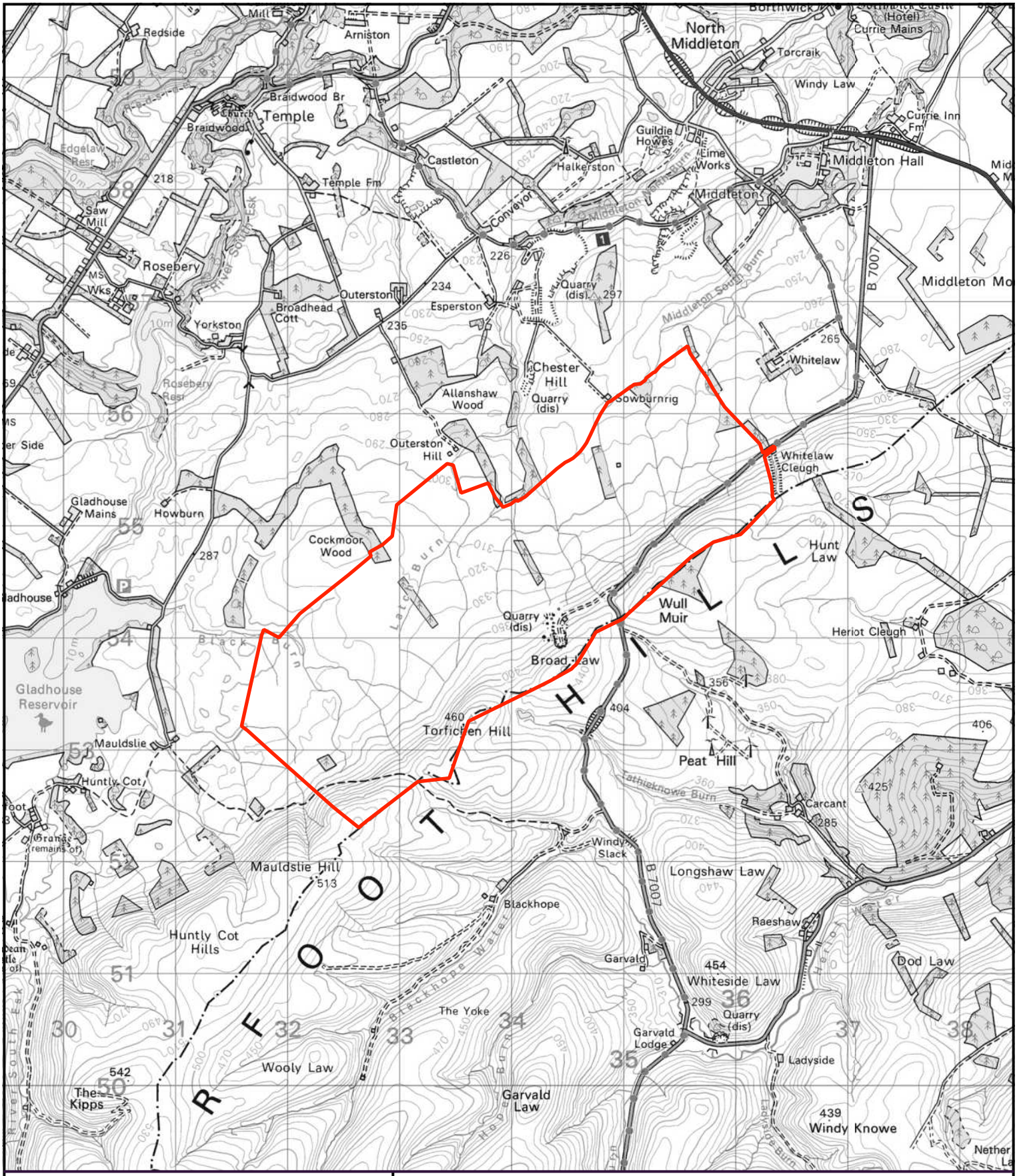
5 RECOMMENDATION

5.1 The recommendation is that the Committee:

a) Note the update on the Torfichen Wind Farm application;
b) Approve the attached interim response and instruct officers to issue it to the Scottish Government's Energy Consents Unit; and
c) Note the intention to present a further report to the Committee on the Torfichen Wind Farm once a response has been received to the interim response.

Peter Arnsdorf
Planning, Sustainable Growth and Investment Manager

Date:	1 March 2024
Contact Person:	Martin Patrick
Email:	martin.patrick@midlothian.gov.uk
Background Papers:	Interim Response, March 2024:
Attached Plan:	Location plan.



Planning Service
Place Directorate
Midlothian Council
Fairfield House
8 Lothian Road
Dalkeith
EH22 3AA

Torfichen Wind Farm: proposed wind farm development comprising 18 turbines and associated infrastructure

File No.: 23/00795/S36

Scale: 1 to 45,000 @ A4

N

Midlothian Council
Midlothian House
Buccleuch Street
Dalkeith
EH22 1DN

Place Directorate

Kevin Anderson
Executive Director - Place

Midlothian

[dated of issue]

Kirstin Keyes
Energy Consent Unit (ECU)
5 Atlantic Quay
150 Broomielaw
Glasgow
G2 8LU

Dear Ms Keyes

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (as amended by Planning etc (Scotland) Act 2006)
Application For Energy for Proposed development comprising 18 three-bladed horizontal axis turbines, and associated works (known as Torfichen Wind Farm) at Land to North of Former Quarry, Broad Law, Gorebridge,

Thank you for your consultation request which was received on 8 December 2023.

The Council has reviewed the application documents available at www.energyconsents.scot under reference number ECU00004661. We have received internal consultation responses from the Council's Neighbourhood Services (Roads, Flood Risk and Drainage), Protective Services (Environmental Health), East Lothian Council Archaeology Service (Cultural Heritage) and the Landscape Officer within the Planning Service. Their consultation responses are appended to this letter.

This letter sets out the Council's interim response to the proposal. Our initial position is that the application does not provide sufficient information to allow for a complete conclusion of our assessment. Therefore, we invite the applicant to review the detailed comments provided in this letter, including appendices and provide a response. Once this response has been received, we will complete our assessment and present our findings to the elected members of the Planning Committee for agreement.

To accommodate this process, we formally request an extension of time to allow for the applicant's response and our re-assessment of additional information. As this depends on deadlines outwith our control we cannot commit to a specific deadline. Once new information has been received, we will require at least 6 weeks to review plus up to 4 weeks to prepare a final report to committee. The committee dates currently scheduled for 2024 are set out below:

- Tuesday 30th April
- Tuesday 4th June
- Tuesday 10th September
- Tuesday 29th October
- Tuesday 3rd December

Please ask for:	Mr Martin Patrick	Direct Dial:	0131 271 3346
Our Reference:	23/00795/S36	Fax No:	0131 271 3537
Uniform ref:	n/a		

The Council is willing to discuss timescales further with the applicant and establish onward processing timescales to ensure the efficient handling of the application.

The matters arising from our review of the application are set out below. We have given each of these unique identifiers for ease of tracking and would ask the applicant adopts these in their response. This will allow for efficient referencing back to the original EIAR to speed up the review of additional information. We have used the applicant's EIA Chapter headings where appropriate and adopted others in relation to matters outwith these topics.

EIA regulations

Regulation 14 of the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 requires the developer to publish a notice in The Edinburgh Gazette and a newspaper circulated in the locality. Regulation 18 makes similar provision for the purposes of notifying members of the public of the location of hard copies of the EIA for their inspection. The EIAR Non-Technical Summary at paragraph 5.12 confirms the applicant's intention to publish this notice.

Query #EIA1 – can the applicant provide evidence to demonstrate the requirements of Regulations 14 and 18 have been carried out? The Council would accept extract copies of the notice as published in the Scotsman, the Edinburgh Gazette and the Midlothian Advertiser.

Regulation 15 requires the planning authority to place a copy of the EIAR on Part 1 of the planning register. I can confirm the documents uploaded to the Energy Consents Unit website under reference ECU00004661 are on the planning register under our reference number 23/00795/S36.

Regulation 16 requires the developer to send a copy of the EIAR to the planning authority and confirm to Scottish Ministers the date on which they did so. I can confirm that the planning authority did not receive a copy of the EIAR from the developer.

Query #EIA2 – can the applicant confirm they sent a copy of the EIAR to the planning authority and provide a copy of their acknowledgement of receipt? We did not receive a copy at our published postal address which raises the suspicion that this regulation has not been complied with.

The planning authority wishes to underline that the failure to receive a copy of the EIAR from the developer has caused no injury or impediment to our ability to examine the application. We raise this only to allow the applicant the opportunity to make sure the application is in full compliance with the EIA Regulations.

Regulation 18 requires the developer to provides copies of the EIAR available for inspection at a place accessible to the public within the locality. The developer notes in the Non-Technical Summary that copies were placed in Middleton Village Community Hall and Gorebridge Library. Officers visited Gorebridge Library on the 11th December 2023 and can confirm that a full printed copy of the EIAR was available for public inspection. Therefore, we are satisfied the requirements of Regulation 18 have been met.

Landscape and Visual Impacts

The Council's Landscape Officer has reviewed the relevant chapters of the EIAR and has provided an initial review (see Appendix 1: Landscape Officer Comments, 23/02/2024). In general, the Council is satisfied with the methodology adopted in Chapter 6: Landscape and Visual Assessment. The scope and depth of information provided on landscape and visual

effects allows for a reasoned assessment of these impacts. The following issues are raised and the applicant is invited to respond to each.

Query #LVA1 – the EIAR concludes the development would result in significant visual effects at 9 out of 22 viewpoints during the daytime within the operational phase of development. The Council accepts these conclusions apart from the conclusion of Major/ Moderate Significance at Viewpoint 9: Gladhouse Reservoir. The Council does not agree with this conclusion. The effect is a visual impact of Major Significance given the proximity of the turbines, the extent of the view affected and the context within which the turbines would be seen. The applicant is invited to re-examine their conclusions with regard to the visual impact on this representative viewpoint.

Similarly, the residential visual amenity assessment at Property 10: White Cottage shares broadly the same view of the site as Viewpoint 9 above. The EIAR concludes that the effect would be minor and not significant.

Query #LVA2 – the Council considers the level of effect would be more likely to be moderate significant due to the extent of view available within the gardens and at the main garden gate entrance and access road. The applicant is invited to re-examine their conclusions with regard to the residential visual amenity assessment at this property.

The EIAR discusses the embedded mitigation that was adopted during the design process, set out in Chapter 3. Design mitigation of landscape and visual effects are well-established design techniques that seek to provide visual balance, simplicity and consistency of layout. The design should avoid irregular layouts that create excessive overlapping of rotors and turbine outliers from the main group (paragraph 2.29 “Siting and Designing Wind Farms in the Landscape” Guidance, Scottish Natural Heritage (now NatureScot) August 2017).

The Council acknowledges the measures adopted in the design of the layout and restrictions imposed on the materials, lighting and rotor direction by the EIAR. Broadly these are accepted. However, we note that some turbines do appear as outliers in certain views, such as VP10: Arniston, VP18: Bonnyrigg and VP15: Arthur’s Seat as examples. The outliers are turbines T1, T2 and T3, those located towards the south-west of the site, closest to Gladhouse Reservoir.

Query #LVA3 – the Council is concerned the applicant’s design process has not been fully successful in mitigating the landscape and visual impacts of the development. The developer is invited to review the design iteration process and investigate the placement of turbines T1, T2 and T3 relative to the grouping of the remaining turbines.

The applicant’s Planning Statement provides an assessment of the proposal against the relevant development plan policies. In considering NPF4 Policy 11 e), the statement at paragraph 4.8.27 concludes that the overall approach to the design of the project has implemented appropriate design mitigation in arriving at the final layout. At paragraph 4.8.32, they conclude that the development would not have an adverse effect on the integrity of Special Landscape Area in and around the site. Significant visual effects are noted at 4.9.39 - 40. Conclusions of the assessment against NPF4 are set out in paragraphs 4.15.1 – 4.15.5. The planning statement acknowledges Policy 11 e) ii) which directs that localised

and mitigated landscape and visual impacts will be considered acceptable (para 6.3.9, third bullet point). It then concludes at para 6.3.10 that “appropriate design mitigation has been applied. Potentially significant adverse landscape and visual effects resulting from the proposal have been addressed through an iterative design process”.

Design mitigation has been applied and has to a large extent delivered a scheme which creates the sort of visual balance required by national guidance. However, the outlier turbines to the south west as demonstrated by the EIAR suggest that this process has not been completely successful.

Moreover, the Council infers from the Planning Statement that the applicant accepts that the landscape and visual impacts from the development are not localised. The siting of wind turbines in this location has the potential to advance wind farm development down from the Moorfoot and Lammermuir hills and into the lower lying areas of Midlothian. The landscape effects of the development should be considered regional and not localised. The site is located in a transition point from two landscape character types which are typically more sensitive to wind farm development.

This point of clarity is important for the Council to be able to consider the application of Policy 11 within the context of the wider policies of NPF4. The applicant refers to Scotland-wide policies such as NPF4 Policy 1, the general support provided by Policy 11 and the Onshore Wind Policy Statement of 2022. These policies all carry the caveat that the development should be “the right development in the right place”. Therefore, the specifics of the site and the development’s interaction with its context carry substantial weight in the determination of a proposal.

Query #LVA4 – Can the applicant clarify that it is their position that the landscape effects of the proposal are localised? Or do they accept that the landscape effects are regional in effect, but this is justified as a departure from Policy 11 e) ii) in this instance, given the benefits of the proposal as highlighted in other sections of the Planning Statement?

The applicant proposes to site a 0.8ha battery energy storage system as part of the development. The location and indicative layout is provided in Figures 3.12a and 3.12b. The BESS would be surrounded by a palisade fence, the details of which are not known.

The Council refers to Siting and Designing Wind Farms in the Landscape (SNH, August 2017) at paragraph 2.22. The guidance notes that ancillary infrastructure, such as battery energy storage systems, are increasingly co-located next to wind farms. The impact of ancillary infrastructure needs to be assessed. The EIAR does not include the proposed BESS in its assessment of landscape and visual impacts to any degree. Paragraph 6.7.7 notes the layout of ancillary features are located so as to minimise their influence on the surrounding area. However, this is not borne out of any evidence provided in the assessment.

Query #LVA5 – the applicant is invited to provide an assessment of the landscape and visual impacts of the battery energy storage system. Specifically, the EIA must provide clarity on the methods of screening examined at design stage to mitigate the effects of this scale of electrical infrastructure development on the landscape.

Ecology, Ornithology and Biodiversity Enhancement

The Council has no in-house ecologist and so will defer in this instance to the assessment provided by statutory consultees in relation to ecology and ornithology. However, we note

Midlothian Council
Fairfield House
8 Lothian Road
Dalkeith
EH22 3ZN

Education, Communities and Economy
Planning
Director: Kevin Anderson

Midlothian

with concern that the EIAR reveals the substantial impact on breeding bird species such as Curlew and Black Grouse.

The Council is able to provide comment on the outline Biodiversity Enhancement Management Plan (oBEMP) from both a landscape and planning perspective.

Overall, our initial assessment is that the oBEMP fails to capture the opportunities for a compelling and meaningful set of biodiversity enhancement measures for this site. NPF4 Policy 3 b) iv) calls for significant biodiversity enhancements in addition to any proposed mitigation. The emphasis of the policy is on reconnecting nature networks, addressing fragmentation of habitats and connecting measures on site with the wider area.

The oBEMP provides for a modest 11.8% enhancement figure based on Biodiversity Net Gain calculations. In quantitative terms, this is slightly higher than the 10% minimum required in other areas of the UK. But in qualitative terms, the proposed measures are isolated areas of works located in 5 distinct areas of search. It is not clear from the oBEMP what measures are mitigation and what are enhancement. The oBEMP also fails to link the ecological appraisal of the site with enhancement measures that reconnect the wider nature networks in the area. Some of the areas of search, like D and E, are considerable distances away from the site.

Query #BEMP1 – the applicant is invited to review the oBEMP to examine ways in which the enhancement measures can be improved to address the requirements of NPF4 Policy 3 b) iv).

In terms of peatland restoration, the Scottish Government is currently offering 100% grant funding to landowners for peatland restoration works. As a central government fund, it would not lay a disproportionate burden on the development. The landowner of the site and surrounding area could examine the potential for an extensive series of peatland restoration works in and around the site. The contribution made by the development could help to manage the finances of the works whilst grant funding is secured. The construction phase could also support widespread peatland restoration works by sharing a compound and personnel welfare facilities. The enhancement measures from the development could then be targeted elsewhere, such as habitat creation and defragmentation of nature networks in the vicinity of the site. The planning authority can provide analysis of these opportunities which has been prepared as part of the preparation for LDP2.

Query #BEMP2 – the applicant is invited to amend the oBEMP to signal their intent to pursue more substantial enhancement opportunities. These can then be secured by condition, requiring the engagement with statutory bodies and examining the potential for significant enhancement measures resulting from development.

The route of the abnormal indivisible load delivery is set out in the Transport Assessment in Appendix 11.1 of the EIAR. This indicates that there is potential for tree and vegetation removal from several key points of interest along the route. Most of these are in Midlothian as the route from Rosyth to the site steps down the transport network hierarchy, from the trunk road network down to A and B class roads. The impact of this element of development is ill-defined by the transport assessment, and it has not been picked up in the ecology

chapter of the EIAR. This results in a mis-calculation of the net biodiversity gain, the extent and significance of this is unknown.

Query #BEMP3 – the applicant is invited to re-assess the potential impact on the natural heritage assets of Midlothian from the delivery of abnormal indivisible loads to the site.

Cultural heritage

NPF4 Policy 11 e) vii) balances support for renewable energy with a requirement to protect the historic environment. The Council's heritage consultant has reviewed the application and their response is provided as Appendix 2.

The conclusion drawn is that the EIAR is substantially deficient in its assessment of the impacts of development on the historic environment assets of the area.

Query #HIST1 – the applicant is invited to undertake a comprehensive review of EIAR Chapter 7 in light of the comments from the Council.

Transport and Drainage

The Council has no queries at this stage relating to the information provided in the EIAR. The consultation response is attached as an appendix to this letter. There are a number of measures the Council would seek to secure by condition. These will be set out in draft conditions provided in our final consultation response.

Health and Safety

NPF4 Policy 23 requires all proposals to protect people and places from environmental harm. The risks associated with new development are set out in within criteria a) to j). In response to this requirement, the Council invites the applicant to respond to the following requirements:

Query H&S1 – the Council recommends that the Scottish Fire and Rescue service are consulted on the application.

Query H&S2 – the applicant is invited to respond to the requirement of NPF4 Policy 23 f) relating to suicide risk

Query H&S3 – the National Gas Network Plant Protection Team should be consulted on the application with regard to proposed excavations in the vicinity of the gas pipeline within the site.

Query H&S4 – the applicant is invited to consider the risk of ice throw on neighbouring uses, including the Core Path to the west of the site, including measures to mitigate this risk.

In addition, the Council would look to agree measures by condition which secure coordination between any works at the proposed borrow pits that could generate noise and vibration and the rocket testing activities approved under planning permission 21/00132/DPP at the former Broad Law Quarry.

The Council would be willing to meet with the project team and Energy Consents Unit to discuss the details of the additional information requirements.

Midlothian Council
Fairfield House
8 Lothian Road
Dalkeith
EH22 3ZN

Education, Communities and Economy
Planning
Director: Kevin Anderson

Midlothian

I look forward to hearing from you.

Yours sincerely

Mr Martin Patrick
Planning Officer

Enc.
Appendix 1. Landscape Comments
Appendix 2. Archaeology and Cultural Heritage Comments
Appendix 3. Transport and Drainage Comments
Appendix 4. Environmental Health Comments

Please ask for:	Mr Martin Patrick	Direct Dial:	0131 271 3346
Our Reference:	23/00795/S36	Fax No:	0131 271 3537
Uniform ref:	ACKAPP		

Appendix 1. Landscape Comments

Thank you for asking for landscape comments on the above application. I have carried out an initial review **of Chapter 6 Landscape and Visual Impact Assessment** of the Torfichen Wind Farm EIA, and the supporting Figures and Appendices. In general, **the scope and depth of information included in the chapter 6 report and appendices is acceptable with the methodology and baselines sections providing an adequate level of information**. This application raises concerns in relation to several key landscape issues, in particular landscape impacts and visual impacts for certain receptors. Additionally there are concerns that the proposed level, location and scope of biodiversity enhancement may be insufficient or unsuitable. Whilst this is primarily an ecological issue it overlaps with landscape and visual issues so is also covered briefly below.

Landscape Impacts:
Landscape impacts have been considered at construction stage and operational stage phase (with decommissioning being judged to be the same as construction phase but in reverse). **The proposal is anticipated to have a significant operational effects on landscape character across five Special Landscape Areas within Midlothian including the** Gladhouse and Moorfoot Scarp SLA**,** and within the two landscape character types within which the proposed development is sited (Plateau Moorland-Lothians landscape character type and the Upland Fringes Landscape Character Type); **The proposals are judged to have the potential for major significant effects during operation for these two landscape character types.** Additionally the proposals are judged to have the potential for further **significant effects on an additional eight landscape character types** in the surrounding area. The impacts on the Gladhouse and Moorfoot Scarp SLA would be due to the proposed introduction of 18 turbines of 180m height into a landscape that is noted in the SLA for the *" open and naturalistic character of Gladhouse Reservoir and its scenic juxtaposition with the dramatic scarp of the Moorfoot Hills and the deeply incised South Esk valley."* Several considerations are raised in the SLA statement that are relevant to the proposed development as follows: *"Potential for intrusion on key views to the Moorfoot Hills from the Gladhouse Reservoir area; Impacts on the openness and natural character of Gladhouse Reservoir and on areas of moss and moorland; Impacts on important views from the B7007 across Midlothian to the Pentland Hills*".

This sensitivity is highlighted by the Midlothian Wind Energy Capacity Study 2014 which assigns the landscape character types within which the proposed development sits as having a high sensitivity. The Landscape and Visual Impact Assessment presented in Chapter 6 of the EIA acknowledges the landscape impacts of wind turbine development in general but does comment that *"since the MLWECS was published in 2014 NatureScot has revised their guidance and advises that updating of existing studies may be required as development patterns and technology change and that reference to "capacity" should be removed….The guidance also notes that "a finding of "high sensitivity" does not necessarily mean that there's no ability to accommodate development and "low" sensitivity does not necessarily mean that there is definitely potential for development".* Whilst the comments set out regarding the date of the study and subsequent published guidance are valid, it should be noted that the MLWECS found only capacity for turbines no greater than 30metres high within a limited part of the proposal site, and no capacity at all for the main part of the proposal site. Since the adoption of the study, whilst there has been widespread wind turbine development in neighbouring landscape character types in Scottish Borders, the landscape character types in which the proposed development is sited have not experienced the same level of change. Therefore, the findings of the study should still hold some weight when considering this application.

Visual Impacts:
As identified in the report, the proposed development has the potential to give rise to **significant visual impacts for a number of receptors** including the **settlement of Gorebridge (effect of moderate significance anticipated) core paths**, the **National Cycle Network Route 1**, and the **B7007**. Twenty-two viewpoints were identified for which a detailed viewpoint assessment has been carried

out including production of photomontages/wireframes. It should be noted that nighttime visual effects have also been considered due to the requirement that red aviation warning lights be installed on the nacelles of seven turbines. Visual impacts have been considered at construction phase and operational phase (with decommissioning being judged to be the same as construction phase but in reverse). Based on the findings of the report, **significant daytime operational visual effects are anticipated at nine of the 22 representative viewpoints, with significant nighttime visual effects at eight of the 22 viewpoints**. For these nine viewpoints the daytime operational significance of effects ranges as follows:

- **Effects of Major significance**: Viewpoint 2 Broad Law Corner
- **Effects of Major/moderate significance**: Viewpoint 9 Gladhouse Reservoir; Viewpoint 12 Minor Road near Yorkston Farm; Viewpoint 21 Fountainside
- **Effects of Moderate significance**: Viewpoint 3: Mount Lothian Area, Viewpoint 8 North Middleton, Viewpoint 13 Whiteside Law, Viewpoint 14 Blackhope Scar, Viewpoint 16 Gorebridge

The above assessed significance of visual effects is accepted **except for Viewpoint 9 Gladhouse Reservoir,** where I consider that a **visual impact of major significance** may be experienced given the proximity of the turbines, the extent of the view affected and the context within which the turbines would be seen.

Similarly, whilst generally the findings of the **Residential Visual Amenity Assessment**, (which was carried out for all residential properties within 2.5km of the proposal site) are accepted, the findings for **Property 10: White Cottage** (which is located immediately adjacent to Gladhouse Reservoir) have been judged as having the potential to have a minor not significant effect whereas on visiting this location **I find that the level of effect would be more likely to be moderate, significant** due to the extent of view available from within the gardens and at the main garden gate entrance, and also from the access road.

Mitigation and Residual Effects:
As is customary for windfarm development primary mitigation is embedded within the iterative design process. Further detail of this is provided in Chapter 3 of the EIA report and the as explained in Section 6.7 of chapter 6. Key built in mitigation referred to includes siting the turbines to avoid inconsistent spacing, outliers or excessive overlapping, the colour of the turbines (off-white low reflectivity), technology built into the lighting system to enable a low intensity lighting mode during high visibility (greater than 5km) conditions. Residual effects are therefore considered to be the same as those assessed in the main part of the LVIA as set out above.

Having reviewed the visual impact assessment submission including the Viewpoint photomontages, **it is however judged that some turbines do appear as outliers in certain views**, such as T1 and T3 from viewpoint 10 Arniston, T1 and T2 from viewpoint 15 Arthurs Seat), and T1 and T3 from viewpoint 18 Bonnyrigg. I would encourage the applicant to review the iterative design process and embedded mitigation presented in Chapter 3. I have concerns about the effectiveness of the design in securing the necessary mitigation of landscape and visual effects. This is evidenced by both the grouping of turbines as experienced from long range views and also closer VP9: Gladhouse Reservoir and Property 10: White Cottage. It could be that these effects are caused by the extent of turbine placement towards the southern-west of the site.

Assessment of Cumulative Impacts:
An overall study area of 60km radius, with a detailed study area of 25km radius was used to assess cumulative impacts of other windfarms that are operational, under construction, consented or

subject to valid full planning permission as of 10th August 2023. The initial baseline against which the proposed development has been assessed includes all operational windfarms. The cumulative impact assessment therefore extends to consider other schemes that are not yet present in the landscape. The cumulative impact assessment sets out to identify whether there would be any change to the significant effects assessed. The cumulative assessment looks at two scenarios, firstly the assumption that all other consented wind farms are operational and Scenario 2 assumes all schemes in planning are operational. The findings of the cumulative impact assessment are that there would be potential for cumulative effects within Landscape Character Type 90 Dissected Plateau Moorland in the part of the landscape which lies between the proposed development and the proposed wind farm at Wull Muir which is the closest of the proposed schemes, at 3km south east of the proposed Torfichen wind farm site and also increased visibility of turbines within Landscape Character Type 269 Upland Fringes-Lothians, which lies immediately to the north-east of the proposed development at Torfichen. However, in these areas the main assessment has already addressed the potential for significant effects on landscape character, and the report therefore concludes that there would be no other additional significant cumulative effects.

Outline Biodiversity Enhancement Management Plan:
I have briefly reviewed the following document to assess potential for any overlapping landscape impacts or considerations. This review focuses on the landscape effects of proposed enhancement measures. It would be for a qualified ecologist to assess these in relation to ecological or ornithological interests. I recommend that further consultation and work on biodiversity enhancement are required. The main habitats considered are:-

- Blanket bog/ modified bog
- Broadleaved woodland
- Species rich meadow/grassland
- Acid grassland

The BEMP proposes enhancements to 5 “Search Areas” named A to E. These are all within the site red line boundary except for Search Area C1 and D1 and E and are as follows:-

- Search Area A: Yorkston Moss: Peatland Restoration/ Enhancement: Peat Hagg Reprofiling, drain blocking, stock exclusion/management, removal of self seeded trees
- Search Area B: Native Broadleaved Woodland Creation: Replacement of monoculture conifer plantations with more diverse broadleaf woodland through staggered felling and replanting (likely with w10/w11 NVC woodland types)
- Search Area C: Grassland Restoration: Bracken removal / control to allow natural regeneration of local acid grassland habitat to improve floral diversity and increase value for insects and pollinators
- Search Area D: Species Rich Meadow/ Grassland Creation: Conversion of an existing arable field to species rich lowland neutral meadow/grassland habitat. This area is 5.69 hectares located some distance north-east of the site between Gorebridge and Vogrie.
- Search Area E: Native Hedgerow Creation: the proposal is to create native and species rich hedgerows along existing fences and boundaries in areas around Esperton Farm (north of the site) and Maudslie (south west of the site)

The report proposes that an increase or net gain of biodiversity of 11.8% over and above the baseline and pre-development value of the site could be achieved post-construction.

Having reviewed the proposals I judge that **whilst the proposals do not present any potential adverse effects for landscape character or visual impact, the enhancement proposals are limited in**

scope, offering only 11.8% gain in biodiversity based on the metric used, and **some of that benefit is isolated from the proposals site** by some distance (Search Area E). Additionally, the **onsite proposals should really be considered as mitigation rather than counting towards enhancement**. This is because overall enhancement measures should be over and above the baseline. Off-site enhancement proposals should be linked to the site or to provide strategic nature network connections to the wider habitats rather than create isolated pockets of habitat to **ensure functional habitat connectivity, ensuring appropriate dispersal distances for species**.

It is also noted that the route of the abnormal indivisible load (AIL) deliveries has the potential to require the removal of trees and vegetation. This is not clearly defined in the Transport Assessment (Appendix 11.1). Whilst it is appreciated that the specific operational details of this element of the proposal are not yet established, the impact of this loss across the AIL study area has not been factored into the ecology or landscape impacts of the development. This results in a mis-calculation of the baseline from which enhancement proposals are calculated.

Further details would require consultation with the Council and partners in order to ensure that proposals work to link existing habitats on site to the wider nature network and tree and woodland strategy and allow for appropriate buffer distances. The planning authority is preparing the mapping layers for the coming LDP for the Midlothian Nature Network and the Midlothian Forestry and Woodland Strategy. This work could be shared with the applicant to inform a set of biodiversity enhancement measures that is more connected to the site's context.

I would therefore recommend that the Outline Biodiversity Enhancement Management Plan is reviewed to secure, in outline, a more substantial set of enhancement measures. The details of these can be secured by conditions which would require the approval of the planning authority. Both in terms of quantity and quality, the current proposal falls short of what should be expected. I am concerned that the enhancement proposals miss opportunities to delivery significant biodiversity enhancement required by NPF4 Policy 3 b).

Ornithology and Landscape:
Whilst in principle the findings of Chapter 6 LVIA follow a sound and accepted methodology and acknowledge the key likely landscape and visual impacts, there are **some wider concerns regarding the ornithological impacts of the proposals, and the likely ineffectiveness of proposed mitigation and enhancement to address these concerns.** This relates in particular to certain species of bird already present on site such as curlew and black grouse, which, on disturbance during construction are unlikely to return to the site once the turbines are in place, so will therefore not benefit from any proposed-on site biodiversity enhancement. This is not strictly a landscape issues, but the presence of significant key species of birds within a landscape does to contribute to its landscape character. Therefore, the **potential loss of significant species or large proportions of a population in an area could impact on the overall experience of that landscape**.

This is especially the case for the Gladhouse and Moorfoot Scarp SLA which includes the protected SPA area and is therefore noted for and widely visited for its ornithological interest. Similarly, any further mitigation work such as compensatory habitat creation will require additional landscape input and comment. I therefore recommend that further consultation and work with expert partner organisations should be carried out.

Appendix 2. Archaeology and Culteral Heritage Comments

Torphichen WF EIA Cultural Heritage Chapter: ELCAS comments:

As the assessment stands it does not adequately assess the impacts of the proposals upon the Historic Environment.

Significantly more work needs to be carried out before the chapter could be considered to be of an appropriate standard to review. The conclusions drawn are not always supportable by the presented evidence and there appears to be a lack of understanding of the nature of the Historic Environment in this geographical location.

General Comments

- Need to correct policy and guidance section-for example, OPOF is not planning policy, nor is HEPS, and PAN 2/2011 is a government publication, not HES.

- Relevant policy from the determining authority (MLC) has not been referenced.

- The Baseline and Potential sections are not adequate which therefore means that the assessment of direct impacts and the subsequent mitigation proposals are significantly underassessed.

- The assessment on operational impacts (setting and cumulative impacts), has not been adequately undertaken. Additional supporting material and assessment is required in order justify conclusions reached during the assessment-this includes assets that were scoped out in Appendix 7.2. Not enough cognisance of NPF4, MLC local development policy, and HES's Managing Change: Setting guidance, as well as the HES/SNH EIA handbook.

- Category C listed buildings in particular should not just be automatically considered to be of low/local significance. These are nationally listed assets, and should be assessed individually on a case by case basis. They should be included as such in the assessment of indirect operational effects. Similarly, some Cat B buildings can be considered to be of more than regional importance.

- Undesignated assets can be of high/national significance if their baseline assessment means they could be considered to be as such.

- Language needs to be standardised in Tables 7.2 and 7.5: 'none' is not an appropriate definition-if they are identified heritage assets then they will not have a nil significance. Negligible is the accepted terminology.

- Romano-British is not used in a Scottish context use either Roman/Roman Iron Age

- If an asset is already recorded in the HER, it is considered to be of at least low significance/local importance.

- Managing Change provides guidance on how to describe and assess an assets' setting, this includes identifying key viewpoints to, from and across the setting of a historic asset-this has not been considered enough within the chapter for some assets, and/or the impact on these views have not been considered in enough detail.

- Managing change also indicates that screening from trees/woodland/forestry cannot necessarily be relied upon to mitigate adverse impacts of a development as they are subject to factors outwith the control of the development (environmental factors. Felling etc). The potential effects of the removal of such screening have been considered in some instances, but not all, and where they have been, this has not been considered in detail-e.g. what would the assessment be if the screening wasn't there.

- The chapter does note that setting is not just visual and can include other elements. In some cases this has been considered and included in descriptions of setting, but then these elements have not always then been considered in assessment of impacts. This is particularly true for elements such as a sense of place, or isolation. Where visual and landscape elements are included in setting descriptions, in some cases there appears to be a lack of clear assessment of all of the elements in this regard.

- Using terms such as 'adverse impacts not anticipated' and the development 'will be in peripheral views', are not helpful and have largely not been substantiated (for example, through the use of supporting visualisations). This occurs both in Appendix 7.2 and in the detailed assessment in the chapter.

- Visualisations should been produced for all assets being assessed in detail, with photomontages preferable, but at the very least wireframes with an associated photograph. In some cases, more than one visualisation would have been helpful in order to aid assessment and a review of the conclusions reached.

- None of the assessments have considered the impact of noise from the development, which for some assets (at the very least those in near proximity), could have an adverse impact on setting given the very rural and relatively undeveloped nature of the landscape.

Construction impacts

Baseline

The baseline for each asset individually and across the landscape is limited and lacking in detail. This in turn does not allow for a full understanding of the time depth and development of landuse across the site. It is also clear that there is little or no understanding of upland archaeology or land use for lowland Scotland

- A systematic walkover survey should have been carried out of the full land-take. This will allow for micrositing during the detailed design process.

- There is insufficient information in the DBA to support the conclusions that the assessment has reached. There are assumptions made which are not supported and information that has clearly not been considered as part of the DBA. If it has been it should be included in the gazetteer which needs to be supported by the results of a systematic walkover survey (see above) – simply put you need to show your workings.

- Sites within the development boundary/1km study area should be shown on EIA figures to their full known extents.

- A number of sites and surveys either already identified on the HER; 1st edition mapping or the LIDAR which have not been taken into account in the DBA

Archaeological Potential

This section of the assessment in particular is not competent and as a result the assessment of mitigations are inadequate which could potentially lead to delays in the programme and increased cost.

This is a direct result of the assessment baseline and understanding of the land-use history being limited in nature. There is consequently some unsupported statements regarding the archaeological potential of the development site area:

For Example – Low potential for Prehistoric and Medieval remains – this is not supported by either known sites within the development area or the evidence of other investigations in this landscape.

Potential impacts

As noted above, the baseline and archaeological potential sections are not adequate which means that this section (which is based upon their conclusions) cannot be considered to be competent. This opens the potential for significant time delays and cost increases for the project that will be needed to deal with remains which will turn up.

Proposed mitigation

This section relies upon a robust assessment of potential impacts to have any value (see comments above). Nevertheless, there are some general comments which can be made:

- A standard process and methodology has been successfully developed and proven to be effective on similar project in similar landscapes. Broadly it is robust DBA which informs non-invasive site surveys (as appropriate) which both then inform a programme of evaluation by archaeological trial trench (of varying % up to 10%) which is followed by the final mitigation by open area excavation/ avoidance by design etc with a watching brief used only to mop up any outstanding areas (e.g. under power lines, slight rerouting etc)

- No mitigation has been proposed for the development footprint where it does not intersect (at present), with known heritage assets. This is a result of an inadequate assessment of potential and is highly unlikely to be acceptable

- No provision has been made to consider public benefit and public engagement as part of proposed mitigation, as per NPF4 and ALGAO guidance.

Operational impacts (setting and cumulative impacts)

Both NPF4, Midlothian Local Development Plan policies, refer to impacts on setting of cultural heritage assets. This assessment consistently considers impacts on setting to be secondary to those of impacts on cultural significance (we appreciate there is some confusion, as the HES EIA/SNH handbook does point to cultural significance). Standard practice is to use HES Managing Change Guidance Note on Setting to inform setting assessments, with further information on good practice in cultural heritage assessment in Appendix 1 of the EIA Handbook.

Overall, throughout the chapter and appendices there is confusion over what is being considered as an asset's setting and how the development will impact this. As it clearly outlined in the Managing change guidance the first step of a setting assessment should be to define the setting of an asset and if it is not impacted upon clearly outline the reasoning. This has not been done for this assessment.

Additionally, clearer language and structure would help. In some instances, the description of an assets setting is incomplete or misleading. In some cases, not enough work has been done to justify the conclusion, or enough supporting material has been included in order to justify conclusions.

This has resulted in some assets being scoped out in the basic appraisal (Appendix 7.2), or a lower level of impact being concluded than there potentially ought to be.

- C listed building have not been considered in the assessment, (please see comments above in relation to C listed buildings)

- Cumulative impacts should not just be undertaken for those assets where a significant setting impact has been predicted. Managing Change states that individual developments may not cause significant impacts on their own, but may do so when they are combined.

Specific comments

- Appendix 7.2 lacks in detail in places and doesn't always consider the setting fully of each asset before scoping them out. For example: the long distance views across Penicuik GDL and its contribution to the wider landscape are largely ignored; the relationship between Cockpen Parish Church and Dalhousie Castle and Estate is not considered; Braidwood Farm is confusing in what is being considered as setting and how the development may impact it.

- Hirendean Castle and Moorfoot chapel are assessed in detail in the chapter. Their settings are considered in relation to views from these assets, but not as much in relation to views of either asset, where additional visualisations would have been useful. Given the proximity of the development, and that the Moorfoots have been identified as a component in understanding their setting, contributing to a sense of place and isolation (Moorfoot chapel), and defence (Hirendean castle) not considering the impact of the development in this regard has the potential to lead to a lower significance of impact, in addition, the impact from noise. Forestry has also been relied on to screen the development.

- Middleton Hall originally had more designed long-distant views to the south and south-west (see historic maps), which incorporate the wider landscape views along the valley in this direction, and includes Middleton South Burn which runs through the designed garden landscape and into the development area. Little has been discussed in relation to this other than that views of the

development would be screened by estate woodland. Whilst access wasn't granted for photography, an estimated wireline could have been produced based on grid reference and building height.

- Intervisibility with other hillforts to the south of Loquhariot fort haven't been considered in the assessment, and only a cumulative wireline produced. Impacts to the setting of the fort have largely been confined to considering its prominent location in relation to the Gore Water and valley without considering the contribution to setting of distant views further south.

- Gladhouse reservoir, and villa-the development has the potential to be a very prominent feature in the immediate surroundings of these assets. At least one visualisation from the villa would be helpful to aid in supporting the statement that that the development will be 'peripheral in views' from this asset.

- Maudslie farm-the setting here is described as being related to the fertile agricultural land away from the Moorfoot hills to the north, and that contributes to how the setting of the asset is best understood. The assessment doesn't take into account any other potential reasons for siting, such as proximity to hill pasture for pastoral farming, not the sense of place being at the foot of the hills. Based on the photomontage, the development has the potential to intrude and adverse impact on these elements of the assets setting.

- Crichton Castle-stating the setting of the castle is formed by the conservation area is inadequate and misleading and means that the full setting of the castle is not identified, nor assessed. The conservation area boundary is a modern construct, and so cannot be used to fully understand the setting of a medieval castle. In addition, the castle should have been assessed on its own aswell as a component of the Crichton and Borthwick Conservation Area. Distant landscape in the direction of the proposed development are part of the castles setting, aiding to understand and appreciate its siting and relationships to the landscape, and other related buildings and features.

- Crichton and Borthwick CA has not been assessed fully, and additional visualisations should be provided from different key points within the CA to further support the assessment. The CA area appraisal, whilst not updated and part of the current adopted MLDP, does state that "*on the higher ground outwith the valleys there are excellent views north west to the Pentland Hills, north to Fife and south to the Moorfoot Hills. The character of the Borthwick and Crichton Conservation Area comes from the largely unimproved nature of the valley which gives it an almost medieval feel. It is important that this sense of isolation should not be destroyed and that the setting of the two castles and churches, in particular should be safeguarded.*"

- Arniston House and GDL- similarly has not been assessed fully, and additional visualisations should be provided from different key points within the GDL to further support the assessment. Some mention has been given to the removal of the screening provided by current estate trees, but again, the consequence of this on the setting impact has not really been considered or discussed

Please note that these comments are by no means all that needs looked at but are provided to give examples of the level of assessment we would expect.

Appendix 3. Transportation and Drainage Comments

Roads Consultation Response – Torfichan Wind Farm 23/00795/S36

Application consists of the installation of a new wind farm with 18 turbines, up to 180m tip height.

Foundations for turbines need to be built, as well as hardstand areas for erection cranes at each turbine location.

A network of access tracks is required to be built including watercourse crossings and turning heads.

NPF4 Policy 11 e) requires new renewable energy developments to address potential impacts on iii) public access routes and iv) the local road network both during construction and operation. The applicant has examined these aspects within the EIAR at Chapter 11 with supporting information provided in the Transport Assessment (Appendix 11.1).

Site Access Junction

The site is proposed to be accessed from a new priority-controlled junction onto the B7007, which is to be constructed for the purpose of this scheme.

The access junction would have the first 6m surfaced in bituminous material, and visibility splays of 215m with a set-back distance of 4.5m can be achieved.

Access to the site will use the B7007 from the point of access to the A7. This stretch of road shall be the subject of a pre-construction condition survey approved by the Council as roads authority. A follow-up survey shall then be undertaken following completion of the construction works, a period no later than 3 months hence. Where any defects in the road are distinguishable from comparison between the pre-construction and post-construction surveys, then the developer shall be required to make good the identified schedule of defects at their own expense.

Transport Assessment

The B7007 forms part of National Cycle Network route 1 (NCN 1), and as such a greater than average number of cyclists may be present on the B7007, particularly during summer months.

Peak construction traffic is reached in month 9 with a total of 57 HGV movements (29 in/ 28 out) and 70 Car/ LGV movements (35/35) each day. Assumed that 40% of staff will arrive by mini-bus and 60% by private car. The Council expects the applicant to submit a Green Travel Plan as a part of the Construction Environmental Management Plan to demonstrate ways in which construction personnel trips can be minimised with the use of minibuses, car-sharing etc.

The applicant expects the majority of construction vehicles (except AILs) to come from the north via the A7. This will require an increase in right hand turns from the A7 on the B7007. Traffic flow data is provided in Figure 11.12. Crashmap data is also provided which shows occasional incidents within the study areas involving HGVs.

The Council considers there to be a potential risk to road users along the A7 from an increase in larger vehicles turning right off the A7 onto the B7007. The A7 is a commuter route to and from Edinburgh and so this risk may be higher during rush hour. Given the geometry of the A7 at this point, speeds are likely to be higher. No speed data for this part of the study is available and so this risk is not fully considered within the TA. The Council requests that this is re-examined by the applicant and measures put in place to mitigate this risk. This further information could be subject of a condition relating to the management of construction traffic.

Junction Visibility

The new proposed site access junction is located on a straight section of the B7007, and therefore sightlines are adequate and will likely meet DMRD standard assuming vertical level differences are accounted for.

The Council appreciates the alignment of the access road is designed to facilitate the delivery of abnormal indivisible loads into the site. However, its alignment does restrict driver views west up the rising slope along the B7007. The downhill nature of the B7007 at this point does encourage vehicle speeds. The route is also part of the NCR1 and so cycle speeds will also be significantly higher. The Council would request that the risk posed by the construction access alignment is mitigated by specific measures adopted to ensure safe access and egress from the site. These measures can be secured by condition subject to the approval of the planning authority.

The alignment of the site access road is acceptable for construction purposes subject to ongoing management during this phase of development. However during the operational phase, the safety concerns would not be subject to the same mitigation measures. Whilst the number of vehicle trips would be low, this may increase at times of maintenance or other operational requirements. Therefore, the Council would request that following completion of the construction works, the site access is realigned to provide a more perpendicular connection with the B7007. This would provide a long-term safe access to and from the site and provide permanent mitigation of the risk to road users traveling east along the B7007.

Proposed Road Construction

The proposed pavement construction is 60mm surface course, 75mm binder course and 150mm Type 1 sub-base, this is s total of pavement construction depth of 285mm.

Details of the internal access roads should be subject to a condition submitted for approval by the planning authority. These details should ensure that the depth of road provides sufficient strength to accommodate the expected use.

Abnormal Load Route – Salient junctions

The abnormal load route proposed to deliver the turbines to site consists of:

Rosyth – A720 (T) City Bypass – A68 (T) – B6458 – B6367 – A7 – B7007 – Site

A68/ B6458 – third party land is required, with a load bearing surface to be laid, 2 utility poles, 2 road signs and a fence removed – trees and vegetation to be cleared

B6458 at Tynehead crossing of Borders Rail line - utility poles and fence post to be removed, blade tip to sail over bridge parapet

Bend in B6367 around 250m NE of A7/ B6367 junction – load bearing surface to be laid

A7/ B6367 Junction – Load bearing surface to be laid, 2 utility poles, 2 junction boxes, fence and wall to be removed

A7/ B7007 – load bearing surface to be laid, one utility pole to be removed alongside vegetation and tree clearing

Fence and gate to be removed at bend in B7007

The Council expects that the details of the abnormal indivisible load route to be subject of a close working group with the roads authority, trunk roads authority, network rail and Police Scotland prior

to the delivery of the turbines to the site. This working group would ensure the details of the route and any measures required to accommodate the loads are acceptable to all parties.

Ecology

The Ecology report recommends that to mitigate pollution effects on watercourses, a 50m buffer should be maintained between construction activity and any watercourses. It also recommends that track length and alignment is optimised to minimise the number of watercourse crossings.

Aquatic Habitats

The proposed development is nearly all located within the river Esk catchment, specifically the Gore Water/ Middleton South Burn.

It does connect hydrologically with Tweed & Gladhouse (although Gladhouse Reservoir Is fed by Black Burn, which is within the site boundary).

'The proposal has the potential to impact negatively on water quality and hydrogeomorphology in the absence of mitigation – 50m buffer distance between infrastructure and watercourses'

Water crossings

Eleven (11) new water crossings shall be constructed as part of the development.

A good practice guide for the design and construction of river crossings has been produced by SEPA and Natural Scotland '*Engineering in the water environment: a good practice guide – River Crossings 2nd Edition, November 2010'.*

New engineering activities (such as bridges and culverts) in Scotland's rovers, lochs and wetlands require an authorisation under the Water Environment (Controlled Activities) Regulations 2005.

Poorly designed river crossings can:

- Lead to the loss or damage of plants, animals and their habitats
- Create a barrier to the movement of fish and other wildlife
- Prevent sediment and woody debris being moved downstream
- Prevent natural river movement
- Increase flood risky

During the construction phase, fine sediments and other pollutants can be released into the river if care is not taken.

The main problems that result in barriers to fish passage are:

- Perched inverts (level drop between culvert outfall and downstream riverbed)
- Undersized crossings that are too small for fish to pass through
- Excessively wide crossings that are too small for fish to pass and may also increase the speed of water flow
- Lack of resting places for fish if culvert is too long

Type of water crossings:

1. Single Span structures – preferred type, minimal disturbance during construction phase
2. Span structure with in-stream supports – can significantly affect local channel erosion
3. Closed culverts – higher risk of fish barrier and risk of debris blockage

4. Fords – only suitable for infrequent crossings – should not be used where high risk of pollution i.e., construction sites
5. Pipeline or cables under watercourse

Mitigation for Fish Habitats

- Any in-channel works should take place between 1st May and 31st September
- A comprehensive sediment management plan is necessary to protect habitat and young fish downstream of the works
- Where in-channel works cannot be avoided, works should be preceded by an electro-fishing survey to determine if brown trout are present
- If brown trout are present, a fish rescue would be required before any works take place in the channel, or any channels are crossed

The developer is expected to submit details of any and all water crossings to be constructed to form the access road to the planning authority for approval. The approved details shall be designed in accord with the '*Engineering in the water environment: a good practice guide – River Crossings 2nd Edition, November 2010'.*

Flood Risk and Drainage

The EIAR Chapter 10 provides a flood risk assessment. The Council has reviewed this and has no objection to its conclusions.

There are a number of very small watercourses which run through the site. The design of the water crossings will be key to avoiding any issues due to poor drainage or flooding. If debris became lodged in any water crossing, there would be potential for the water course to change course and cause ponding, flooding, erosion or other environmental damage. The Council expects the applicant to commit to a programme of regular maintenance to ensure these culverts avoid blockages.

Appendix 4. Environmental Health Comments

MEMORANDUM

To: Martin Patrick, Planning Officer

From: Ian Wilson, Environmental Health Officer

Your Ref 23/00795/PREAPP

Date: 30 January 2024

Subject: Midlothian Council Planning Consultation 23/00795/PREAPP
Land to North of Former Quarry Broad Law Gorebridge

The information submitted in a Noise Impact Assessment (NIA) by Renewable Energy Systems Ltd along with this application has been reviewed by Environmental Health and I can advise that due to the large separation distance between the proposed turbines and nearest noise sensitive properties it is not anticipated there will be any adverse environmental noise impact from the normal operation associated with this development.

However, as there is the potential for adverse impacts from matters related to future operational defects and maintenance issues, it is important that these are controlled through appropriate planning conditions.

Environmental Health therefore has no objection to this development subject to the following conditions being attached to consent should it be granted.

a. The Company shall continuously log power production, wind speed and wind direction, all in accordance with Guidance Note 1(d). These data shall be retained for a period of not less than 24 months. The Company shall provide this information to Midlothian Council Planning Authority on its request, within 14 days of receipt in writing of such a request.

b. No electricity shall be exported until the Company has submitted to Midlothian Council Planning Authority for written approval a list of proposed independent consultants who may undertake compliance measurements in accordance with this condition. Amendments to the list of approved consultants shall be made only with the prior written approval of Midlothian Council Planning Authority.

c. Within 21 days from receipt of a written request from Midlothian Council Planning Authority following a complaint to it from an occupant of a dwelling alleging noise disturbance at that dwelling, the Company shall, at its expense, employ a consultant approved by Midlothian Council Planning Authority to

assess the level of noise immissions from the wind farm at the complainant's dwelling. The written request from Midlothian Council Planning Authority shall set out at least the date, time and location that the complaint relates to and any identified atmospheric conditions, including wind direction, and include a statement as to whether, in the opinion of Midlothian Council Planning Authority, the noise giving rise to the complaint contains or is likely to contain a tonal component.

d. The assessment of the rating level of noise immissions shall be undertaken in accordance with an assessment protocol that shall, prior to the commencement of any measurements, have been submitted to and approved in writing by Midlothian Council Planning Authority. The proposed range of conditions shall be those which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the written request of Midlothian Council Planning Authority under paragraph (c), and such others as the independent consultant considers likely to result in a breach of the noise limits.

e. Where a dwelling to which a complaint is related is not listed in the Tables referred to in the NIA, the Company shall submit to Midlothian Council Planning Authority for written approval proposed noise limits selected from those listed in the tables to be adopted at the complainant's dwelling for compliance checking purposes. The proposed noise limits shall be those limits selected from the Tables referred to in the NIA specified for a listed location which is the geographically nearest dwelling to the complainant's dwelling, unless otherwise agreed with Midlothian Council Planning Authority due to location-specific factors.

f. The Company shall provide to Midlothian Council Planning Authority the independent consultant's assessment of the rating level of noise immissions within 2 months of the date of the written request of Midlothian Council Planning Authority for compliance measurements to be made under paragraph (c), unless the time limit is extended in writing by Midlothian Council Planning Authority. Unless otherwise agreed in writing by Midlothian Council Planning Authority, the assessment shall be accompanied by all data collected for the purposes of undertaking the compliance measurements, which shall be supplied in the format in which it is recorded.

g. Where a further assessment of the rating level of noise immissions from the wind farm is required the Company shall submit a copy of the further assessment within 21 days of submission of the independent consultant's assessment pursuant to paragraph (d) above unless the time limit has been extended in writing by Midlothian Council Planning Authority.