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PLANNING AND BUILDING STANDARDS COMMITTEE MONDAY, 18 JULY, 2016

A SPECIAL MEETING of the PLANNING AND BUILDING STANDARDS COMMITTEE will be held in the SCOTTISH BORDERS COUNCIL, COUNCIL HEADQUARTERS, NEWTOWN ST BOSWELLS TD6 0SA on MONDAY, 18 JULY, 2016 at 10.00 AM

J. J. WILKINSON,
Clerk to the Council,

11 July 2016

BUSINESS	
1.	Apologies for Absence.
2.	Order of Business.
3.	Declarations of Interest.
4.	Application (Pages 1 - 46) Consider application in respect of Wind farm comprising 14 wind turbines, substation, control room, two temporary compounds, access tracks, four borrow pits and meteorological mast on land at Whitelaw Brae 3km south of Tweedsmuir and west of Fruid Reservoir - 15/00020/S36 (Copy attached.)
5.	Any Other Items Previously Circulated.
6.	Any Other Items which the Chairman Decides are Urgent.
7.	Item Likely To Be Taken In Private Before proceeding with the private business, the following motion should be approved:- “That under Section 50A(4) of the Local Government (Scotland) Act 1973 the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in the relevant paragraphs of Part 1 of Schedule 7A to the aforementioned Act.”
8.	Dangerous Chimney at 5 Home Place, Coldstream (Pages 47 - 50) Consider report by Chief Planning Officer. (Copy attached.)

NOTE

Members are reminded that, if they have a pecuniary or non-pecuniary interest in any item of business coming before the meeting, that interest should be declared prior to commencement of discussion on that item. Such declaration will be recorded in the Minute of the meeting.

Members are reminded that any decisions taken by the Planning and Building Standards Committee are quasi judicial in nature. Legislation , case law and the Councillors Code of Conduct require that Members :

- **Need to ensure a fair proper hearing**
- **Must avoid any impression of bias in relation to the statutory decision making process**
- **Must take no account of irrelevant matters**
- **Must not prejudge an application,**
- **Must not formulate a final view on an application until all available information is to hand and has been duly considered at the relevant meeting**
- **Must avoid any occasion for suspicion and any appearance of improper conduct**
- **Must not come with a pre prepared statement which already has a conclusion**

Membership of Committee:- Councillors R. Smith (Chairman), J. Brown (Vice-Chairman), M. Ballantyne, D. Moffat, I. Gillespie, J. Campbell, J. A. Fullarton, S. Mountford and B White

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SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

18 JULY 2016

APPLICATION FOR CONSENT UNDER SECTION 36 OF THE ELECTRICITY ACT 1989

ITEM: **REFERENCE NUMBER:** 15/00020/S36

OFFICER: Craig Miller

WARD: Tweeddale West

PROPOSAL: Wind farm comprising 14 wind turbines, substation, control room, two temporary compounds, access tracks, four borrow pits and meteorological mast

SITE: Land at Whitelaw Brae 3km south of Tweedsmuir and west of Fruid Reservoir

APPLICANT: Whitelaw Brae Wind Farm Limited

AGENT: n/a

1.0 PURPOSE OF REPORT

1.1 To advise the Scottish Government, as a result of the submission of Further Environmental Information, of any amendment to the previous response from Scottish Borders Council on the application by Whitelaw Brae Wind Farm Ltd, to construct a 14-turbine wind farm on land lying at Whitelaw Brae south of Tweedsmuir and west of Fruid Reservoir

2.0 PROCEDURE

- 2.1 Scottish Borders Council (SBC) is a consultee as a 'relevant authority'. All of the turbines and new infrastructure would be sited within the Borders.
- 2.2 The views of SBC will be provided to the Energy Consents and Deployment Unit at Scottish Government (ECDU), the body responsible for processing onshore Section 36 planning applications. In this instance, the application is required to be determined via Section 36 because the wind farm would have an output of more than 50MW (50.4MW). The ECDU advertises the application and carries out direct consultation with other interested bodies. There is, therefore, no need for Scottish Borders Council to undertake a tandem process although consultation has taken place with relevant officers within the Council.
- 2.3 It should be noted that if permission is granted, the local authority (rather than the ECDU) would become the relevant enforcement authority responsible for monitoring compliance with the terms of an approval and any conditions imposed thereon.
- 2.4 Scottish Borders Council considered the initial S36 Consultation last year and the Committee, at their meeting in August 2015, decided to object to the application. The objections, which were communicated to the ECDU, were as follows:

Reason for Objection 1: Impact on Landscape Character:

The proposed development would be contrary to Policies G1, EP2 and D4 of the Scottish Borders Local Plan 2011 and Policy 10 of the South-East Scotland Strategic Development Plan

(SESplan) 2013 in that, taking into consideration the following factors, it would unacceptably harm the Borders landscape:

- Significant impacts on the perception, setting and qualities of identified wild land (Area 2 Talla Hart Fell) to the south and east of the site in an area with high fragility to change.
- Significant impacts on the designated Tweedsmuir Uplands Special Landscape Area and contrary to the management recommendations seeking to maintain wildness and limit impacts of tall developments, both in relation to the higher summits/wild land to the south and to the more localised intimate landscapes centred around the reservoirs to the east and north-east

Reason for Objection 2: Adverse Visual and Amenity Impacts:

The proposed development would be contrary to Policies G1, D4, BE2 and H2 of the Scottish Borders Local Plan 2011, Policy EP8 of the Local Development Plan 2013 and Policy 10 of the South-East Scotland Strategic Development Plan (SESplan) 2013 in that, taking into consideration the following factors, the development would give rise to unacceptable visual and amenity effects:

- Low containment within the 5km range and consequent significant visual impacts from sensitive receptors including public roads (such as the main tourist route of the A701 and the Fruid minor road), a right of way, hill summits and dwellinghouses. In respect of the identified residential receptors, the developer has failed to demonstrate that the impacts would not be overbearing and significantly adverse.
- Significant cumulative and scale impacts on sensitive receptors and on a unique landscape character type and capacity to the east of the A701 corridor, inappropriately extending the existing Clyde/Clyde Extension/Glenkerie cluster into previously undeveloped land, bridging a strong visual boundary between landscape character types and setting precedent for further inappropriate incursion.
- Significant detrimental impacts to two archaeological sites of national significance, Asset HA5 and the Scheduled Hawkshaw Castle.

2.5 The full Committee Report is attached to this report as Appendix 1 and Members should refer to it as background in considering the Further Environmental Information submission that the Council are now being asked for their views on. The S36 Application is being heard by Public Local Inquiry at the end of August 2016 and Officers will be participating in the Inquiry which is being held by the DPEA.

2.6 This Report will assess the changes to the scheme and additional information, together with consideration of the amended scheme against the new Council Policy context represented by the Local Development Plan. Members will then be advised as to whether there should be any adjustment to the previous objections relayed to the ECDU

3.0 SITE DESCRIPTION:

3.1 Appendix 1 details the site location and size. The FEI submission makes no change to this.

4.0 PROPOSED DEVELOPMENT:

4.1 The development still comprises of the following:

- 14 wind turbines and their foundations
- Crane hardstanding areas
- Substation/control room buildings and compound

- Underground electrical and communication cables to each turbine
- Access track and onsite access tracks
- 4 new water crossings including the River Tweed
- 1 no. 80m temporary meteorological mast
- 1 no. 80m permanent meteorological mast
- Borrow pits (up to 4) for use during development, to be reinstated post-construction
- Two temporary construction and site storage compounds
- Felling of 52 hectares of commercial forestry
- Habitat Management plan for blanket bog, black grouse and riparian planting
- Community benefits package amounting to £6.3 million over project lifespan

4.2 The FEI changes the position of Turbine 11 and amends the substation layout to incorporate two battery storage units and one inverter/transformer unit, still within the previous substation footprint. There is also a slight reduction in the length of internal access tracks as a result of the repositioning of Turbine 11. Turbine 11 has moved 1.42km almost due west from the previous position north of Turbine 12 to a position north of Turbine 1.

5.0 NEIGHBOURING SITES/SCHEMES RELEVANT TO CONSIDERATION OF CURRENT PROPOSAL:

5.1 Three wind farms, either existing or proposed, were considered to be of significance in terms of cumulative consideration of the Whitelaw Brae site and these are detailed in Section 5 of Appendix 1. In considering these against the amendments in this FEI, it should be noted that the Glenkerie Extension was subsequently approved by the Scottish Government. The new Harryburn S36 proposal west of Clyde should also be considered.

6.0 PLANNING HISTORY:

6.1 This is detailed in Section 6 of Appendix 1.

7.0 APPLICANTS' SUPPORTING INFORMATION

7.1 As the application is 'EIA Development', changes to the scheme and additional supporting information must follow the regulations under The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000. The FEI consists of the following items:

- Volume 1 – Further Environmental Information Report (May 2016)
- Volume 2 – Further Environmental Information Figures (May 2016)
- Volume 3 – Further Environmental Information Visualisations (May 2016)
- Volume 4 – Further Environmental Information Technical Appendices (May 2016)
- Further Environmental Information Non Technical Summary (May 2016)

7.2 The amendments and additional information are detailed in Table 1.1 of Volume 1 and have largely been made to attempt to overcome the Historic Scotland objection, but also to respond to some consultee comments and objections. In addition to the amendments mentioned above, a Youtube video has been made available showing the development from the perspective of moving traffic on the A701. Members can view this by using the following link:

https://www.youtube.com/watch?v=Zl_EJC3nPcY

7.3 The FEI also now provides additional Compensatory Planting Proposals in Technical Appendix 17.1 and the applicant is currently in discussion with the Forestry Commission regarding the scheme. It replaces 52HA of Sitka Spruce with 53HA of more mixed species, including 24.3HA broadleaves and an additional 26.9HA open ground.

- 7.4 Technical Appendix 6.8 now includes further analysis of the impacts of the revised scheme on residential amenity, including a series of photographs, wirelines, photomontages and significance assessment against the seven properties previously identified as being likely to experience the greatest effects.
- 7.5 Other revisions and assessments are listed in Tables 1.1 and 6.1 of Volume 1 FEI Report. This includes updated landscape and visual impact, cultural heritage and noise assessments.
- 7.6 All FEI submissions have been available for viewing both within accessible public locations and on the Council's Public Access System.

8.0 REPRESENTATION SUMMARY

- 8.1 Third party representations on the FEI submission are submitted to the ECDU and it is for them (and the DPEA) to take the representations into consideration when assessing the proposed development on behalf of Scottish Ministers. It is known, however, that SNH maintain their concerns previously submitted to the ECDU, adding concerns over the need for additional mitigation and screening of the substation area and the impacts on the open landscape of the A701 as a result of the compensatory planting proposals.

9.0 DEVELOPMENT PLAN POLICIES:

- 9.1 The previous Section 36 consultation was considered against the Consolidated Scottish Borders Local Plan 2011. This has now been superseded by the Scottish Borders Local Development Plan 2016, the following Policies being applicable to the proposal:

Policy PMD1 – Sustainability
Policy PMD2 – Quality Standards
Policy ED9 – Renewable Energy Development
Policy HD3 – Protection of Residential Amenity
Policy EP1 – International Nature Conservation Sites and Protected Species
Policy EP2 – National Nature Conservation Sites and Protected Species
Policy EP3 – Local Biodiversity
Policy EP4 – National Scenic Areas
Policy EP5 – Special Landscape Areas
Policy EP7 – Listed Buildings
Policy EP8 – Archaeology
Policy EP10 – Gardens and Designed Landscapes
Policy EP13 – Trees, Woodlands and Hedgerows
Policy EP15 – Development Affecting the Water Environment
Policy IS2 – Developer Contributions
Policy IS5 – Protection of Access Routes
Policy IS8 - Flooding
Policy IS9 – Waste Water Treatment Standards and Sustainable Urban Drainage

SESplan Strategic Development Plan June 2013:

Policy 10 - Sustainable Energy Technologies

10.0 OTHER PLANNING CONSIDERATIONS:

- 10.1 Adopted SBC Supplementary Planning Guidance and other documents:

Supplementary Planning Guidance on Renewable Energy 2007
Supplementary Planning Guidance on Wind Energy 2011
Supplementary Planning Guidance on Local Landscape Designations 2012
Supplementary Planning Guidance for Biodiversity 2005
Supplementary Planning Guidance for Developer Contributions 2011
“Landscape Capacity and Cumulative Impact” July 2013.

10.2 Scottish Government Planning Policy and Guidance:

Scottish Planning Policy (June 2014)
National Planning Framework for Scotland (3) (June 2014)
Historic Environment Scotland Policy Statement (June 2016)
PAN 1/2011 Planning and Noise
PAN 2/2011 Planning and Archaeology
PAN 51 Planning, Environmental Protection and Regulation
PAN 60 Planning for Natural Heritage 2008
PAN 1/2013 Environmental Impact Assessment

10.3 SNH Advice

Siting and designing windfarms in the landscape (2014)
Visual Representation of Wind Farms (2014)
Assessing the cumulative impact of onshore wind energy developments (2012)

10.4 Other Advice

Directive 2009/147/EC of the European Parliament and of the Council (Conservation of Wild Birds).
ETSU-R-97 – The Assessment and Rating of Noise from Wind Farms (??)

11.0 **CONSULTATION RESPONSES:**

11.1 **Landscape Architect:**

Based on the considerations in Policy ED9 of Local Development Plan 2016, the change to the scheme, with the removal of a turbine along the eastern edge but the addition of a further turbine to the western side does not alter our assessment that there is an unacceptable negative impact on an area that has a high fragility to change and is closely associated with an area designated as Wild Land. Nor do the changes to the scheme materially change the cumulative landscape and visual effects

In particular, the removal of a turbine from the eastern side and the introduction of an additional turbine along the western edge does alter the effects on sensitive visual receptors, with a small reduction of visual effect to receptors at viewpoint 4 but an increased visual effect on receptors on the A701.

It should be noted that Section 5 of Technical Appendix (TA) FEI 6.7 Route Analysis of A701 states that *‘The sensitivity of (route) users is judged to be high through all sections of the routes in line with the methodology set out in the LVIA (paragraph 6.220)’* and this increases the sensitivity of visual receptors on A701 from between Low and Medium as was the original assessment in Paragraph 1.8 of ES.

I do not agree with the Summary conclusion of the On-Site Analysis of Section 8 of TA FEI 6.7. While it is accepted the effects will be most significant within relatively close range of the site this includes a substantial proportion of the A701 that was analysed. The 2020 Renewables –

Whitelaw Brae A701 Flythrough demonstrates that there will be a number of sections of the route where the Whitelaw Brae turbines would be clearly visible from the A701 where the existing arrays to the east are not visible. The introduction of turbines into a new area to the east of A701 will have significant sequential cumulative landscape and visual impacts by virtue of affecting an area previously free of wind turbines.

The main viewpoints from which there will be an altered view of the turbines are:-

Viewpoint 2 - between Hawkshaw and Glenbreck on A701. There will be greater visual effect on receptors travelling southwards along A701 when looking towards the site, particularly for a stretch of the road north of Viewpoint 2. The relocated turbine will be a very visible feature looking up the Fingland Burn valley from the road and will be more centrally located at the front of the array in the vista formed by the V-shaped valley sides. This will increase the visual effects of the scheme which, for Viewpoint 2, has already in the ES been deemed Moderate (Significant), to Moderate – Substantial (Significant) (ES Vol 1 - 6.244:Table 6.8 and 6.250 – 6.251)

Viewpoint 4 – Fruid Dam. The removal of turbine 11 affects a small change in the visual impact of the turbines arrayed across the landscape. Turbine 11 was, at 1.1km nearest to receptors at Fruid dam but with its removal the nearest turbine is now 1.4km. Nonetheless visual effect of turbines across the hillside is only slightly reduced, remaining Substantial (Significant) as already noted in the ES (Vol 1 -6.244:Table 6.8 and 6.252-6.253)

Viewpoint 22 – Black Dod. The distribution of turbines when seen from this elevated viewpoint will be improved with the overlap and clustering of 6, 1 and 11 resolved by turbine 11's relocation. Nonetheless the visual effects still remain Moderate (Significant) as noted in ES (Vol 1 - 6.244:Table 6.8 and 6.264 – 6.265)

Viewpoints 9 – Hart Fell Rig and Viewpoint 11 - Broad Law. The appearance of altered scheme is slightly more visually unsatisfactory as, from both these viewpoints, the rotors of Turbine 11 sits uncomfortably below the adjacent turbines.

Talla – Hart Fell Wild Land –

Technical Appendix 6.4 Wild Land Assessment of the ES comes to the conclusion that *'within the north-western part of WLA, closest to the proposed development, potential medium change was noted to two of the attributes'* and *'as such a significant Moderate effect is anticipated to this part of the WLA ranging to around 5km from the proposed development.'* In terms of intrusion into the Wild Land the changed scheme does not materially alter my opinion that this is not an appropriate location for a windfarm.

11.2 Archaeology Officer:

The FEI has been reviewed in light of the applicant's Rebuttal Statements to both myself and HS dated 3 July 2015. The FEI has very helpfully corrected a key omission from the ES and Rebuttal Statements by providing visualisations (FEI Heritage Viewpoint 9.11 a and b) from the Fingland Burn Platform Settlement (the ES asset labelled HA5). The new visualisations illustrate the key setting relationships of HA5 with the valleys of the Fingland Burn and Cleugh Head Burn, and the hills that constrain these. The principle change to the scheme, the movement of Turbine 11 from the setting of Hawkshaw Castle, has sought to address Historic Environment Scotland's key concern without reference to the concerns expressed by the Council.

Overall, while the removal of Turbine 11 from a key view from Hawkshaw Castle has eliminated one element of setting impact, views into the site are still significantly impacted by Turbines 4-6 and this is not in keeping with national and local policy or guidance. Likewise, the continued presence of turbines on Peat and Glengonnor Hill, and the new intrusion of Turbine 11, in the

setting of asset HA5, an asset judged to be of national significance, is not in keeping with policy or guidance. I therefore maintain my recommendations for objecting to the scheme as currently proposed.

The removal of Turbine 11 from one aspect of Hawkshaw Castle's setting has addressed a concern raised by both Historic Environment Scotland and the Council. This is a positive step, but does not address the remaining setting impacts as outlined in both my initial consultation response and my subsequent response to the applicant's Rebuttal Statement. In addressing (and by virtue acknowledging) Historic Environment Scotland's concerns, they have not addressed the equally relevant views of the Local Authority on matters of setting. Turbines 5, 6, and to a lesser degree 4, will still pose a significant impact to the setting of Hawkshaw Castle by introducing a new and incongruous element into the current setting, dominating the valley setting and, by virtue of scale, diminishing the appearance of the Castle's location when viewed from the track on Benner Dod. As illustrated in the applicant's viewpoint 9.10, the experience of Hawkshaw Castle when viewed from Benner Dodd, the first and best place to appreciate the asset (including the Porteous Cairn) and its wider setting, would be dominated by the turbines along the ridgeline of Glengonnor Hill. This remains a significant impact. The removal of Turbine 11 has to a small degree benefitted the setting of the Castle, but this has not entirely alleviated my concerns.

Crucially, the relocation of Turbine 11 to the lower slope of Peat Hill has served to increase the impacts to the setting of asset HA5 when viewed from the platform settlement itself (illustrated in viewpoint 9.11). Both the applicant and myself are largely in agreement on the setting of the asset. What we disagree on is the cultural significance of the asset, its national importance, and elements of the topographical constraints (namely Peat and Gengonnor Hills) that contribute to the asset's setting. The movement of Turbine 11 onto the lower shoulder of Peat Hill, and just above the 'banks of the Fingland Burn' represents a significant intrusion into the setting of HA5 (illustrated in viewpoint (9.11b)). While the other turbines affecting the setting of the asset are confined to the tops and ridgelines of the hills, the new location of Turbine 11 is within the valley setting and significantly distracts and diminishes an appreciate of a key setting view from the settlement: namely the confluence of the Fingland and Cleugh Head valleys. I do not feel that the proposed location of Turbine 11 maintains an appropriate setting for HA5. I therefore maintain my recommendations in previous responses, and suggest that the relocation of Turbine 11 is more objectionable than other significant impacts as previously highlighted.

11.3 Ecology Officer:

In terms of ecology and ornithology, the relocated turbine 11 is within recognised disturbance distances for black grouse leks (300-500m) and this would be in addition to potential disturbance and displacement with other turbines identified in my earlier response (29th April 2015). I have included the relevant sections of my response below.

"The most significant ecological issue is with regard to the presence of a complex of black grouse leks on site. It is disappointing that more hasn't been done to design out potential impacts on at least one lek site. The Council has additional records of black grouse leks from 2010 and 2011 which are within disturbance/displacement distance of turbines and infrastructure. Nonetheless, a significant package of additional habitat enhancement measures could offset potential impacts.

Forestry compensation proposals should be additional to any habitat creation and enhancement required to offset habitat and species impacts."

"Three black grouse lek sites have been recorded within the development site. One the leks (lek2, identified as a "satellite lek" 1-2 males) is within disturbance and displacement distance of turbines. It is disappointing that impacts on this lek are not avoided adopting best practice

measures, ensure that turbines and infrastructure are at least 500m from the lek. There will be an exchange of birds between the complex of lek sites on site, with birds moving across the site. Lek 3 (1-6 males) is within 500m of a proposed access track. The Council has records (from Southern Uplands Partnership) of leks from 2010 (adjacent to turbine 11) and 2011 adjacent to turbine 2. I note these records were not included in the confidential annex. On a precautionary basis, these site should be considered in the EIA.”

“There are opportunities to offset any loss of habitat or direct loss of birds by creating and enhancing habitat within the site and in adjacent areas through moorland management (grazing management), ditch blocking and low density broad-leaf woodland creation . Woodland creation measures to enhance habitat for black grouse included, must be additional to any requirements for woodland creation to compensate for loss of forestry..”

In my opinion given the location of a complex of leks within the site, some of which are within disturbance and displacement distance for black grouse, it is reasonable to require a package of compensation measures specifically to address impacts on black grouse, over and above any requirement to replaced loss of woodland in relation to the Scottish Government’s Control of Woodland Removal Policy. This requirement could be achieved through a Planning Condition or legal agreement as appropriate.

In terms of the compensatory forestry planting, I am satisfied that a scheme can be agreed under a Planning Condition or other appropriate mechanism such as a Legal Agreement. The Planting scheme would need to be agreed prior to commencement of development. I am aware that Forestry Commission Scotland (FCS) is content for the matter to be dealt with by Planning Condition (correspondence FCS to ECDU 6th June 2016).

As an alternative approach, a parallel felling licence under the Forestry Act could control the compensatory requirement regulated by Forestry Commission Scotland. Either approach (under Planning or by Felling licence) would be consistent with emerging best practice.

I am aware that there has been ongoing dialogue between FCS and the developers and that a revised scheme may be being developed with greater emphasis on native woodland and scots pine components.

Any approved plan would need to be consistent with the Scottish Borders Woodland Strategy, as informed by the Technical Advice Note (2012). The priorities for new woodlands in the Central Southern Uplands landscape area includes:

- Potential for new native woodland expansion to contribute to integrated habitat networks linking existing woodland along river valleys and tributaries and in those areas identified as beneficial in Solway-Tweed River Basin Management Plan and Flood Risk Management plans. There is also potential for new native woodlands as part of larger ecological restoration schemes in some areas.
- Potential for new coniferous forest subject to retaining a reasonable balance of open ground habitats and forest and avoiding significant fragmentation of existing open habitats. Such woodlands should be focused towards: improving the landscape fit of existing adjacent plantations; improving connectivity of woodland habitats; creating more effective linkages between existing productive woodlands to facilitate more effective timber transport routes.

With regard to the submitted Compensatory Planting Plan, from a landscape perspective there are issues with the proposals including the very limited extent of Scots Pine in an area where roundels of Scots Pine are not uncommon, the almost continuous band of native broadleaves located along the south side of the A701 has potential to restrict views of the changing

landscape progressing up the Upper Tweed valley and the abrupt and angular termination of the woodland at the southern end.

From an archaeology perspective, any approved scheme would need to ensure that there is no significant adverse impact on the setting of archaeological receptors including prehistoric settlements in the Fingland burn valley, other unscheduled monuments and Scheduled Ancient Monuments and would require unplanted ground and buffer areas around sites informed by a pre-forestation archaeological survey. There is an opportunity to enhance the setting of the Bronze Age settlements that will share visibility of the new planting. By choosing native woodland species that reflect the ancient environment that was actively exploited by the residents of the platform settlements, there would be an effective reconstruction of the settlements' original setting. This choice should be based on a sound understanding of the paleo-environment through a desk-based assessment of relevant archaeological research. The reconstruction of the ancient environment could be actively promoted through, for example, additional interpretation on and off site.

From an Access perspective, any existing or new tracks should be available for all types of non-motorised recreational users (pedestrians, equestrians and cyclists) after planting is complete. Suitable gates should be installed in any deer fencing to allow public access to and from the site and due consideration should be given as to where gates may be required such as on Big Dod to allow access on to the open hill.

From an Ecology perspective adopting an ecosystems approach, an approved planting plan should seek to provide biodiversity enhancements through native woodland creation consistent with the Scottish Borders Woodland Strategy and provide additional benefits e.g. natural flood management for downstream flood mitigation and improvements to water quality benefitting the River Tweed SAC/SSSI. Opportunity areas for natural flood management and water quality improvements can be identified using the Council's pilot Land Use Framework mapping tool : <https://www.scotborders.gov.uk/info/20013/environment/723/biodiversity/5>.

- 11.4 **Roads Planning Manager:** The relocation of turbine 11 will result in no additional movements on the public road network. The new position for the turbine will result in a reduction of on-site tracks by around 140 metres, along with a reduction in cabling and earthwork cuttings. The vehicle movements associated with these works are all internal movements and will not have any effect on vehicle movements on the public road from those previously approved.

With regard to the addition of the battery storage units, this will increase HGV movements by around 35. When considered against the overall movements for this site, approx. 3700 HGV movements over the same time period, this increase is considered to be slight.

Given the above, I will not object to this application.

- 11.5 **Access Officer:** Reiterates previous comments that no claimed rights of way or core paths within the site although there is a right of way 1.5km south and east of the nearest turbine. The Land Reform Act does seek a right of responsible access through the site, thus, the tracks, once the development is completed, should be available for the public.

- 11.6 **Environmental Health Officer:** On the previous submission, concluded that a suitably worded condition would be possible and that further conditions should control construction noise and dust issues. No objections to the FEI revisions which would not increase noise to any significant extent at the nearest receptors.

- 11.7 **Plans & Research:**

It should be noted that since the first consultation was undertaken in relation to this application, the Scottish Borders Local Development Plan was adopted on the 12 May 2016. Consequently the proposal should be considered against the new Local Development Plan Policies, particularly ED9 Renewable Energy Development.

Policy ED9 states that:

“... Renewable energy developments, including wind energy proposals, will be approved provided that there are no relevant unacceptable significant adverse impacts or effects that cannot be satisfactorily mitigated. If there are judged to be relevant significant adverse impacts or effects that cannot be satisfactorily mitigated, the development will only be approved if the council is satisfied that the wider economic, environmental and other benefits of the proposal outweigh the potential damage arising from it. ...”

In comparison to policy D4 – Renewable Energy Development within the superseded consolidated Local Plan 2011, policy ED9 is a generic style policy. Under the section “Consideration of Wind Energy proposals” policy ED9 lists a number of considerations which remain relevant to this Inquiry and are identified with SPP. Policy ED9 confirms that the Council will produce Supplementary Guidance which will enable further guidance on these identified considerations. Policy ED9 confirms that the Ironside Farrar study on “Landscape Capacity and Cumulative Impact” is now a material consideration. Other than the weight now given to the Ironside Farrar study, it is not considered that policy ED9 fundamentally changes how the Whitelaw Brae application should be tested and determined.

In determining planning applications Policy ED9 states that with regards to the assessment of wind energy proposals, consideration should include:

“... landscape and visual impacts, to include effects on wild land, taking into account the report on Landscape Capacity and Cumulative Impact (July 2013) as an initial reference point, the landscape and visual impact assessment for a proposal (which should demonstrate that it can be satisfactorily accommodated in the landscape, and should properly address the issues raised in the 2013 report), and other relevant landscape, visual and cumulative impact guidance, for example that produced by Scottish Natural Heritage; ...”

These matters should be considered regarding the repositioning of turbine no.11. This should include consideration of any perceived unacceptable significant adverse impacts from identified viewpoints, public routes and residences.

It is noted that in relation to the resiting of turbine no.11 the applicant has stated that the effects particularly on Hawkshaw Castle have been “ameliorated”. The Council’s Archaeologist raised previous concerns with regards to impacts of turbines nos 4, 5 and 6 on Hawkshaw Castle. It is assumed this will remain the case. It is also noted that turbine no.11 may impact on the setting of the unscheduled platform settlement. Policy EP8: Archaeology of the adopted LDP 2016 states that:

“... Development proposals which will adversely affect an archaeological asset of regional or local significance will only be permitted if it can be demonstrated that the benefits of the proposal will clearly outweigh the heritage value of the asset. ...”

The Council’s Archaeology Officer has been consulted on this FEI and will provide further detail in respect to these matters.

Following the examination of the proposed Local Development Plan, Policy ED9 confirms that the Ironside Farrar study on Landscape Capacity and Cumulative Impact 2013 is a material

consideration to the application. The site falls within landscape character type “Southern Uplands with scattered forest” (i) Broadlaw Group which can be viewed on page 38 of the study. The text states that:

“Capacity for large and very large turbines only exists in the western area of the LCA where these would visually be seen as an extension to the existing very large windfarm development cluster within South Lanarkshire. The existing landscape designations (SLA & NSA); core areas of wild land; Southern Upland Way as well as the large undeveloped area (a gap between clusters) with no windfarms or turbines reduces the capacity of this landscape for windfarm development. This area should remain as an undeveloped gap between existing and potential clusters of turbine development.”

The conclusions of the text on page 38 were fed into output maps for the Scottish Borders and of relevance to this proposal is Figure 6.1b and 6.1c which suggest that no turbines over 50m in height were appropriate within the application site. As can be seen within the aforesaid figures the opportunity for large (50 – 100m) and very large (over 100m) scale turbines referred to on page 38 of the study relates to an area of land in the extreme western part of the LCA. It does not relate to the application site. The consideration of the Ironside Farrar study should be given not just to the whole application proposal but also the repositioning of turbine no.11.

The updated Ironside Farrar study is a strategic level study providing a context for consideration of capacity for, and the cumulative effects of, existing and potential future wind farm developments. Whilst it is acknowledged that no site specific conclusions should be drawn from it in relation to currently proposed or potential future wind turbines and wind farms, if turbines are proposed which exceed the turbine heights identified within the IF study the onus is on the applicant to demonstrate how the impacts of the proposal on the key constraints and any significant adverse effects can be mitigated in an effort to show a proposal can be supported. The 135m high turbines are quite clearly considerably at odds with the findings of the study and consideration must be given as to whether the repositioning of turbine no 11 in any way changes opinion on the reason for refusal.

Policy ED9 makes reference to consideration to be given to the “*impacts on communities and individual dwellings (including visual impact, residential amenity, noise and shadow flicker)*”. It is noted that the applicants suggest the impacts of the proposals will not have significant impact on residences. Impacts on residential amenity were a reason for refusal and consideration should be given to any information submitted which may alter this stance. Consideration must be given as to whether this is agreed to be the case, although it is understood and must be noted that within the FEI it is stated the applicant did not have access to all grounds of seven key affected properties or access to each of them internally and in full.

12.0 CONSULTATION RESPONSES (SUBMITTED TO SCOTTISH GOVERNMENT):

- 12.1 As members are aware, the Council is a consultee in the Section 36 application process and does not undertake any outside consultation itself. Reconsultation will have been carried out by the ECDU in relation to the FEI submission and there has been another public representation period. As a result of this, it is known that there have been a further 34 public objections to the FEI, making 83 in total on the scheme with no support letters.

13.0 KEY PLANNING ISSUES:

- 13.1 The FEI has made relatively modest changes to the scheme which were largely, but not wholly, aimed at resolving the cultural heritage objections of Historic Scotland. The Council are being invited to consider whether the changes would result in any amendment to the objections previously intimated to the ECDU. This principally involves an assessment of the changes against landscape/visual impacts (including wild land, residential amenity and cumulative

impacts), cultural heritage, noise and forestry. The revised scheme should also be assessed against the new Policies in the Local Development Plan, especially ED9 “Renewable Energy”.

14.0 ASSESSMENT OF APPLICATION:

Planning Policy:

- 14.1 The response to the FEI from Plans & Research sets out the Policy change that has occurred in terms of the Development Plan context since the original S36 was considered at Committee in August 2015. The FEI must now be considered against the Policies in the Scottish Borders Local Development Plan. In terms of the FEI, these Policies are most notably Policy ED9 – Renewable Energy Development and EP8 – Archaeology. The consultees have taken account of the new Policies in their assessment of the FEI and the conclusions, as listed above, are that the relevant new Policies are contravened and that the Council should still object to the revised scheme.
- 14.2 In comparison to Policy D4 – Renewable Energy Development within the superseded consolidated Local Plan 2011, Policy ED9 lists a number of considerations which remain relevant to this Inquiry and are identified within SPP. Policy ED9 confirms that the Council will produce Supplementary Guidance which will enable further guidance on these identified considerations. Policy ED9 also confirms that the Ironside Farrar study on “Landscape Capacity and Cumulative Impact” is now a material consideration. Other than the weight now given to the Ironside Farrar study, it is not considered that policy ED9 fundamentally changes how the Whitelaw Brae application should be tested and determined.

Landscape Character:

- 14.3 Members will recollect that in assessing the original scheme in terms of Landscape Character Type and the qualifying reasons for the Designation of the Tweedsmuir Uplands Special Landscape Area, it was not considered that 14 turbines at 133.5m height to tip would be compliant with the relevant criterion in previous Local Plan Policy D4 nor reflect the advice outlined in the “Landscape Capacity and Cumulative Impact Study” which considered that there was no capacity for structures above 50m. It should be recalled that the findings suggested the capacity was only to extend the large wind farm cluster largely contained within the South Lanarkshire area and not spread eastwards across the A701 into core wild land areas and the undeveloped area.
- 14.4 The Plans & Research response now makes it clear that the findings of the Landscape Capacity Study are a material consideration in assessment under the new Local Development Plan Policy ED9. The consideration of the Ironside Farrar study should be given not just to the whole application proposal but also the repositioning of turbine no.11. Whilst it is acknowledged that no site specific conclusions should be drawn from it in relation to currently proposed or potential future wind turbines and wind farms, if turbines are proposed which exceed the turbine heights identified within the IF study the onus is on the applicant to demonstrate how the impacts of the proposal on the key constraints and any significant adverse effects can be mitigated in an effort to show a proposal can be supported. The 135m high turbines are quite clearly considerably at odds with the findings of the study and the repositioning of turbine no 11 does not change our opinion, previously expressed, that the 14 turbine scheme is significantly in conflict with the landscape capacity and Landscape Character Type. The conclusion of the Landscape Section is that the applicant has not demonstrated how the impacts of and any significant adverse effects can be mitigated.
- 14.5 Members will recall in the previous report that it was not considered that the Whitelaw Brae wind farm would be a natural and integrated extension of the wind farm landscape which is emerging further west. It is on noticeably different land character on the fringes of a Wild Land Area and

would appear as an unfortunate fragmented “jump” eastwards across the A701, noticeable amongst many of the Viewpoints. The relocation of Turbine 11 and amended Wild Land Analysis (Appendix 6.4) do not resolve the significant detrimental impacts previously identified on the Wild Land Area (WLA). Appendix 6.4 seeks to confirm the original findings of the Wild Land Analysis whilst including updated photomontages and tables, including the Clyde and Glenkerie Extension turbines. It summarises that the areas of highest wildness within the WLA would have little or no visibility of Whitelaw Brae turbines as amended and for those other parts of the WLA with visibility to the wind farm, there would already be visibility to other wind farms further west. There is also clarity in Appendix 6.1 that all photomontages in the FEI now conform with the SNH Guidance “Visual Representation of Wind Farms”.

- 14.6 At least 32% of the Wild Land Area will still have visibility of the proposed windfarm at distances no greater than 7.5km, potentially making it a prominent feature in the panoramic views to the northwest. Views from elevated points to the southwest, west and north west looking towards the Area would equally be dominated by the proposed windfarm in the foreground. Any perception of remoteness will be extinguished by the proximity to this proposed windfarm. The Landscape Architect remains of the opinion that this is not a good location for a windfarm due to the visual intrusion. She notes that a significant Moderate effect is anticipated in the revised Wild Land Assessment affecting two of the attributes of the Wild Land Area to around 5km from the development.
- 14.7 Viewpoints 9, 10 and 11 were particularly highlighted in the previous report to show how the proposed development brought a windfarm into the foreground of views from the Wild Land Area. Viewpoint 9 from Hartfell Rig showed the significant impacts of proximity and height within an open landscape compared to the more distant Clyde and Glenkerie clusters. Firthhope Rig (VP10) was higher and slightly further away, revealing more visibility of Clyde in particular, yet still accentuating the foreground impacts of the proposal. Broad Law (VP11) was higher still but still showed the distinction caused by proximity, height and relative lack of intervening topographical or afforested screening. These Viewpoints have been revisited with the addition of the Clyde and Glenkerie Extensions. Whilst they highlight the increased impacts of these wind farms and their extensions, they continue to display the detachment and proximity impacts of Whitelaw Brae to the WLA, the turbines being much closer, much larger to view and discernibly detached from the other wind farm clusters across the Tweed Valley. The movement of Turbine 11 also led the Landscape Architect to comment that the appearance was slightly more visually unsatisfactory as the rotors of Turbine 11 sit uncomfortably below the adjacent turbines.
- 14.8 The revised Wild Land Analysis does not include new photomontages to Viewpoints 14, 15 and 22 which were previously identified as important to the perception of the Wild Land Area from outwith. However, the new wirelines that are provided still show how views into the Wild Land Area will be compromised by a windfarm in the foreground on hills that are an intrinsic part of this upland landmass, especially Viewpoint 22 which has, by virtue of proximity and scale, a significant detrimental impact on the Wild Land Area.
- 14.9 Members will also recollect that SNH identified the importance of the fringes of Wild Land Areas which contribute to, and enhance, the wildness qualities of the central parts of the Areas. They considered that the Viewpoints showed that the proposed wind farm was a more noticeable and nearer outlier than other wind farms in existence or proposed. They identified Viewpoint 21 to highlight this point as an important comparison of the effects of the Whitelaw Brae wind farm on the Wild Land Area compared to other consented or existing wind farms. This Viewpoint shows the proximity and dramatic effect on the north-western section of the Wild Land Area compared to the more distant and disparate effects of the Clyde and Glenkerie turbines. The revised photomontage simply reinforces this concern, despite the addition of Clyde and Glenkerie Extensions. Again, the lower position of relocated Turbine 11 does not present a coherent design to view.

- 14.10 For the aforementioned reasons and in line with the recommendation of the Council on the Earlsbaugh scheme, it is not considered that the Whitelaw Brae wind farm is a natural and integrated extension of the wind farm landscape which is emerging further west. It is on noticeably different land character on the fringes of a Wild Land Area and will appear as an unfortunate fragmented “jump” eastwards across the A701, noticeable amongst many of the Viewpoints. For this and the aforementioned reasons, it is not considered that the proposal complies with the relevant criteria of Local Development Plan Policy ED9 on landscape character and designated areas
- 14.11 Impacts on the more intimate landscape character which lies within the Fruid, Talla and Megget Valleys and reservoirs were identified with the original scheme. The repositioning of Turbine 11 has not worsened the impacts identified in Viewpoints 4 and 5, reducing the width of spread slightly. However, even allowing for the addition of the Clyde Extension turbines on the new photomontages, the character of the area would remain dominated by the turbines, either towering above the modest rolling hills of this part of the landscape or breaking the skyline with moving blades.
- 14.12 The FEI does not change the Department’s opinion that significant impacts would remain on the perception, setting and qualities of identified wild land (Area 2 Talla Hart Fell) to the south and east of the site, and that there would be significant impacts on the designated Tweedsmuir Uplands Special Landscape Area, contrary to the management recommendations seeking to maintain wildness and limit impacts of tall developments, both in relation to the higher summits/wild land to the south and to the more localised intimate landscapes to the east and north-east.

Visual Impacts - Roads and paths

- 14.13 It was concluded with the previous S36 scheme that the visual impacts caused by the development on public roads, footpaths and other walking routes in the area were significantly adverse and were contrary to the relevant criterion of Policy D4 in the preceding Local Plan.
- 14.14 The Zone of Theoretical Visibility (ZTV) has been amended in this FEI at Figure 6.6 but the impacts are ostensibly the same. Members will recall that it showed that within the 5km range, there was in excess of 65% potential visibility, with only a limited amount of the area screened from views of the windfarm by the intervening landform. Given that windfarms are considered most prominent at ranges up to 5 -7.5km (depending on height) this lack of containment led to major significant visual effects identified to high sensitivity receptors such as the A701.
- 14.15 FEI Appendix 6.7 contains an additional analysis of the visibility of the wind farm, based upon the revised scheme and the addition of the Clyde and Glenkerie extensions, backed up with route maps and photographs. The aforementioned Youtube moving image A701 run-through is also available, albeit only in a northbound direction. It concludes that Whitelaw Brae would not have a dominant or overbearing effect on road users, impacts being reduced by the topography, winding nature of the road, varying outlook position of the Clyde Extension turbines and intervening commercial forestry.
- 14.16 Taking into account all of this additional material, there remain major visual impact concerns in terms of the A701. Viewpoints 1-3, 6 and 12 were previously identified as being of particular concern, as follows:

Viewpoint 1 – Tweedsmuir – where two hubs and seven tips will be seen over the skyline at a distance of only 4.4km, channelled into the centre of the view between the hills, increasing the impact. This is exacerbated by mostly only blade overtipping being visible. The easternmost turbine tips may be partially screened although not to the extent suggested by the Viewpoint 1E photomontage. Turbine 11 relocation is insignificant.

Viewpoint 2 – Glenbreck – where eight hubs and eleven tips are visible at only 1.4km, creating a massive and unexpected impact, again channelled into the centre of the view between the hills. Turbine 11 is visible now and will be a very visible feature looking up the Fingland Burn valley from the road, more centrally located at the front of the array in the vista formed by the V-shaped valley sides. This will increase the visual effects of the scheme which, for Viewpoint 2, has already in the ES been deemed Moderate (Significant), to Moderate – Substantial (Significant) (ES Vol 1 - 6.244:Table 6.8 and 6.250 – 6.251)

Viewpoint 3 – Tweedhope – where two hubs and five tips are visible at only 1.8km, providing considerable impact above the saddle of the hill to northbound traffic. Forestry screening is ineffective here. This would create the impression of being an inappropriate extension of the wind turbines encountered to northbound traffic on the western side of the road. Turbine 11 tip now visible.

Viewpoint 6 – Source of the Tweed – where one hub and seven tips are visible over the saddle of the hill at 4.5km and which create the same adverse effects as aforementioned. The blade overtopping above the forestry would be particularly noticeable to northbound drivers. Turbine 11 not visible.

Viewpoint 12 – Crook Inn – where two hubs and eight tips are visible at 6.8km. Again channelled into the dip between the hills which has the effect of concentrating them into the centre of the view yet over the skyline of the saddle of land on which they are situated. Turbine 11 not visible.

- 14.17 Despite the additional analysis contained within the FEI, it is concluded that the visual impacts caused by the development on the A701, especially within the 5km range, to be significantly and unacceptably adverse, contrary to Policy ED9 of the Local Development Plan. The Landscape Architect is of this opinion, noting that the sensitivity of users of the A701 has been raised to High from Low/Medium in the FEI and that, whilst the effects will be most significant within relatively close range of the site, this includes a substantial proportion of the A701 that was analysed. The A701 Flythrough demonstrates that there will be a number of sections of the route where the Whitelaw Brae turbines would be clearly visible from the A701 where the existing arrays to the east are not visible. The Flythrough simply emphasises the adverse impacts and high visibility, envisaged to be even more pronounced to southbound traffic (given the only run-through is northbound).
- 14.18 There were also dominant and significant impacts identified from the public road serving the Fruid Reservoir as shown in Viewpoints 4 and 5. The removal of turbine 11 affects a small change in the visual impact of the turbines arrayed across the landscape. Turbine 11 was, at 1.1km nearest to receptors at Fruid Dam but with its removal the nearest turbine is now 1.4km. Nonetheless visual effect of turbines across the hillside is only slightly reduced, remaining Substantial (Significant) as already noted in the ES (Vol 1 -6.244:Table 6.8 and 6.252-6.253). Despite the relocation of Turbine 11, the reservoir and modest rolling skyline will still be completely dominated by the turbines in full view of the minor road.
- 14.19 The Southern Uplands are, by virtue of their perceived remoteness, popular with walkers and from the summits there are commanding panoramic views. Despite the relocation of Turbine 11 and the addition of Clyde and Glenkerie Extension turbines to the photomontages, it is still considered that from Viewpoints 9, 10, 11, 21 and 22, the proposed windfarm continues to be excessively dominant in views. The distribution of turbines when seen from Viewpoint 22 will be improved with the overlap and clustering of 6, 1 and 11 resolved by turbine 11's relocation. Nonetheless the visual effects still remain Moderate (Significant) as noted in ES (Vol 1 - 6.244:Table 6.8 and 6.264 – 6.265). Viewpoints 4, 5 and 21 continue to indicate the impacts which are significant and dominant from both the Fruid public road and the Right of Way BT100. The latter indicates the large difference in impact between the proposed turbines and the

backdrop of existing turbines west of the A701 and at more distance, despite the addition of the Clyde Extension.

- 14.20 It is concluded that the visual impacts caused by the development on the public roads, footpaths and other walking routes in the area are significantly adverse and contrary to the relevant criterion of Policy ED9 of the Local Development Plan.

Visual Impacts – Residential Receptors

- 14.21 Members will recall that whilst identifying that properties such as Badlieu, Hawkshaw and five properties within the Fruid Valley would experience significant impacts, there were no wirelines or montages that demonstrated how such assessment could then conclude that the impacts would not be overbearing. It was noted that the relevant and nearest Viewpoints from the minor public road at Fruid and, to a lesser extent from the A701 indicated significant impacts would occur on residential outlook and amenity which would have an overbearing impact on day to day living and enjoyment of landscape, outlook and tranquillity. Badlieu was only 1.4km from the nearest turbine with 4-7 visible and Hawkshaw 1.67km away with 8-10 visible in direct view. The five properties at Fruid were between 1.3km and 2.2km away with visibility of between 4 and 10 turbines.
- 14.22 Whilst the EIA commented on direction of main windows and presence of intervening screening, if any, the findings did not seem to justify the conclusion that none of the significant impacts identified for seven properties could be considered to be overbearing. The properties in the Fruid Valley, in particular, occupy an intimate and secluded location where the magnitude of change will be more dramatic than perhaps Badlieu or Hawkshaw which occupy more open valley settings close to the A701 and where the influence of other wind farms would impinge.. It was, therefore, concluded that the previous submission had failed to demonstrate that there would not be overbearing impacts on many of the seven residential receptors identified as experiencing significant effects. Members made a specific point of this failure to demonstrate in the objections sent to the ECDU.
- 14.23 The FEI has now provided a fuller Residential Visual Amenity Study at Appendix 6.8 which includes written and visual assessments from the seven aforementioned properties, including photographs, wirelines and some photomontages where access was possible. The Study uses the “Lavender Test” and professional judgement in whether the identified effects, which are judged significant, would be overbearing and make the properties unattractive places to live.
- 14.24 Whilst the additional information is welcomed and helpful, there are a number of matters which lead to the Department concluding that impacts on residential amenity remain unacceptable, even against the “Lavender Test”. These are as follows:
- Access and information presented from each property is inconsistent as full inside access was only possible to two out of the seven properties. Consequently, the information cannot be equally compared and is insufficient to enable an opinion to be formed that the turbines would not be overbearing. Some property assessment is detailed and others are less so. Even when inside access was possible, the worst case scenario photomontage from Hawkshaw was not taken from the upper floor windows but from the ground floor windows, allowing intervening topography to mask a proportion of the turbine towers.
 - The Study firstly states that the assessment should only be considered from properties and their curtilages, not from public road or approach tracks to them – residents using the latter would be considered only as general recreational users. However, in each individual assessment, there is a weighting of significance attributed to access tracks. Nevertheless, in the final professional judgement exercised, any weighting given to access tracks seems to have been underplayed.

- The final assessments of each of the seven properties identifies varying levels of significance and major impacts, yet concludes that such impacts would not be overbearing or make the properties unattractive places to live. The jump from the methodology and findings to the conclusion is one of professional judgement but, in the Department's opinion, is unjustified in the case of several of the properties likely to be affected.

14.25 Taking into account the above and the relocation of Turbine 11, the Department still remain of the opinion that impacts on residential amenity are significantly adverse and overbearing, contrary to Policy ED9 of the Local Development Plan. The impacts from the individual properties are inconsistently portrayed and, in the case of Blacklaw and Craiglaw, interpreted to have lesser impacts than the presented information would suggest. Similarly, the day to day approach to the properties has been grouped in with impacts expected to be experienced by general recreational users and not given the weighting of impact and significance that the approaches by residents on a repeated basis to these secluded and isolated properties deserves. It is strongly contended that, especially with regard to the five properties affected in the Fruid Valley, the day to day movement to and from the properties is an integral and very important part of residential amenity, the seclusion and visual simplicity experienced upon these approaches being a vital part of the attraction of the place as a place to live.

Cumulative Landscape and Visual Impacts:

- 14.26 It was considered that the addition of Whitelaw Brae wind farm to the area would result in adverse coincident and sequential cumulative impacts, spreading the emerging wind farm landscape eastwards into new, undeveloped and inappropriate landscapes for such expansion, jumping across a strong visual divide formed by the A701, River Tweed and valley. The comparison with, and addition of, the Whitelaw Brae wind farm to the existing and proposed wind farms in the area would introduce a much closer and greater scale of intervention with the landscape character type and wild land on the eastern side of the A701. It was concluded that the relevant criterion of the previous Policy D4 was not complied with.
- 14.27 There has been no additional cumulative impacts assessment provided apart from an update on the position with regard to the identified wind farms to be considered as part of the assessment, in Table 6.2 and Figure 6.12. The position constantly changes, of course, with regard to wind farm submissions and the FEI does not include a new 27 turbine S36 proposal at Harryburn which is at scoping stage. This wind farm is west of the M74 and the current Clyde Wind Farm. The movement of Turbine 11 and the updated cumulative position make no difference to the Department's previous stance on cumulative impacts, however, which are considered to remain significantly adverse. The A701 Flythrough also highlights the introduction of turbines into a new area to the east of A701 and emphasises the significant sequential cumulative landscape and visual impacts by virtue of affecting an area previously free of wind turbines.

Cultural Heritage Impacts:

- 14.28 Members will recollect that in terms of previous Local Plan Policy D4, any renewable energy development should not have unacceptable adverse impacts on archaeological heritage unless there can be satisfactory mitigation proposed. The Whitelaw Brae application caused two particular areas of concern.
- 14.29 Firstly, there was concern at the setting impacts on an unscheduled prehistoric platform settlement consisting of nine platforms on the eastern shank of Big Dod. There was disappointment that no Viewpoint was provided in the final EIA despite recommendation and the Archaeology Officer had to consider setting impacts based upon a site visit. Following his visit, he considered the asset to be of national significance and stated:

“Major impacts to the appreciation of the site’s setting stemming from dominance, kinetic movement and incongruity with the current setting from the wind farm infrastructure on Glengonnor Hill, Peat Hill and the Fingland Burn valley in key views from the site are objectionable. “

- 14.30 Secondly, the Council also backed up Historic Scotland’s objection to the setting impacts of the proposed wind farm on the Scheduled Hawkshaw Castle, albeit it was considered that not only Turbine 11 had a detrimental impact and needed to be removed but that Turbines 5, 6 and the associated access track would also dominate the view of the Castle’s setting as approached by most visitors.
- 14.31 The Council opposed the application on the basis of turbines 1-6 and 11 together with associated infrastructure. It was felt that they should ideally be omitted or moved to the south of the application site. Should the ECDU consider approval of the scheme as it stands, then conditions, a legal agreement and off-set mitigation would be necessary to improve setting understanding and cover the issues of unknown archaeology.
- 14.32 The FEI has been reviewed in light of the applicant’s Rebuttal Statements to both the Council and HS dated 3 July 2015. The FEI has corrected a key omission from the ES and Rebuttal Statements by providing visualisations (FEI Heritage Viewpoint 9.11 a and b) from the Fingland Burn Platform Settlement (the ES asset labelled HA5). The new visualisations illustrate the key setting relationships of HA5 with the valleys of the Fingland Burn and Cleugh Head Burn, and the hills that constrain these. The principle change to the scheme, the movement of Turbine 11 from the setting of Hawkshaw Castle, has sought to address Historic Environment Scotland’s key concern. It is known that they have now withdrawn their objections to the wind farm on the basis of the FEI and relocation of Turbine 11.
- 14.33 In terms of whether this revision and additional information and commentary have met the Council’s concerns, the Council’s Archaeology Officer has considered the FEI and responds as follows:

“Overall, while the removal of Turbine 11 from a key view from Hawkshaw Castle has eliminated one element of setting impact, views into the site are still significantly impacted by Turbines 4-6 and this is not in keeping with national and local policy or guidance. Likewise, the continued presence of turbines on Peat and Glengonnor Hill, and the new intrusion of Turbine 11, in the setting of asset HA5, an asset judged to be of national significance, is not in keeping with policy or guidance. I therefore maintain my recommendations for objecting to the scheme as currently proposed.

The removal of Turbine 11 from one aspect of Hawkshaw Castle’s setting has addressed a concern raised by both Historic Environment Scotland and the Council. This is a positive step, but does not address the remaining setting impacts as outlined in both my initial consultation response and my subsequent response to the applicant’s Rebuttal Statement. In addressing (and by virtue acknowledging) Historic Environment Scotland’s concerns, they have not addressed the equally relevant views of the Local Authority on matters of setting. Turbines 5, 6, and to a lesser degree 4, will still pose a significant impact to the setting of Hawkshaw Castle by introducing a new and incongruous element into the current setting, dominating the valley setting and, by virtue of scale, diminishing the appearance of the Castle’s location when viewed from the track on Benner Dod. As illustrated in the applicant’s viewpoint 9.10, the experience of Hawkshaw Castle when viewed from Benner Dodd, the first and best place to appreciate the asset (including the Porteous Cairn) and its wider setting, would be dominated by the turbines along the ridgeline of Glengonnor Hill. This remains a significant impact. The removal of Turbine 11 has to a small degree benefitted the setting of the Castle, but this has not entirely alleviated my concerns.

Crucially, the relocation of Turbine 11 to the lower slope of Peat Hill has served to increase the impacts to the setting of asset HA5 when viewed from the platform settlement itself (illustrated in viewpoint 9.11). Both the applicant and myself are largely in agreement on the setting of the asset. What we disagree on is the cultural significance of the asset, its national importance, and elements of the topographical constraints (namely Peat and Glengonnor Hills) that contribute to the asset's setting. The movement of Turbine 11 onto the lower shoulder of Peat Hill, and just above the 'banks of the Fingland Burn' represents a significant intrusion into the setting of HA5 (illustrated in viewpoint (9.11b). While the other turbines affecting the setting of the asset are confined to the tops and ridgelines of the hills, the new location of Turbine 11 is within the valley setting and significantly distracts and diminishes an appreciate of a key setting view from the settlement: namely the confluence of the Fingland and Cleugh Head valleys. I do not feel that the proposed location of Turbine 11 maintains an appropriate setting for HA5. I therefore maintain my recommendations in previous responses, and suggest that the relocation of Turbine 11 is more objectionable than other significant impacts as previously highlighted."

- 14.34 For these reasons, it is not considered that the revised development complies with Local Development Plan Policies ED9 and EP8 in relation to the impact of the wind farm on cultural heritage assets.

Residential Amenity (Noise):

- 14.35 Members will recall that the Environmental Health Officer did not object to the previous scheme, believing that a suitably worded condition would be possible and further conditions could control construction noise and dust issues. These were considered to be matters for the ECDU and for the Reporter determining the appropriate cumulative noise limits for Earlshaugh, should that scheme be approved. That view is maintained and there are no objections to the FEI revisions and additional noise assessments which would not increase noise to any significant extent at the nearest receptors.

Ecology and Habitat impacts:

- 14.36 Members will recall that the Ecology Officer had concerns about potential impacts on black grouse and necessary mitigation. He also required the Habitat Management Plan to include further enhancement and compensation measures to ensure no net loss of biodiversity. Taking into account the FEI revisions and relocation of Turbine 11, it is within recognised disturbance distances for black grouse leks (300-500m) and this would be in addition to potential disturbance and displacement with other turbines identified previously. Given the location of a complex of leks within the site, it is reasonable to require a package of compensation measures specifically to address impacts on black grouse, over and above any requirement to replaced loss of woodland in relation to the Scottish Government's Control of Woodland Removal Policy. This requirement could be achieved through a Planning Condition or legal agreement as appropriate.
- 14.37 Taking into account the FEI submissions, the Ecology Officer still considers that with best practice measures, it is unlikely that the scheme will create any significant adverse impacts on the River Tweed SAC.
- 14.38 Compensatory Planting Proposals were previously identified as lacking and these have now been submitted as part of the FEI, in Appendix 17.1. The Ecology Officer is aware of ongoing dialogue between the Forestry Commission and the developers and that a revised scheme may be developed with greater emphasis on native woodland and Scots Pine. He is satisfied that a scheme can be agreed under a Planning Condition or Legal Agreement and that the Forestry Commission would be content with this. Alternatively, a parallel felling licence under the Forestry Act could control the compensatory requirement regulated by Forestry Commission Scotland.

14.39 Any approved plan would need to be consistent with the Scottish Borders Woodland Strategy, as informed by the Technical Advice Note (2012). The priorities for new woodlands in the Central Southern Uplands landscape area include:

- Potential for new native woodland expansion to contribute to integrated habitat networks linking existing woodland along river valleys, tributaries and areas identified in Flood Risk Management plans.
- Potential for new coniferous forest subject to retaining a reasonable balance of open ground habitats and forest and avoiding significant fragmentation of existing open habitats.

14.40 The submitted Compensatory Planting Plan also requires other considerations:

- In terms of landscape, there may be issues with the lack of Scots Pine and the almost continuous band of native broadleaves along the south side of the A701 has potential to restrict views of the changing landscape progressing up the Upper Tweed valley and the abrupt and angular termination of the woodland at the southern end. It is known that Scottish Natural Heritage are also concerned with this element.
- In terms of archaeology, the scheme should respect the setting of archaeological receptors including prehistoric settlements in the Fingland burn valley, other unscheduled monuments and Scheduled Ancient Monuments and would require unplanted ground and buffer areas around sites informed by a pre-afforestation archaeological survey. This may allow for reconstruction of the ancient environment enhancing the archaeological sites.
- In terms of access, any existing or new tracks should be available for all types recreational users after planting is complete, including gates where necessary.
- In terms of ecology, the scheme should seek to provide biodiversity enhancements through native woodland creation consistent with the Scottish Borders Woodland Strategy and provide additional benefits e.g. natural flood management for downstream flood mitigation and improvements to water quality benefitting the River Tweed SAC/SSSI.

14.41 These are matters for the ECDU and Reporter to consider in conditions should there be any intention to support the application. There are certainly no ecological reasons, following consideration of the FEI, why the development would otherwise be considered not to be in compliance with the relevant criterion of Local Development Plan Policy ED9.

Access and Roads

14.42 Roads Planning had previously not objected to the proposal, recognising that most of the heavy vehicles during construction will access from outwith the area. Conditions would be sought for a Construction Traffic Management Plan, detailed junction design and further details of the Tweed crossing. In terms of the Turbine 11 relocation and other information in the FEI, there remains no objection to the revised scheme. There will be no additional movements on the public road as a result of the turbine relocation and there will be a reduction of on-site tracks by around 140 metres, along with a reduction in cabling and earthwork cuttings. With regard to the addition of the battery storage units, this will increase HGV movements by around 35 but, when considered against the overall movements for this site of approximately 3700 HGV movements over the same time period, this increase is considered to be slight.

14.43 In terms of footpaths affected by the development, the Access Officer maintains no objection, reiterating that the Land Reform Act does seek a right of responsible access through the site, thus, the tracks, once the development is completed, should be available for the public.

15.0 CONCLUSION:

15.1 Scottish Borders Council remains positive towards the principle of wind energy development, as is reflected in its revised Local Development Plan and guidance, which include the Strategic SESplan policies. As required by all policy considerations, the balance between the advantages of energy production, and the disadvantages of environmental impact must be weighed carefully against one another. It was identified with the previous scheme that whilst 50.4MW of electricity would make a sizeable contribution to delivery of sustainable renewable energy development, the benefit was outweighed by the environmental impacts as outlined in the previous Committee Report. The revision to the scheme and the Further Environmental Information submitted have not satisfactorily addressed the significantly adverse environmental impacts as described in this Report and as summarised below:

- Limited containment within the 5km range and consequent significant visual impacts from sensitive receptors including public roads (such as the main tourist route of the A701 and the Fruid minor road), a right of way, hill summits and dwellinghouses.
- Significant impacts on the perception and setting of designated wild land (Area 2 Talla Hart Fell) to the south and east of the site in an area with high fragility to change.
- Significant impacts on the designated Tweedsmuir Uplands Special Landscape Area and management recommendations seeking to maintain wildness and limit impacts of tall developments.
- Significant cumulative and scale impacts on sensitive receptors and on a unique landscape character type and capacity to the east of the A701 corridor, inappropriately extending the existing Clyde/Clyde Extension/Glenkerie cluster into previously undeveloped land, bridging a strong visual boundary between landscape character types and setting precedent for further inappropriate incursion.
- Significant detrimental impacts to two archaeological sites of national significance, Asset HA5 and the Scheduled Hawkshaw Castle.

15.2 For these reasons, Members are advised to continue to object to the Section 36 Application.

16.0 RECOMMENDATION BY CHIEF PLANNING OFFICER:

16.1 That the Council indicate to Scottish Government that it **maintains objections** to the application for a 14-turbine wind farm on the Whitelaw Brae site. The reasons for the objections are as follows:

16.2 Reason for Objection 1: Impact on Landscape Character:

The proposed development would be contrary to Policies PMD2, ED9 and EP5 of the Scottish Borders Local Development Plan 2016 and Policy 10 of the South-East Scotland Strategic Development Plan (SESplan) 2013 in that, taking into consideration the following factors, it would unacceptably harm the Borders landscape:

- Significant impacts on the perception, setting and qualities of identified wild land (Area 2 Talla Hart Fell) to the south and east of the site in an area with high fragility to change.
- Significant impacts on the designated Tweedsmuir Uplands Special Landscape Area and contrary to the management recommendations seeking to maintain wildness and limit impacts of tall developments, both in relation to the higher summits/wild land to the south and to the more localised intimate landscapes centred around the reservoirs to the east and north-east

16.3 Reason for Objection 2: Adverse Visual and Amenity Impacts:

The proposed development would be contrary to Policies PMD2, ED9, EP8 and HD3 of the Scottish Borders Local Development Plan 2016 and Policy 10 of the South-East Scotland Strategic Development Plan (SESplan) 2013 in that, taking into consideration the following factors, the development would give rise to unacceptable visual and amenity effects:

- Low containment within the 5km range and consequent significant visual impacts from sensitive receptors including public roads (such as the main tourist route of the A701 and the Fruid minor road), a right of way, hill summits and dwellinghouses. In respect of the identified residential receptors, the developer has failed to demonstrate that the impacts would not be overbearing and significantly adverse.
- Significant cumulative and scale impacts on sensitive receptors and on a unique landscape character type and capacity to the east of the A701 corridor, inappropriately extending the existing Clyde/Clyde Extension/Glenkerie cluster into previously undeveloped land, bridging a strong visual boundary between landscape character types and setting precedent for further inappropriate incursion.
- Significant detrimental impacts to two archaeological sites of national significance, Asset HA5 and the Scheduled Hawkshaw Castle.

16.4 Advisory Note:

Should the development be considered for approval, then conditions and the need for a Legal Agreement have been identified covering a number of different aspects including noise limits, roads matters, ecology and archaeology.

Approved by

Name	Designation	Signature
Ian Aikman	Chief Planning Officer	

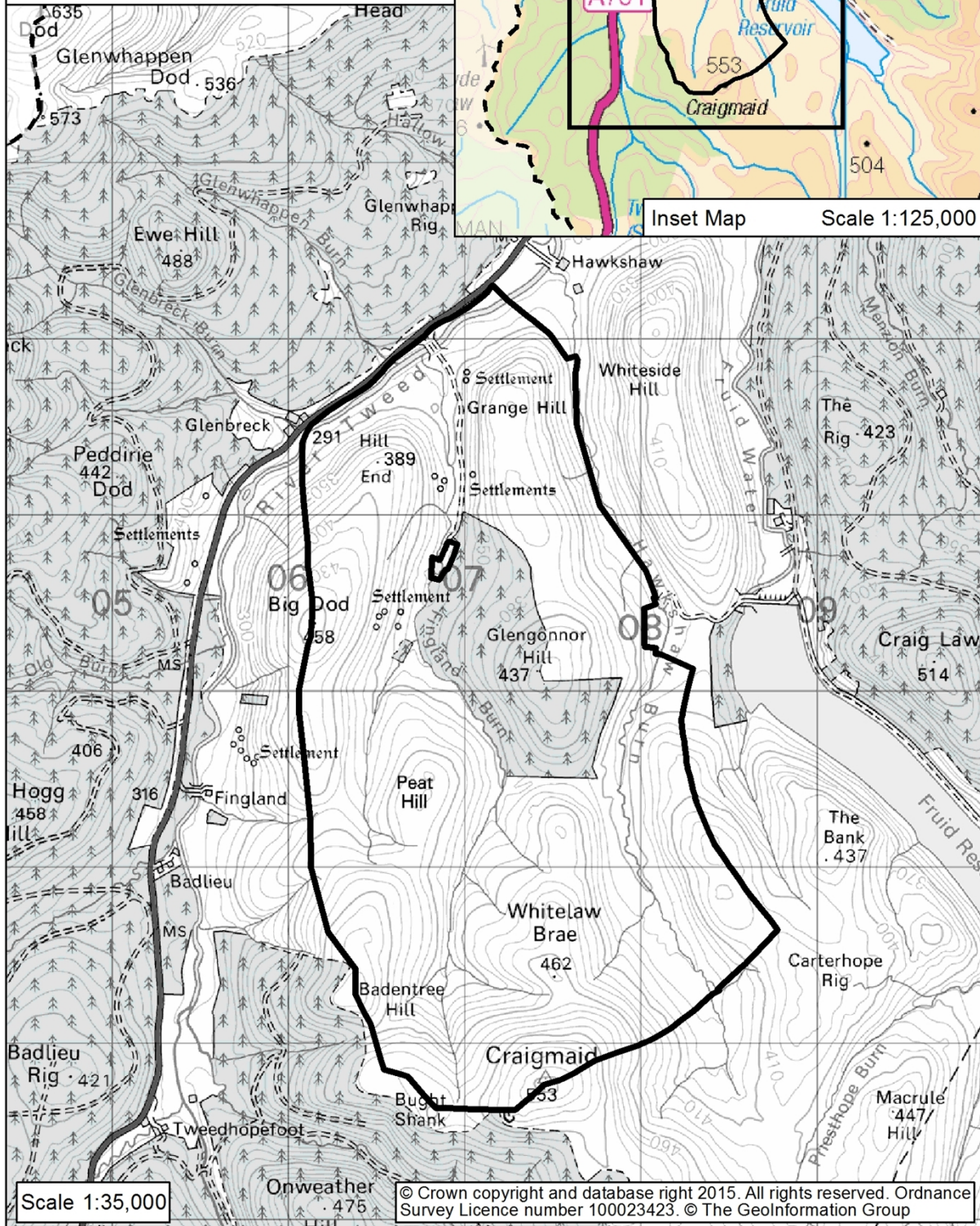
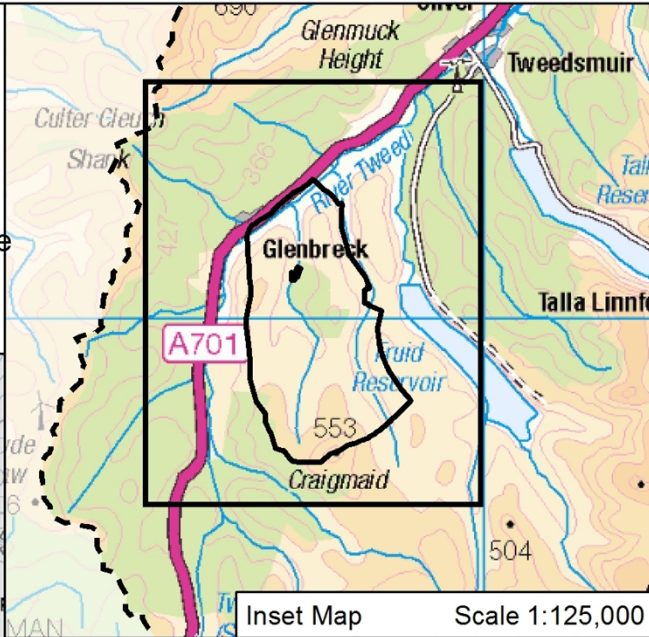
The original version of this report has been signed by the Chief Planning Officer and the signed copy has been retained by the Council.

Author(s)

Name	Designation
Craig Miller	Lead Planning Officer



15/00020/S36
 (Whitelaw Brae Wind Farm)
 Land South East Of Glenbreck House
 Tweedsmuir
 Scottish Borders



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APPENDIX 1

SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

3 AUGUST 2015

APPLICATION FOR CONSENT UNDER SECTION 36 OF THE ELECTRICITY ACT 1989

ITEM: **REFERENCE NUMBER:** 15/00020/S36

OFFICER: Craig Miller

WARD: Tweeddale West

PROPOSAL: Wind farm comprising 14 wind turbines, substation, control room, two temporary compounds, access tracks, four borrow pits and meteorological mast

SITE: Land at Whitelaw Brae 3km south of Tweedsmuir and west of Fruid Reservoir

APPLICANT: Whitelaw Brae Wind Farm Limited

AGENT: n/a

1.0 PURPOSE OF REPORT

1.1 To advise the Scottish Government of the response from Scottish Borders Council on the application by Whitelaw Brae Wind Farm Ltd, to construct a 14-turbine wind farm on land lying at Whitelaw Brae south of Tweedsmuir and west of Fruid Reservoir

2.0 PROCEDURE

2.1 Scottish Borders Council (SBC) is a consultee as a 'relevant authority'. All of the turbines and new infrastructure would be sited within the Borders.

2.2 The views of SBC will be provided to the Energy Consents and Deployment Unit at Scottish Government (ECDU), the body responsible for processing onshore Section 36 planning applications. In this instance, the application is required to be determined via Section 36 because the wind farm would have an output of more than 50MW (50.4MW). The ECDU advertises the application and carries out direct consultation with other interested bodies. There is, therefore, no need for Scottish Borders Council to undertake a tandem process although consultation has taken place with relevant officers within the Council.

2.3 It should be noted that if permission is granted, the local authority (rather than the ECDU) would become the relevant enforcement authority responsible for monitoring compliance with the terms of an approval and any conditions imposed thereon.

3.0 SITE DESCRIPTION:

3.1 The site area covers 820 hectares of land, of which 23.7 hectares would be occupied by the wind farm and associated infrastructure. The land is a mixture of unimproved rough open

grazing and commercial forestry. It lies near to the south-western boundary of the Scottish Borders, the boundary with South Lanarkshire being 3km west of the site and Dumfries and Galloway 5km south of the site. The A701 and River Tweed border the site to the north, the site then running in a southerly direction lying between the A701 and Fruid Reservoir. The whole site comprises of catchment for the River Tweed with several watercourses through the site, the main one being the Fingland Burn.

- 3.2 The site comprises of small steep hills with coniferous forestry to the centre, upland grass and tributaries surrounding the hills. There are eleven peaks within the site ranging from Grange Hill at 395m AOD to the north-east of the site to Craigmaid at 553m on the southern boundary. The forestry land within the centre is associated with Glengonnor Hill and has an elevation between 330m AOD and 437m AOD. Apart from the forestry, other man-made interventions in the site consist of sheepfolds although there are roads, power lines and telecommunication equipment in the vicinity. A temporary wind monitoring mast also exists within the site.
- 3.3 The Southern Upland Way is approximately 14km south of the site and the Annandale Way is nearer at 5km to the south of the site.
- 3.4 1.2km of the River Tweed SSSI is located within the northern portion of the site, the Tweedsmuir Hills SSSI and Moffat Hills SSSI 4.6km east and 5km south of the site respectively. The site lies within the Tweedsmuir Uplands Special Landscape Area 1 and 9km to the south of the Upper Tweeddale National Scenic Area. Other Special Landscape Areas exist in other Local Authority areas and have been considered by the applicant, namely the Leadhills/Lowther Hills and Moffat Hills local landscape designations.
- 3.5 The site lies to the north of the SNH identified Wild Land area of Talla – Hart Fell, the nearest proposed turbine being 0.75km from its boundary.

4.0 PROPOSED DEVELOPMENT:

4.1 The development would comprise:

- 14 wind turbines and their foundations
- Crane hardstanding areas
- Substation/control room buildings and compound
- Underground electrical and communication cables to each turbine
- Access track and onsite access tracks
- 4 new water crossings including the River Tweed
- 1 no. 80m temporary meteorological mast
- 1 no. 80m permanent meteorological mast
- Borrow pits (up to 4) for use during development, to be reinstated post-construction
- Two temporary construction and site storage compounds
- Felling of 52 hectares of commercial forestry
- Habitat Management plan for blanket bog, black grouse and riparian planting
- Community benefits package amounting to £6.3 million over project lifespan

4.2 The 14 turbines will be three bladed, 80m to hub, a rotor diameter of 107m and a blade tip height of 133.5m. The total generating capacity is given as up to 50.4MW, The turbines would be arranged in three approximate rows on Peat Hill, Glengonnor Hill/Whitelaw Brae and Little/Muckle Dod. The precise turbine model will be selected should consent be granted. They would be finished in semi-matt pale grey as standard and would be computer controlled to face the optimum wind direction. The applicant is seeking a 50m micro-siting allowance.

- 4.3 There is one 80m meteorological mast on site but this would be removed following construction of the development. A permanent 80m mast would also be proposed to monitor the performance of the wind farm throughout its lifespan.
- 4.4 A new vehicular site access is proposed to facilitate implementation of the wind farm, which would meet with the A701 along the short section of northern boundary to the south-west of Hawkshaw. This would possess 215 x 4.5m visibility splays and a much wider radius to the south with lockable bollards. The new access would lead to a new bridged section over the River Tweed and would be alongside an existing Scottish Water access to Fruid Reservoir which would be closed off.
- 4.5 12.74 km of internal access tracks would be required, of which only 1.15km would be upgrading of existing forestry track. The tracks are proposed in accordance with good practice as set out by SNH, SEPA and the Forestry Commission. They would be generally 5m wide and widened at bends with a total of twelve passing places. Stone for these and for the other constructional requirements will be taken from four borrow pits which would then be reinstated after construction, except Borrow Pit 1 which would house the substation/control building. This would be 24 x 15m in size with pitched roof and concrete block construction. An additional control building will also be required to transmit the electricity off-site and this would be of similar design but slightly smaller.
- 4.6 The construction compounds will be in place for around 20 months, one being near the River Tweed and the other on-site. They will occupy 5,625 and 11,250 square metres respectively. They will be reinstated with peat and topsoil upon completion of the construction work. The wind farm is intended to have an initial lifespan (covered by this planning application) of 25 years. At the end of this period, unless 're-powered' or unless a new planning permission is achieved that would extend the wind farm's life, it would be decommissioned and the site restored in agreement with a decommissioning method statement.
- 4.7 Some woodland removal is intended to facilitate the development (52 hectares in total). A compensatory planting scheme would be subsequently agreed with the Forestry Commission.
- 5.0 NEIGHBOURING SITES/SCHEMES RELEVANT TO CONSIDERATION OF CURRENT PROPOSAL:**
- 5.1 **Clyde:** A Section 36 planning application to Scottish Government for 152 turbines with a tip height of 124.8m. This existing operational wind farm is wholly outwith the Scottish Borders area and lies 3.5-12km west, north-west and south-west of the site. This is a dominant wind farm in the area and should be carefully considered in consideration of cumulative impacts with the proposed development, especially when taken together with its extension.
- 5.2 **Clyde Extension:** A Section 36 planning application which was consented and has just commenced development on site. The windfarm extension comprises 54 turbines with a tip height of 125.5m to 142m and lies between 3km and 8.5km west and north-west of the application site. Very few turbines lie within the Scottish Borders Area as a result of amendments to the scheme and various other visible turbines were relocated or reduced in height that would be visible from the A701 in particular. The Committee agreed to support the Clyde Extension following the amendments to the scheme although additional requests for turbine omission were not eventually reflected in the Section 36 consent.
- 5.3 **Glenkerie:** An operational wind farm of 11 wind turbines with a tip height of 120m, lying west of the A701 and between 6.5 and 8.5km north. This wind farm was consented by the Council.

- 5.4 **Glenkerie Extension:** This is a planning application for six turbines 100m to blade tip, a similar distance to the north of the application site. The application was refused at Committee in December last year for the following reasons:

The proposed development would be contrary to Policy D4 of the Scottish Borders Consolidated Local Plan 2011 and to the advice contained in the Supplementary Planning Guidance on Wind Energy 2010 in respect of

- (1) Its unacceptable impact on landscape character by intruding into the Glenholm Valley;*
- (2) Its overbearing impact on the receptor at Glenkirk*
- (3) Its unacceptable impact on amenity of living conditions of residents of Glenkirk by reason of noise.*

The refusal has been appealed against and the appeal has now been allocated to the Reporter.

- 5.5 **Earlshaugh:** This is an important wind farm to be considered in relation to potential cumulative impacts of those that have yet to be constructed. This wind farm site lies within the Scottish Borders to the south of the application site, lying between 1.5 and 4.2km from its boundary. The scheme proposes 22 turbines with a tip height of 100-125m and was a Section 36 application which the Planning Committee decided to object to in November 2013 for the following reasons:

1. *The proposed development would be contrary to Policy D4 – Renewable Energy Development of the Scottish Borders Consolidated Local Plan 2011 and the Wind Energy SPG in that the erection of 22 wind turbines and associated equipment would have an unacceptable adverse impact on the landscape character of the surrounding area. The proposed wind turbines would interfere with prominent skylines and high sensitivity receptors, particularly on views from the south where the A701 tourist route and approaches to the well known Devil’s Beef Tub landscape feature would be significantly affected.*
2. *The proposed development would be contrary to Policy EP2 – Areas of Great Landscape Value of the Scottish Borders Consolidated Local Plan 2011 and the management recommendations associated with the CLSA1: ‘Tweedsmuir Uplands Special Landscape Area’ in that the erection of 22 turbines and associated equipment would have an unacceptable adverse impact on the landscape quality of the Special Landscape Area. The proposed wind turbines would set an unacceptable precedent for wind farm development in the area which cannot be accommodated in the landscape.*
3. *The proposed development would be contrary to Policy D4 – Renewable Energy Development of the Scottish Borders Consolidated Local Plan 2011, the provisions of the Supplementary Planning Guidance on Wind Energy and the emerging Scottish Borders Local Development Plan, in that the windfarm, when viewed in association with the Clyde windfarm and Glenkerie windfarm, would lead to significantly adverse sequential cumulative visual impact on users of the A701 tourist route to the detriment of the visual qualities of the area.*

The Section 36 application is with the Reporters’ Unit and a Hearing or Public Local Inquiry is awaited relating to this development.

- 5.6 **Other schemes:** Cumulative effects would occur with other wind energy developments within 15km of the proposed development, though none as important or as closely related as the ones described above. **Harestanes** is the only operational wind farm of these, lying 20-26.5km to the south-west and comprising of 71 turbines with a tip height of 125m. An **extension** is proposed of 7 turbines with a tip height of 126.5m lying closer to the application site at 17.6-19.7km. No decision on this has yet been reached. **Minnygap** wind farm is an operational development of 10 turbines with a tip height of 125m, 21.8-23km to the south-west of the application site. **Crookedstane** and **Lion Hill** propose a total of another 8 turbines of 126.5m tip height at 10.8-11.9km and 11.7-12.4km distances respectively to the south-west. These applications remain undetermined by the adjoining Local Authorities.

6.0 PLANNING HISTORY:

- 6.1 There is no direct planning history on the site apart from a three year permission for the erection of three temporary 80m meteorological masts, granted in March last year. Pre-application contact and scoping opinions were also sought with the Council. Following advice from the Council and other statutory consultees, the design evolved from an initial layout of 27 turbines to the 14 now proposed, significant removals being five visible from the A701, two visible from the Devil's Beef Tub and two more to restrict impacts on the Scheduled Monument of Hawkshaw Castle. The Council's Scoping Opinion (at the stage when 22 turbines were still proposed) was to question whether there was any justification for a wind farm of any size at the site, given the landscape capacity and wild land impacts.

7.0 APPLICANTS' SUPPORTING INFORMATION

- 7.1 The application is 'EIA Development' and is therefore accompanied by a full Environmental Statement resulting from the Assessment. It consists of the following items:

- Volume 1 – Environmental Statement (December 2014)
- Volume 2 – Figures (December 2014)
- Volume 3 – Landscape & Visual Graphics and Visualisations (December 2014)
- Volume 4 – Technical Appendices (December 2014)

There are also other documents in support as follows:

- Pre-Application Consultation Report (December 2014)
- Non-Technical Summary (December 2014)
- Planning Statement (December 2014)
- Design Statement (December 2014)
- Confidential Annexes relating to ecology and ornithology (December 2014)

- 7.2 The applicants have also recently submitted responses to various consultee comments including SNH, Historic Scotland and the Council's Archaeology Officer and Forward Planning Section.

- 7.3 This information has been available for viewing both within local public offices and on the Council's Public Access System.

8.0 REPRESENTATION SUMMARY

- 8.1 Third party representations are submitted to the ECDU and it is for them to take the representations into consideration when assessing the proposed development on behalf of Scottish Ministers.

- 8.2 However, the ECDU has advised that, as at 13 July 2015, a total of 49 third party representations in objection and none in support had been received.

9.0 DEVELOPMENT PLAN POLICIES:

9.1 Consolidated Scottish Borders Local Plan 2011:

Principle 1 – Sustainability
Policy G1 – Quality Standards for New Development
Policy G4 – Flooding
Policy G5 – Developer Contributions
Policy NE1 – International Nature Conservation Sites
Policy NE2 – National Nature Conservation Sites

Policy NE3 – Local Biodiversity
Policy NE4 – Trees, Woodlands and Hedgerows
Policy NE5 – Development Affecting the Water Environment
Policy EP1 – National Scenic Areas
Policy EP2 – Areas of Great Landscape Value
Policy BE1 – Listed Buildings
Policy BE2 – Archaeology
Policy BE3 – Gardens and Designed Landscapes
Policy H2 – Protection of Residential Amenity
Policy Inf2 – Protection of Access Routes
Policy Inf6 – Sustainable Urban Drainage
Policy D4 – Renewable Energy Development

Local Development Plan 2013

Policy EP8 - Archaeology

SESplan Strategic Development Plan June 2013:

Policy 10 - Sustainable Energy Technologies

10.0 OTHER PLANNING CONSIDERATIONS:

10.1 Adopted SBC Supplementary Planning Guidance and other documents:

Supplementary Planning Guidance on Renewable Energy 2007
Supplementary Planning Guidance on Wind Energy 2011
Supplementary Planning Guidance on Local Landscape Designations 2012
Supplementary Planning Guidance for Biodiversity 2005

10.2 Scottish Government Planning Policy and Guidance:

Scottish Planning Policy 2014
National Planning Framework for Scotland (2) 2009
Scottish Historic Environment Policy 2011

10.3 Scottish Government On-line Renewables Advice:

PAN 3/2011 Environmental Impact Assessment (S) Regulations 2011
PAN 2/2011 Planning and Archaeology
PAN 60 Planning for Natural Heritage 2008
PAN 58 Environmental Impact Assessment 1999
PAN 51 Planning, Environmental Protection and Regulation

10.4 SNH On line advice on renewables: Including Visual Representation of Wind Farms

10.5 European Directive(s):

Directive 2009/147/EC of the European Parliament and of the Council (Conservation of Wild Birds).

11.0 CONSULTATION RESPONSES:

11.1 **Landscape Architect:** The SBC Landscape Architect has made a detailed assessment of the proposed scheme in relation to Policy D4 of the 2011 SBC Local Plan. This consultee does not

support the application, due to there being no capacity for a wind farm in an area with a high fragility to change, due both to the Special Landscape status and the perceived remoteness and uniqueness of this part of the Broad Law group which contains a Wild Land Area. There is poor containment within 5km of the development, significant impacts for some distance along the A701, overbearing impacts on some residential receptors and significant coincident and sequential cumulative impact, extending a wind farm landscape eastwards into a particularly sensitive area closer to the core and higher summits of the Southern Uplands.

- 11.2 **Archaeology Officer:** The SBC Archaeology Officer has given coverage both to direct and especially indirect development impacts. He opposes the application as he feels it would have significant impacts on the setting of two archaeological sites of national significance, in contravention of Development Plan Policy. In particular, an asset comprising of a prehistoric settlement of platforms is not Scheduled but should have been assessed in accordance with the Government tests on impacts on Scheduled Monuments. The asset in question has a clear historical relationship which will be significantly disturbed by five of the proposed turbines (Turbines 1-6) on Glengonnor Hill as well as the infrastructure leading to the development. He disagrees that the impacts will be “negligible” as inferred by the Applicant and feels that the site meets the criteria for cultural significance and national importance. Without omission or relocation of the relevant turbines and infrastructure, the application would have significant detrimental impacts.
- 11.3 Secondly, he supports the objection from Historic Scotland in terms of the detrimental impacts on the setting of the Scheduled Hawkshaw Castle, agreeing that Turbine No. 11 should be removed but also that Turbine Nos. 5, 6 and access track will further dominate the view of the setting and detrimentally impact on the relationship of the valley with the Castle.
- 11.4 If the scheme was to proceed as proposed, conditions and a Legal Agreement would be necessary to cover direct impacts and seek off-set mitigation involving small scale excavation and more survey work.
- 11.5 **Ecology Officer:** The SBC Ecology Officer has not yet responded in detail and Members will be informed of any fuller response received at the meeting. It is known, however, that he has serious concerns about potential impacts on black grouse. A complex of lek sites lies within the development boundary, one of which (Lek 2) lies within disturbance/displacement distance of turbines and infrastructure, notably turbine 3. He requires mitigation as compensation for black grouse especially as some records on black grouse are missing from the Applicant’s assessment. He also requires the Habitat Management Plan to include further enhancement and compensation measures to ensure no net loss of biodiversity, notably for loss of other important habitats.
- 11.6 In terms of the forestry loss, no details on the compensatory plans have been submitted. To note, any requirements for compensatory woodland will be additional to any requirements for black grouse enhancement . In terms of impacts on the River Tweed SAC, mitigation for impacts is achievable through best practice measures, in which case it is unlikely that there will be a significant adverse impact on the integrity of the River Tweed SAC for its qualifying interest.
- 11.7 **Roads Planning Manager:** No objections, noting that the route for construction traffic and large loads is largely outwith the Scottish Borders. Seeks a Construction Traffic Management Plan, detailed junction design and further details of the Tweed crossing as conditions.
- 11.8 **Access Officer:** No claimed rights of way or core paths within the site although there is a right of way 1.5km south and east of the nearest turbine. The Land Reform Act does seek a right of responsible access through the site, thus, the tracks, once the development is completed, should be available for the public.

- 11.9 **Environmental Health Officer:** Initially sought additional noise impact information in relation to whether “Fingland” was financially involved in the wind farm development and, especially, the inclusion of cumulative noise information as a result of the Earlshaugh wind farm going ahead . Further information was satisfactorily then provided on “Fingland” but queried the enforceability of a condition as much would depend on what noise limits were applied to Earlshaugh, also taking the impacts from Clyde and Clyde Extension into account. Concludes that a suitably worded condition would be possible and that further conditions should control construction noise and dust issues.
- 11.10 **Forward Planning Section:** This consultee assesses the proposal in terms of its broad effects, and against relevant national and local planning policy. The specific concerns mentioned in the South-East Scotland Strategic Development Plan about cumulative wind farm impacts are reiterated and considered to be of relevance. Policy D4 in the Consolidated Local Plan is also assessed.
- 11.11 Summarises by describing main concerns as those relating to visual impacts on the settings of Scheduled Ancient Monuments and on an existing Right of Way. Gives focus to concern about cumulative landscape and visual impacts with other consented/built wind farms, especially the Clyde Wind farm and the spread into undeveloped “virgin” land east of the A701.
- 11.12 Describes also significance of the work carried out on the “Landscape Capacity” study for the Council which recommends turbines of no more than 50m in tip height would be suitable for this area of Landscape Character Type. Recognise that, as this is part of the evolving Local Development Plan, it cannot be a material consideration for this application until the Examination is concluded. Also quotes the impact on the SNH Wild Land Area Talla-Hart Fell and that careful consideration is required of impacts on the character of this Wild Land Area, especially Viewpoints 9, 10 and 21. Prominence from the A701 should also be considered as should the potential permanence of the development and infrastructure.
- 12.0 CONSULTATION RESPONSES (SUBMITTED TO SCOTTISH GOVERNMENT):**
- 12.1 As members are aware, the Council is a consultee in the Section 36 application process and does not undertake any outside consultation itself. Nevertheless, some of the responses received by the ECDU have been made known to the Department and Members may be interested in the more significant responses which are detailed below.
- 12.2 The **Ministry of Defence** has not objected to the application, subject to the fitting of aviation safety lighting..
- 12.3 **SEPA** initially objected on grounds of lack of information relating to flood risk and the groundwater environment. This objection has been partially withdrawn on receipt of additional information in relation to flood risk, provided a Flood Risk Assessment is included as a condition.
- 12.4 **SNH** raises major concerns over the impacts on the qualifying attributes of the Tall-Hart Fell Wild Land Area, both individually and cumulatively, especially taking into account Earlshaugh. The major impacts on the fringes of the Wild Land Area affect the integrity of the whole Area. They also express concerns over impacts on local landscape character around the Fruid Reservoir, being part of the Tweedsmuir Uplands Special Landscape Area and dominating the simple and tranquil landscape character. Finally, they express concern over the impacts when viewed from the A701 onto a “new” area of land appreciably distinct from the landscape currently carrying the Clyde Wind farm. Whilst they do not object on landscape and visual impact grounds, they identify a series of significant adverse effects as outlined above.
- 12.5 They do object to the proposal in terms of impacts on the River Tweed SAC unless conditions are imposed which relocate a construction compound and provide additional construction

method information and mitigation. They are generally content on ecological matters subject to conditions, black grouse being mentioned particularly as lacking mitigation information.

12.6 **Historic Scotland** objects to the application due to significant adverse impacts on the Scheduled Monument of Hawkshaw Castle. Whilst they acknowledge the removal of two previous turbines, the immediate setting of the Castle is still dominated by Turbine 11 and they recommend its removal.

12.7 Other consultee responses to the ECDU have included:

- Forestry Commission – insufficient information on compensatory planting.
- British Horse Society – standing advice.
- Mountaineering Council of Scotland – objects, significant harm being caused to the higher hills and wild land.
- John Muir Trust – objects due to the significant impacts on wild land.
- NATS – not accepted due to technical impacts.
- RSPB – no objections subject to conditions and mitigation, including black grouse.
- Scottish Water – no objections subject to precautionary measures.
- Scotways – object re impacts on public footpaths and cumulation.
- Transport Scotland – no objections subject to conditions.
- Visit Scotland – Tourism Impact Assessment needed.

12.8 The **Tweedsmuir Community Council** has indicated that it **opposes** the planning application, believing it will be harmful to the beauty of the landscape, detrimentally impact on wild land, cross the A701 into undeveloped land, set an undesirable precedent, impact on tourism and endanger ecology. **Upper Tweed Community Council** object for similar reasons, also raising the issue of impacts on Dreva Hill Fort. **Ettrick and Yarrow Community Council** object as they feel there have been too many wind farms in the area and that tourism trade will suffer.

13.0 KEY PLANNING ISSUES:

- 13.1
- land use planning policy principle
 - landscape and visual impacts including landscape character and residential amenity visual impacts
 - cumulative landscape and visual impacts with other wind energy developments
 - physical and setting impacts on cultural heritage assets
 - noise impacts
 - ecological, ornithological and habitat effects

14.0 ASSESSMENT OF APPLICATION:

Planning Policy Principle:

14.1 Scottish Government Policy, regional strategic policy and local planning policy/guidance all encourage the principle of constructing wind farms provided there are no unacceptable environmental impacts. It is therefore the specifics of the proposal, and its impacts versus its benefits, which must be balanced in any decision. The applicant has quantified the benefits of the scheme in the various submissions and it would be the responsibility of the ECDU to weight those up against any problems or disadvantages with the scheme. The SPP has also set a National Spatial Framework advising where wind farms can go, where they cannot go and where they would only be appropriate in certain circumstances and subject to acceptability of effects. One of the latter categories is SNH-recognised Wild Land Areas such as the Talla-Hart Fell WLA which Whitelaw Brae lies close to the northern edge of. The primary topics requiring consideration by SBC follow:

Landscape Character:

- 14.2 The site lies towards the south western edge of the Upland area defined in the Borders Landscape Assessment (Ash, 1995) as part of 4: Southern Uplands Type with Scattered Forest, within the 'Broad Law Group' Landscape Character Area and described as '*An upland landscape characterised by large-scale, rolling, heather and grassland covered hills.*'

Its key characteristics are:

- *Large-scale rolling landform with higher dome or cone-shaped summits.*
- *Significant areas of peatland and heather moorland.*
- *Mosaic of grassland, bracken and rushes on lower ground.*
- *Locally prominent scattered large coniferous plantations.*

- 14.3 In the BLA under 'Landscape Experience' this upland landscape is described as '*a dramatic large scale landscape, open and exposed on the hills and often strongly enclosed within valleys. Views from high ground are distant and panoramic, often including adjoining landscape types. The highest summits have a grand and remote character which is rare elsewhere on the Border Hills.*' For the Broad Law Group landscape character area, of which this site is a part - the distinctive features are:

- *High summits with glacially sculpted features rising steeply to 840m AOD. Meggat, Talla and Fruid reservoirs and St Mary's Loch are prominent to the south of Broad Law.*
- *Significant 'wild land' atmosphere created by remoteness of high summits.*
- *There is a highly scenic area of dramatic landform, though often with little visual diversity, and a significant degree of wildness. The more rugged, rocky summits in particular have a strong sense of remoteness, with little overt human influence on the landscape.*

- 14.4 The landscape character area's sensitivity to change includes the following designations:

- Tweedsmuir Uplands Special Landscape Area designation (local),
- Upper Tweeddale National Scenic Area (national)
- SNH Wildland - 02 -Talla–Hart Fell, in excess of 9250 hectares, extending from Craigmoid, on the southern site boundary south eastwards.

- 14.5 The visual factors identified in the BLA include:

- Internal intervisibility which is deemed to be 'Intermediate' in degree, '*although variations in relief are relatively large, they are generally over distances, and tree cover, although locally significant, is widely scattered.*'
- External Intervisibility which is deemed to be 'High' with '*numerous contiguous landscape types, ranging from the related Forest Cover type, to the Upland Valley and the Upland Fringe grasslands and farmlands, all of which have significant views to and from the Southern Uplands.*'
- Visual sensitivity is deemed to be High, (not only because of landscape designations), '*due to the numerous important roads,*' (in this case, the scenic A701.)

- 14.6 In considering the Earlshaugh wind farm which occupies the same landscape character type, it was noted this "Broad Law" group had unique scale and remoteness more than any other upland area within the Borders. Combined with "Landscape Type 19 Southern Uplands: North Moffat", the area had the majority of the 800m+ summits in the Southern Uplands.

- 14.7 There is significant “viewer expectation” that the qualities comprising such wild land and scenery are preserved and not interrupted with large man-made structures such as wind turbines. This is recognised in the Management Recommendations of the Special Landscape Area which include:
- “Seek to maintain the undisturbed wild land character of the great majority of the hills”, and
“Consider the visual effects of tall development on views to and from this landscape”.*
- 14.8 Taking all of these considerations into account in the definition of the Landscape Character Type and the qualifying reasons for the Designation of the Tweedsmuir Uplands Special Landscape Area, it is not considered that 14 turbines at 133.5m height to tip would be compliant with the relevant criterion in Local Plan Policy D4 nor reflect the advice outlined in the “Landscape Capacity and Cumulative Impact Study” which considered that there was no capacity for structures above 50m (see Applicant’s rebuttal letter 10.7.15). Indeed, the findings suggested the capacity was only to extend the large wind farm cluster largely contained within the South Lanarkshire area and not spread eastwards across the A701 into core wild land areas and the undeveloped area. It is this issue which the applicant seeks to argue that their proposals should be considered more as part of the wind farm landscape which undoubtedly exists at the western edge of the Scottish Borders and into South Lanarkshire whereas the Council’s Landscape Architect, SNH and other local and rural pressure groups believe that the proposals “jump” outwith that landscape and into a landscape character type and on the border of a Wild Land Area where the impacts would be significantly detrimental and could set a precedent for further incursion.
- 14.9 In defining the Talla-Hart Fell Wild Land Area, SNH based this on related mapping of factors including:
- Perceived naturalness of the land cover
 - Ruggedness of the terrain which is therefore challenging to cross
 - Remoteness from public roads or ferries
 - The visible lack of buildings, roads, pylons and other modern artefacts
- 14.10 It is the only tract of land within the Scottish Borders which has been identified by SNH as *‘showing minimal signs of human influence. These (areas) can be mountains and moorland, stretches of undeveloped coast or large areas of peat bog. These wild and remote areas have a distinct and special character, which is increasingly rare to find. A key component of Scotland’s identity, they bring significant economic benefits, attracting visitors and tourists. Many people derive psychological and spiritual benefit from their existence, and they provide increasingly important havens for Scotland’s wildlife.’* Members will note from the SNH response to the ECDU that they have significant concerns over the impacts of the wind farm on the qualities and landscape of the defined Wild Land Area, despite the specific Wild Land Assessment carried out by the Applicant and submitted as part of the EIA.
- 14.11 At least 25% of the Wild Land Area will have visibility of the proposed windfarm at distances no greater than 7.5km, potentially making it a prominent feature in the panoramic views to the northwest. Views from elevated points to the southwest, west and north west looking towards the Area would equally be dominated by the proposed windfarm in the foreground. Any perception of remoteness will be extinguished by the proximity to this proposed windfarm. Whilst it is noted in the Wild Land Assessment (Technical Appendix 6.4; Vol 4a) that *‘a significant Moderate effect is anticipated to this part of Wild Land Area (WLA) ranging to around 5km from the proposed development.’*, it is not accepted that *‘given the lack of effect on the areas falling within the highest classifications of wildness, it is considered that the overall integrity of this landscape as a WLA would not be compromised.’*

- 14.12 Viewpoints 9, 10 and 11 show how the proposed development brings a windfarm into the foreground of views from the Wild Land Area. Viewpoint 9 from Hartfell Rig clearly shows the significant impacts of proximity and height within an open landscape compared to the more distant Clyde and Glenkerie clusters. Firthhope Rig (VP10) is higher and slightly further away, revealing more visibility of Clyde in particular, yet still accentuates the foreground impacts of the proposal. Broad Law (VP11) is higher still but still shows the distinction caused by proximity, height and relative lack of intervening topographical or afforested screening. The perception of the Wild Land Area from outwith is almost as important as from within looking out. Viewpoints 14, 15 and 22 show how views into the Wild Land Area will be compromised by a windfarm in the foreground on hills that are an intrinsic part of this upland landmass. Several other of the Viewpoints selected looking into the Wild Land Area are too distant for any real consideration of significant effect. The most telling impacts are perhaps shown by Viewpoint 22 which has, by virtue of proximity and scale, a significant detrimental impact on the Wild Land Area. This looks into the Wild Land Area and heart of the Special Landscape Area, showing a largely unbroken and undeveloped hill landscape. The appreciation of the special qualities of remoteness, scenery and tranquillity from this Viewpoint are significantly compromised by the proposed turbines, all 14 of which are fully visible across the Tweed Valley at 3.4km.
- 14.13 SNH select Viewpoint 21 as an important comparison of the effects of the Whitelaw Brae wind farm on the Wild Land Area compared to other consented or existing wind farms. This Viewpoint shows the proximity and dramatic effect on the north-western section of the Wild Land Area compared to the more distant and disparate effects of the Clyde and Glenkerie turbines. SNH identify the importance of the fringes of Wild Land Areas which contribute to, and enhance, the wildness qualities of the central parts of the Areas. They consider that the Viewpoints show that the proposed wind farm is a more noticeable and nearer outlier than other wind farms in existence or proposed.
- 14.14 For the aforementioned reasons and in line with the recommendation of the Council on the Earlishaugh scheme, it is not considered that the Whitelaw Brae wind farm is a natural and integrated extension of the wind farm landscape which is emerging further west. It is on noticeably different land character on the fringes of a Wild Land Area and will appear as an unfortunate fragmented “jump” eastwards across the A701, noticeable amongst many of the Viewpoints. For this and the aforementioned reasons, it is not considered that the proposal complies with the relevant criteria of Local Plan Policy D4 on landscape character and designated areas
- 14.15 This is also the case with the more intimate landscape which lies within the Fruid, Talla and Megget Valleys and reservoirs. The accessibility by small roads, footpaths, parking areas etc opens this intimate landscape to the public. The proximity to the Fruid Valley and Reservoir, combined with the scale and height of the turbines is witnessed dramatically in Viewpoints 4 and 5 where the character of the area would be dominated by the turbines, either towering above the modest rolling hills of this part of the landscape or breaking the skyline with moving blades. Whilst the impacts on the dramatic and higher wild land to the south are important to consideration of impacts on landscape character type, so are the impacts at closer quarters on this “micro-landscape” within the Special Landscape Area. For these reasons, it is also considered that the relevant criterion of Local Plan Policy D4 is not complied with.

Visual Impacts - Roads and paths

- 14.16 Criteria 3 and 4 of Policy D4 refer to impacts on sensitive skylines and receptors including residential receptors. Criterion 3 is concerned with landform containment that can help to minimise external visibility, particularly from sensitive receptors. Zone of Theoretical Visibility (ZTV) mapping shows that beyond the 5km range there is good containment with visibility tending to be restricted to limited higher ground and elevated viewpoints to the north east and south west, as might be expected in a predominantly Upland landscape incised with more

intimate river valley type landscapes. However, within the 5km range, there is in excess of 65% potential visibility, with only a limited amount of the area screened from views of the windfarm by the intervening landform. Given that windfarms are considered most prominent at ranges up to 5 -7.5km (depending on height) this criterion is not wholly satisfied.

14.17 Criterion 4 is concerned with the assessment of high sensitivity receptors including major tourist routes and important landscape viewpoints. The A701 is one of a number of important tourist routes into and through the Borders. Impacts of visibility from this road have been pivotal in the Council's assessment and opinion of various wind farms and extensions in the area including Glenkerie, Glenkerie Extension, Clyde Extension and Earlshaugh. The ZTV demonstrates that there is potentially visibility of turbines for a stretch of upward of 20km from Polmood to the north east to beyond the viewpoint near the source of the Tweed to the southwest. Not always dominant in the views along the valley travelling in either direction the relative closeness of the turbines to the receptors using the road has the potential for them to be perceived as a dominant and unexpected features in the landscape, often seen as rotating blades beyond an intervening hill and at other locations as a central feature in the valley landscape.

14.18 In particular, the following Viewpoints are of major concern in terms of significant impacts on the A701:

Viewpoint 1 – Tweedsmuir – where two hubs and eight tips will be seen over the skyline at a distance of only 4.4km, channelled into the centre of the view between the hills, increasing the impact. This is exacerbated by mostly only blade overtipping being visible. The easternmost turbine tips may be partially screened although not to the extent suggested by the Viewpoint 1B photomontage

Viewpoint 2 – Glenbreck – where six hubs and ten tips are visible at only 1.4km, creating a massive and unexpected impact , again channelled into the centre of the view between the hills.

Viewpoint 3 – Tweedhope – where two hubs and four tips are visible at only 1.8km, providing considerable impact above the saddle of the hill to northbound traffic. Forestry screening is ineffective here. This would create the impression of being an inappropriate extension of the wind turbines encountered to northbound traffic on the western side of the road.

Viewpoint 6 – Source of the Tweed – where one hub and seven tips are visible over the saddle of the hill at 4.5km and which create the same adverse effects as aforementioned. The blade overtipping above the forestry would be particular noticeable to northbound drivers.

Viewpoint 12 – Crook Inn – where two hubs and eight tips are visible at 6.8km. Again channelled into the dip between the hills which has the effect of concentrating them into the centre of the view yet over the skyline of the saddle of land on which they are situated.

SNH also identify the adverse impacts of the development from the A701, especially to northbound traffic from Viewpoints 3 and 6.

14.19 Compounded by the disjointed outlying impact of the turbines on open, undeveloped land to the east of the A701, it is concluded that the visual impacts caused by the development on the A701, especially within the 5km range, to be significantly adverse and contrary to the relevant criterion of Policy D4 of the Consolidated Local Plan.

14.20 As previously mentioned, there is also a dominant and significant impact from the public road serving the Fruid Reservoir and as shown in Viewpoints 4 and 5. Whilst there is little doubt that in terms of numbers of motorists, cyclists and walkers experiencing this impact on a daily basis, the numbers will be much lower than those on the A701, the impacts are much more dramatic given the proximity, scale of turbines and lack of intervening screening. The reservoir and

modest rolling skyline will be completely dominated by the turbines in full view of the minor road. This is also of concern to SNH.

- 14.21 The Southern Uplands are, by virtue of their perceived remoteness, popular with walkers and from the summits there are commanding panoramic views. From Viewpoints 9, 10, 11, 21 and 22 the proposed windfarm clearly dominates the views, despite in the first four a back drop of existing turbines. Similar impacts will be experienced from Right of Way BT100. Viewpoints 4, 5 and 21 indicate the impacts which are significant and dominant from both the Fruid public road and the Right of Way. The latter indicates the large difference in impact between the proposed turbines and the backdrop of existing turbines west of the A701 and at more distance.
- 14.22 It is concluded that the visual impacts caused by the development on the minor public roads, footpaths and other walking routes in the area are significantly adverse and contrary to the relevant criterion of Policy D4 of the Consolidated Local Plan.

Visual Impacts – Residential Receptors

- 14.23 Scottish Planning Policy (SPP) advocates the identification in Local Development Plans of an area not exceeding 2km around settlements as a community separation for consideration of visual impacts. This separation distance should be reflected in planning policy/spatial strategy and should not be seen as a definitive requirement for separation, as in each case the effects of turbines on residential amenity would differ, and some might be tolerable at less than 2.5km, or 2km.
- 14.24 In the case of the following identified dwellings which are either within or very close to 2km from the nearest turbine, the effects may be overbearing and such be unacceptable and have not clearly been demonstrated to be acceptable within the EIA
- 14.25 In terms of impacts on residential receptors, the remote location of the wind farm obviously only affects a limited number of rural properties. 24 properties and groups being identified and studied, significant effects being identified for only seven properties. After study, the EIA concluded that “*..none of the effects would be considered significant to a degree that would be overbearing, or would result in these properties becoming an undesirable place to live*”. Members will note that the Landscape Architect disagrees with this conclusion, considering that the magnitude of change in such a remote rural area for those seven properties would be significantly detrimental to their residential amenity.
- 14.26 Whilst identifying that properties such as Badlieu, Hawkshaw and five properties within the Fruid Valley would experience significant impacts, there are no wirelines or montages that demonstrate how such assessment could then conclude that the impacts would not be overbearing. Certainly, the relevant and nearest Viewpoints from the minor public road at Fruid and to a lesser extent from the A701 indicate significant impacts would occur on residential outlook and amenity which would have an overbearing impact on day to day living and enjoyment of landscape, outlook and tranquillity. Badlieu is only 1.4km from the nearest turbine with 4-7 visible and Hawkshaw is 1.67km away with 8-10 visible in direct view. The five properties at Fruid are between 1.3km and 2.2km away with visibility of between 4 and 10 turbines. Whilst the EIA comments on direction of main windows and presence of intervening screening, if any, the findings do not seem to justify the conclusion that none of the significant impacts identified for seven properties could be considered to be overbearing. The properties in the Fruid Valley, in particular, occupy an intimate and secluded location where the magnitude of change will be more dramatic than perhaps Badlieu or Hawkshaw which occupy more open valley settings close to the A701. It is, therefore, concluded that the proposed submission has failed to demonstrate that there would not be overbearing impacts on many of the seven residential receptors identified as experiencing significant effects, contrary to the relevant criterion of Local Plan Policy D4.

Cumulative Landscape and Visual Impacts:

- 14.27 This is an important part of the visual impact assessment of wind farm proposals and requires to be assessed against criterion 5(ix) of Policy D4. The EIA submission identifies all relevant wind farms that should be taken into account in this assessment and these are listed earlier in this report. The most significant are Clyde, Clyde Extension, Earlshaugh, Glenkerie and Glenkerie Extension – and cumulative wireframes and montages have been provided to clarify the relationship of Whitelaw Brae with those wind farms and wind farm proposals.
- 14.28 In considering the submission in relation to cumulative impacts, the Landscape Architect states the following:

“I am concerned that without explanation cumulative impact wirelines have been produced for only 8 of the 21 viewpoints.

Coincident Cumulative Impact

Coincident cumulative impact is the impact on a receptor viewing more than one development (windfarm) from a single location and it is expected that where there is either a constructed windfarm or a proposal currently at scoping or under consideration as an application, the coincident cumulative impacts will be considered. The coincident cumulative effect as demonstrated at viewpoints 9, 10 and 11 will be significant and whereas the existing turbines are seen at a distance and so visual effects are reduced, a windfarm on this site is seen as having much greater dominance in the foreground of panoramic views.

Sequential Cumulative Impact

Sequential Cumulative Impact is the impact resulting from a receptor viewing more than one development while moving through the landscape. The introduction of a windfarm into an area where there were previously no windfarms is also considered to be sequential cumulative impact as an observer will encounter windfarms more frequently when travelling through an area or in areas previously free of turbines.

I suggest that despite the presence of windfarms to the west and to the north, a windfarm in this location would be much closer to the core and higher summits of the Southern Uplands and would extend the windfarm landscape eastward into this sensitive area.”

- 14.29 The Cumulative Viewpoints serve to illustrate the points made earlier in this report. They show that where views are taken towards the wind farm taking into account the existing and proposed wind farms, the distinction and separation of the Whitelaw Brae wind farm on the fringes of a different and more mountainous landscape character type are obvious. As stated by SNH, the turbines appear as an intrusive and fragmented outlying extension of the Clyde Wind Farm, spreading in a linear fashion into undeveloped and wild land fringes unsuitable for such expansion and of different and distinct character. The Tweed Valley, River Tweed and A701 provide a strong and compelling division between the wind farm landscape to the west and the scenic, wild and undeveloped landscape to the east. SNH use many of the A701 Viewpoints to demonstrate this cumulative impact and detrimental impact on the landscape and receptors and many of the objectors to the ECDU draw this distinction of separation between the two different landscapes. Even Viewpoint CV15 from the Southern Upland Way on Hod’s Hill shows the impacts of Whitelaw Brae and Earlshaugh stretching eastwards into undeveloped, more mountainous landscapes, compared to the undeniable vast array of wind turbines to the west.
- 14.30 Where views are taken from behind the wind farm towards the other wind farms, they largely still show the foreground impacts caused by proximity, height and distance separation from the other wind farms such as Clyde, Clyde Extension and Glenkerie. This is particularly noticeable from Viewpoints such as CV9 from Hartfell Rig, 10 Firthhope Rig and 11 Broad Law.

- 14.31 Most coincident and sequential cumulative impacts would be increased by the addition of Earlshaugh which is currently awaiting Inquiry or Hearing and which was opposed by the Council. In the Committee report, it was stated –

“The key issue is that Earlshaugh, by pushing turbine development onto the lower slopes of Hart Fell, would extend human visual impact much closer to the core and higher summits of the Southern Uplands and spread it beyond the lower ‘foothills’ where Clyde Windfarm currently stands. This is partly coincident but is also a form of sequential cumulative impact where the extent of affected views is expanded. By extending the ‘windfarm landscape’ towards the centre of the uplands, the development will serve to over-run and mask underlying differences in the existing landscape character.”

- 14.32 For the reasons mentioned above, it is considered that the addition of Whitelaw Brae wind farm to the area would result in adverse coincident and sequential cumulative impacts, spreading the emerging wind farm landscape eastwards into new, undeveloped and inappropriate landscapes for such expansion, jumping across a strong visual divide formed by the A701, River Tweed and valley. The comparison with, and addition of, the Whitelaw Brae wind farm to the existing and proposed wind farms in the area would introduce a much closer and greater scale of intervention with the landscape character type and wild land on the eastern side of the A701. It is concluded that the relevant criterion of Policy D4 is not complied with.
- 14.33 It should be noted that the Applicant has recently responded to the ECDU on the comments of the Forward Planning section and SNH and it would be up to the ECDU to assess these additional responses. Copies of the responses are available on the Public Access web site as they have been copied to the Council from the ECDU. The responses are a rebuttal of the points raised by Forward Planning and SNH, most notably commenting that there is not a balanced view taken of the localised impacts being outweighed by the benefits of the scheme and, in particular, that the Local Development Plan Policy (and associated “Landscape Capacity Study”) should not be used or relied upon until the LDP Examination by the Reporter has been concluded.

Cultural Heritage Impacts:

- 14.34 One of the qualifying criteria for compliance with Local Plan Policy D4 is that any development should not have unacceptable adverse impacts on archaeological heritage unless there can be satisfactory mitigation proposed. Whilst there were no particular issues with the Earlshaugh application in this regard, the Whitelaw Brae application causes two particular areas of concern.
- 14.35 Firstly, the Archaeology Officer is concerned at the setting impacts on an unscheduled prehistoric platform settlement consisting of nine platforms on the eastern shank of Big Dod. There is disappointment that no Viewpoint was provided in the final EIA despite recommendation and the Archaeology Officer has had to consider setting impacts based upon a site visit. Following his visit to the Fingland Burn Valley, he considers this asset to be of national significance under Government regulations and that, despite it not being scheduled, the Council still has a responsibility to assess impacts, mainly caused by the turbines on Glengonnor Hill. It is noted that the EIA acknowledges the well-preserved asset and grades it with Medium sensitivity.
- 14.36 Following his site visit, the Archaeology Officer considered the impacts on this platform settlement as follows:

“Asset HA5 has a clear setting relationship with the Fingland Burn valley and the confluence of the Fingland Burn with the Cleugh Head burn below Peat Hill (though the actual confluence is obscured by a block of forestry). While it may not be readily seen from the landscape, from the

asset itself the clear relationship with the valley and hills that shape it is key to understanding its location and purpose in prehistory. It is also best understood as one of the several such settlements that line the Fingland Burn Valley and comprise a well-preserved prehistoric landscape of at least regional significance. Modern intrusions of a 20th century reservoir and access track, post and wire fences and forestry blocks impact this setting but do not significantly detract from the sense of place and deep time afforded by the sites and their interconnected relationships between each other and the topography. The presence of turbines 2-6 (correction, meaning 1-6) and infrastructure on Glengonnor Hill, Peat Hill and new infrastructure in the Fingland valley below, will significantly detract from the ability to appreciate and understand HA5 and its associations with the wider landscape through dominance, kinetic movement and the incongruity of the various elements with the present setting context. I therefore disagree with the assessment in the ES that impacts will be 'negligible' only (9.128). It is my judgement that the setting impact to HA5 from the operational windfarm will be major. I agree with Historic Scotland's criticism of the assessment methodology as set out in the ES (9.42) for setting (Historic Scotland letter dated 20 February, 2015) in that it appears to assume setting is linked arbitrarily to either intrinsic, associative and contextual qualities only. While there are nationally significant intrinsic qualities of HA5, it is equally clear that it has an integral setting from within the site that is intimately linked to its predominantly moorland and rough grazing setting and its connections to water courses in the valleys. Knowledge of the locations of similar sites in the valley to the north add to the experience of the historic landscape. Impacts to this setting considerably degrade (to echo the ES Table 9.4) our ability to appreciate, understand and experience these relationships. Thus, to only place an emphasis on HA5's 'intrinsic' values, and therefore marginalise its associative and contextual qualities, is an incomplete assessment.

To summarise, while HA5 is not currently Scheduled it is my judgement that it nevertheless meets the criteria for cultural significance and national importance in SHEP based on both its intrinsic and contextual characteristics. Major impacts to the appreciation of the site's setting stemming from dominance, kinetic movement and incongruity with the current setting from the wind farm infrastructure on Glengonnor Hill, Peat Hill and the Fingland Burn valley in key views from the site are objectionable. "

- 14.37 He also backed up Historic Scotland's objection to the setting impacts of the proposed wind farm on the Scheduled Hawkshaw Castle. However, he disagrees that only Turbine 11 needs to be removed as he feels that Turbines 5, 6 and the associated access track will also dominate the view of the Castle's setting as approached by most visitors.
- 14.38 In summary, he recommends against the application on the basis of turbines 1-6 and 11 together with associated infrastructure. They should ideally be omitted or moved to the south of the application site. Should the ECDU consider approval of the scheme as it stands, then conditions, a legal agreement and off-set mitigation would be necessary to improve setting understanding and cover the issues of unknown archaeology.
- 14.39 The applicant responded to these concerns and those of Historic Scotland through a Rebuttal Statement prepared by Headland Archaeology. Rather than amend the scheme or provide the missing Viewpoint information, the Statement reaffirms the stance of the EIA that impacts on Asset HA5 are negligible and that the impacts on the Scheduled Hawkshaw Castle are also minor. The latter is supported by three new photomontages. In consideration of this additional Statement, the Archaeology Officer has stated the following:

"There is nothing in their comments that changes my position.

There are a few comments I would like to add to my previous responses in light of Headland's letter. First, on page 4, the last paragraph quoting the ES, there is an error which requires a clarification. This suggests there are only 3 platforms in the settlement group labelled as HA5 in

the ES. In fact there are 6 well-preserved platforms, with a further three down the slope (labelled separately by Headland as HA22 due to no clear association).

I do not agree with Headland's refutation of my judgement HA5 is of national significance per SHEP. Therefore, their new assessment of setting impacts is appropriate though not one I agree with entirely.

There is a substantial degree of agreement on the key relationships between the site and the Fingland Burn valley in the first paragraph on page 7. I still feel that impacts on this setting require a photomontage which was communicated to Headland and it is disappointing that this is still absent from their assessments. This makes it difficult to properly illustrate impacts and I hope the position to omit the photomontage changes. The primary disagreement I have with the assessment is with what Headland calls 'long-distance views'. I do not accept that Glengonnor Hill in particular, or Peat Hill, are long distance as described. Both hills form significant constraints on the topographic setting of the platform settlement and are therefore integral to that setting. Glengonnor Hill in particular is the key element that forms the Fingland Burn valley which Headland acknowledges is an important part of HA5's setting I also do not agree with their arguments on visual dominance. I have been clear that the impacts of dominance are on the appreciable setting from the site itself and not from other viewpoints in the valley or from the development.

On the impacts to the setting of Hawkshaw Castle, I maintain my position in light of the helpful new photomontage (9.10A&B) that has been produced. I disagree with Headland's assessment of setting per my earlier comments and Historic Scotland's objection. The new photomontage illustrates the dominant effect of turbines 4, 5 and 6 on the setting of Hawkshaw castle which is accentuated (not detracted by as Headland asserts in their latest comments) by the Porteous Family cairn in the centre of the image. The introduction of these three turbines, as well as turbine 11, would not be appropriate to the setting of the castle."

- 14.40 For these reasons, it is not considered that the development complies with Local Plan Policies BE2 or D4 and Local Development Plan Policy EP8 in relation to the impact of the wind farm on cultural heritage assets. The views of Historic Scotland on any revised information are not known but this would be up to the ECDU to assess.

Residential Amenity (Noise):

- 14.41 Members will note that, after initial requests for further information and discussion over the appropriateness of noise limitation conditions in relation to cumulative noise thresholds, the Environmental Health Officer has not objected to the proposals. A suitably worded condition would be possible and further conditions could control construction noise and dust issues. These would be matters for the ECDU and for the Reporter determining the appropriate cumulative noise limits for Earlsbaugh, should that scheme be approved.

Ecology and Habitat impacts:

- 14.42 The SBC Ecology Officer has not yet responded in detail and Members will be informed of any fuller response received at the meeting. It is known, however, that he has concerns about potential impacts on black grouse and requires mitigation, especially as some records on black grouse are missing from the Applicant's assessment. He also requires the Habitat Management Plan to include further enhancement and compensation measures to ensure no net loss of biodiversity, notably for loss of other important habitats. It is also noted that in terms of forestry loss, no details on the compensatory plans have been submitted. Compensatory woodland would be additional to any requirements for black grouse enhancement. In terms of impacts on the River Tweed SAC, mitigation for impacts is achievable through best practice measures, in

which case it is unlikely that there will be a significant adverse impact on the integrity of the River Tweed SAC for its qualifying interest.

- 14.43 These comments are similar to those by SNH and are matters for the ECDU and Reporter to consider in conditions should there be any intention to support the application. There are certainly no ecological reasons why the development would otherwise be considered not to be in compliance with the relevant criterion of Local Plan Policy D4.

Access and Roads

- 14.44 There are no reasons why the development would not comply with Local Plan Policy D4 in relation to traffic impacts and public access provision. The access point is within the Scottish Borders Area off the A701 although most of the heavy vehicles during construction will access from outwith the area and there will be very limited impact as a result. Conditions would be sought for a Construction Traffic Management Plan, detailed junction design and further details of the Tweed crossing.
- 14.45 In terms of footpaths affected by the development, the nearest right of way to the south of the site would be unaffected apart from visual impacts. The Access Officer comments that the Land Reform Act does seek a right of responsible access through the site, thus, the tracks, once the development is completed, should be available for the public.

15.0 CONCLUSION:

- 15.1 Scottish Borders Council remains positive towards the principle of wind energy development, as is reflected in its policy and guidance, which include the Strategic SESplan policies. As required by all policy considerations, the balance between the advantages of energy production, and the disadvantages of environmental impact must be weighed carefully against one another.
- 15.2 Several key issues stand out in this Report. There are clear benefits from the potential production of 50.4MW of electricity. This would make a sizeable contribution to delivery of sustainable renewable energy development. This would align with the objective of Scottish Government to have the equivalent of 100% of electricity demand from renewable sources by 2020.
- 15.3 However, in planning terms it is considered that this benefit is outweighed by the environmental impacts as outlined in this Report. Mitigation proposed in relation to the environmental impacts the development would create cannot be portrayed as positive attributes of the scheme. They simply seek to offset what will be caused.
- 15.4 The selected site and the development proposed for it give rise to several problems which are very difficult to mitigate. These have been discussed earlier in the report and are as follows:
- Limited containment within the 5km range and consequent significant visual impacts from sensitive receptors including public roads (such as the main tourist route of the A701 and the Fruid minor road), a right of way, hill summits and dwellinghouses.
 - Significant impacts on the perception and setting of designated wild land (Area 2 Talla Hart Fell) to the south and east of the site in an area with high fragility to change.
 - Significant impacts on the designated Tweedsmuir Uplands Special Landscape Area and management recommendations seeking to maintain wildness and limit impacts of tall developments.
 - Significant cumulative and scale impacts on sensitive receptors and on a unique landscape character type and capacity to the east of the A701 corridor, inappropriately extending the existing Clyde/Clyde Extension/Glenkerie cluster into previously undeveloped land, bridging

a strong visual boundary between landscape character types and setting precedent for further inappropriate incursion.

- Significant detrimental impacts to two archaeological sites of national significance, Asset HA5 and the Scheduled Hawkshaw Castle.

15.5 A scheme with this many overriding planning issues cannot be supported, despite the potential level of energy it would provide. Scottish Government has recognised the increased sensitivity in Borders within the Strategic Development Plan due to current cumulative impacts, and promotes careful consideration and balancing of impacts versus benefits.

15.6 In acknowledgement of this, Scottish Borders Council does not support the planning application and would confirm that the level of environmental impacts is unacceptable, and outweighs the benefits the scheme may bring.

16.0 RECOMMENDATION BY HEAD OF REGULATORY SERVICES:

16.1 That the Council indicate to Scottish Government that it **objects** to the application for a 14-turbine wind farm on the Whitelaw Brae site. The reasons for the objections are as follows:

16.2 Reason for Objection 1: Impact on Landscape Character:

The proposed development would be contrary to Policies G1, EP2 and D4 of the Scottish Borders Local Plan 2011 and Policy 10 of the South-East Scotland Strategic Development Plan (SESplan) 2013 in that, taking into consideration the following factors, it would unacceptably harm the Borders landscape:

- Significant impacts on the perception, setting and qualities of identified wild land (Area 2 Talla Hart Fell) to the south and east of the site in an area with high fragility to change.
- Significant impacts on the designated Tweedsmuir Uplands Special Landscape Area and contrary to the management recommendations seeking to maintain wildness and limit impacts of tall developments, both in relation to the higher summits/wild land to the south and to the more localised intimate landscapes centred around the reservoirs to the east and north-east

16.3 Reason for Objection 2: Adverse Visual and Amenity Impacts:

The proposed development would be contrary to Policies G1, D4, BE2 and H2 of the Scottish Borders Local Plan 2011, Policy EP8 of the Local Development Plan 2013 and Policy 10 of the South-East Scotland Strategic Development Plan (SESplan) 2013 in that, taking into consideration the following factors, the development would give rise to unacceptable visual and amenity effects:

- Low containment within the 5km range and consequent significant visual impacts from sensitive receptors including public roads (such as the main tourist route of the A701 and the Fruid minor road), a right of way, hill summits and dwellinghouses.
- Significant cumulative and scale impacts on sensitive receptors and on a unique landscape character type and capacity to the east of the A701 corridor, inappropriately extending the existing Clyde/Clyde Extension/Glenkerie cluster into previously undeveloped land, bridging a strong visual boundary between landscape character types and setting precedent for further inappropriate incursion.
- Significant detrimental impacts to two archaeological sites of national significance, Asset HA5 and the Scheduled Hawkshaw Castle.

16.4 Advisory Note:

Should the development be considered for approval, then conditions and the need for a Legal Agreement have been identified covering a number of different aspects including noise limits, roads matters, ecology and archaeology.

Approved by

Name	Designation	Signature
Ian Aikman	Chief Planning Officer	

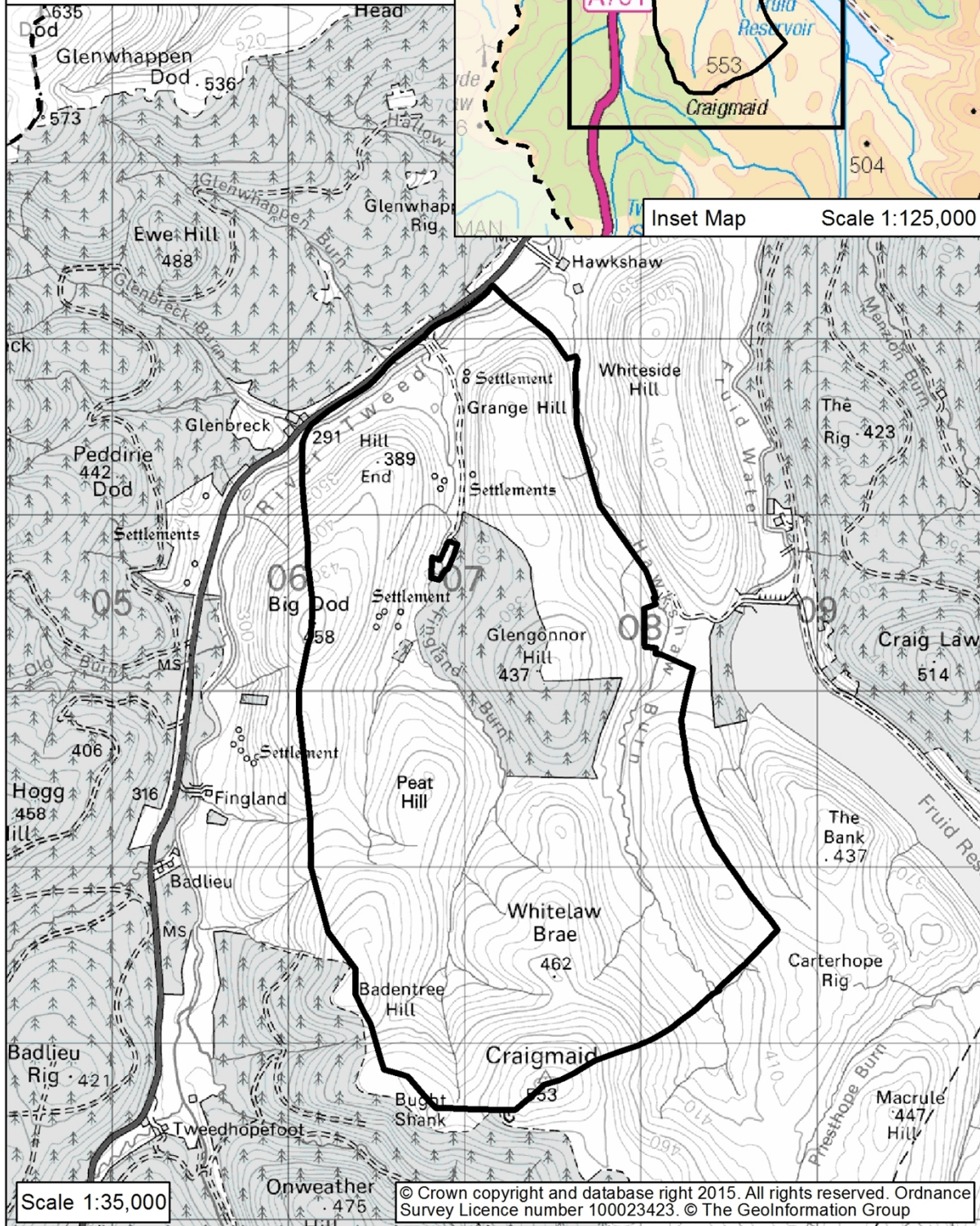
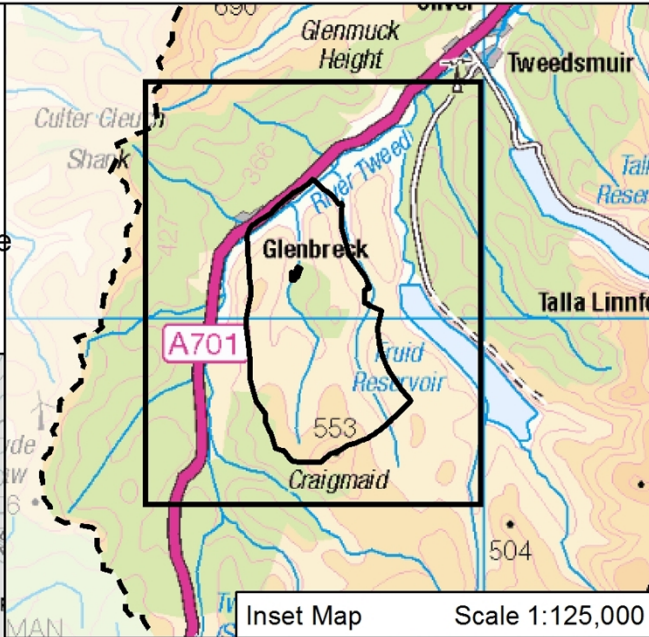
The original version of this report has been signed by the Chief Planning Officer and the signed copy has been retained by the Council.

Author(s)

Name	Designation
Craig Miller	Lead Planning Officer



15/00020/S36
 (Whitelaw Brae Wind Farm)
 Land South East Of Glenbreck House
 Tweedsmuir
 Scottish Borders



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