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SCOTTISH BORDERS COUNCIL PLANNING AND BUILDING STANDARDS COMMITTEE

MINUTE of Meeting of the PLANNING AND BUILDING STANDARDS COMMITTEE held via Microsoft Teams on Monday, 4 October 2021 at 10.00 a.m.

Present:- Councillors S Mountford (Chairman), A. Anderson, J. Fullarton, S. Hamilton, H. Laing, D. Moffat, C. Ramage, N. Richards, E. Small.
In Attendance: - Lead Planning Officer (C. Miller), Lead Planning Officer (B. Fotheringham), Solicitor (F. Rankine), Democratic Services Team Leader, Democratic Services Officer (W. Mohieddeen)

1. **MINUTE.**

There had been circulated copies of the Minute of the Meeting held on 6 September 2021.

DECISION

APPROVED for signature by the Chairman.

2. **APPLICATION**

There had been circulated copies of a report by the Chief Planning and Housing Officer for an application for planning permission consideration by the Committee.

DECISION

DEALT with the application as detailed in Appendix I to this Minute.

3. **APPEALS AND REVIEWS.**

There had been circulated copies of a briefing note by the Chief Planning Officer on Appeals to the Scottish Ministers and Local Reviews.

DECISION

NOTED that:-

(a) An appeal had been received in respect of Greenloaning, The Loan, West Linton - 21/00958/CLPU;

(b) There remained two appeals previously reported on which a decision was still awaited when the report was prepared on 23 September 2021 and related to the sites at:

• 1 Broad Street, Eyemouth	• Rowanside, The Row, Longformacus, Duns
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(c) review requests had been received in respect of:-

(i) Alterations and extension to dwellinghouse, Whinfield, Chesters Brae, Chesters, Hawick - 21/00074/FUL;

(ii) Erection of dwellinghouse, formation of new access and associated work, Plot 1 Site Adjacent Stroma, Charlesfield Industrial Estate, St Boswells – 21/00839/PPP;

- (iii) **Erection of dwellinghouse, formation of new access and associated work, Plot 2 Site Adjacent Stroma, Charlesfield Industrial Estate, St Boswells – 21/00840/PPP;**
- (d) **The decision of the Appointed Officer had been upheld in respect of erection of dwellinghouse, Land East of Renton Bush, Reston – 21/00624/PPP;**
- (e) **There remained five reviews previously reported on which decisions were still awaited when reports were prepared on 23 September 2021 and related to sites at:-**

• Penvalla, Broughton	• 3 Rowan Court Suite 3, Cavalry Park, Peebles
• Slaters Yard off Charles field Road, St Boswells	• Land Adjacent Carnlea, Main Street, Heiton
• Land South of Crunzion Cottage, Earlston Road, Stow, Galashiels	

- (f) **The Reporter had sustained the Section 36 Public Local Inquiry in respect of erection of eleven turbines, four No turbines up to 149.9m high to tip, three No turbines 174.5m high to tip, and four No turbines 200m high to tip and associated works, Crystal Rigg Wind Farm, Cranshaws, Duns – 18/00768/S36;**
- (g) **There remained no S36 PLIs previously reported on which decisions were still awaited when this report was prepared on 23rd September 2021.**

4. **URGENT BUSINESS**

Under Section 50B(4)(b) of the Local Government (Scotland) Act 1973, the Chairman was of the opinion that the item dealt with in the following paragraph should be considered at the meeting as a matter of urgency, in view of the need to make an early decision.

5. **PROPOSED SITE VISIT**

The Lead Planning Officer advised members that a planning application regarding a new quarry on land at Slipperfield, West Linton was expected to be brought to the December meeting for consideration and enquired whether members would find a site visit helpful.

DECISION

AGREED that a site visit be arranged to Slipperfield, West Linton.

The meeting concluded at 11.50 am

APPENDIX I
APPLICATION FOR PLANNING PERMISSION

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
21/01137/FUL	Variation of condition 1 of planning consent 17/00010/FUL to increase the duration of Consent from 25 to 40 years from the date of final commissioning	Land South West of Lurgiescleuch (Pine Burn)

Decision: Approved subject to the following conditions:

Commencement and Conformity

1. The consent is for a period of 30 years from the date of Final Commissioning. Written confirmation of the date of First Commissioning shall be submitted to the Planning Authority no later than one calendar month after that date.
Reason: To define the duration of the consent.

2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the application, drawings, Environmental Statement and Supplementary Environmental Information (as supplemented or amended by any further or additional environmental information) and other documentation lodged in support of the application and approved by the Planning Authority.
Reason: To ensure that the development is carried out in accordance with the approved details.

3. Should the consent be assigned, the Company shall notify the Planning Authority in writing of the name of the assignee, the principal named contact and contact details within 14 days of the assignation.
Reason: To ensure efficient communication over the obligations of the consent if transferred to another company.

Micro-Siting

1. All wind turbines, buildings, masts, areas of hardstanding and tracks shall be constructed in the location shown on Drawing Reference Figure 3.1a. Wind turbines, buildings, masts, areas of hardstanding and tracks may be adjusted by micro-siting within the site. However, unless otherwise approved in advance in writing by the Planning Authority (in consultation with SEPA and Scottish Natural Heritage), micro-siting is subject to the following restrictions:
 - a. No wind turbine foundation shall be positioned higher, when measured in metres Above Ordinance Datum (Newlyn), than the position shown on Figure 3.1a unless a scheme of details, including wirelines showing the alternative positioning of the turbine have been submitted to and approved in writing by the Planning Authority (in consultation with Scottish Natural Heritage and SEPA) and thereafter no development shall take place except in strict accordance with the approved details;
 - b. No wind turbine, building, mast, access track or hardstanding shall be moved more than 50 metres from the position shown on the approved plan (Figure 3.1a);
 - c. No micro-siting shall take place within areas of peat of greater depth than the original location;
 - d. No micro-siting shall take place within areas hosting Ground Water Dependent Terrestrial Ecosystems;

- e. No micro-siting shall take turbines closer to watercourses or residential properties not financially involved with the development;
- f. All micro-siting permissible under this condition must be approved in advance in writing by the planning authority, in consultation with the Environmental Clerk of Works (ECoW). No later than one month after the date of First Commissioning, an updated site plan must be submitted to the Planning Authority showing the final position of all wind turbines, masts, areas of hardstanding, tracks and associated infrastructure forming part of the development. The plan should also specify areas where micro-siting has taken place and, for each instance, be accompanied by copies of the Planning Authority's approval, as applicable.

Reason: To control environmental impacts, while taking account of local ground conditions, and to restrict micro-siting to a reasonable distance to ensure that any movement of turbines or infrastructure does not give rise to significant change to the layout and appearance of the development.

Design and Operation of Turbines

- 5. No development shall commence until full details of the specific wind turbines to be installed (including, but not limited to, the power rating and sound power levels, the size, type, external finish and colour, which should be non-reflective pale grey semi-matt) and all associated apparatus have been submitted to and approved in writing by the Planning Authority. The development is to be constructed and operated in accordance with the approved details and maintained in the approved colour, free from external rust, staining or discolouration, until such time as the wind farm is decommissioned, unless otherwise agreed in writing by the Planning Authority.

Reason: To ensure that the turbines are compatible with the locality in terms of their appearance and noise output, to protect residential and visual amenities.

Substation and Ancillary Development

- 6. No development shall commence until final details of the siting, external appearance, dimensions and external materials of the substation building, associated compounds, any construction compound boundary fencing, external lighting and parking areas have been submitted to and approved in writing by the Planning Authority. The substation building, associated compounds, fencing, external lighting and parking areas shall be constructed in accordance with the approved details.

Reason: To ensure that the environmental impacts of the sub-station and ancillary development forming part of the development conform to the impacts assessed in the Environmental Statement and in the interests of the visual amenity of the area.

Signage

- 7. Notwithstanding the provisions of the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984 none of the wind turbines, buildings other structures, means of enclosure or plant shall display any name, logos, sign, lettering or other advertisement (other than health and safety signage) without the prior written approval of the Planning Authority.

Reason: To safeguard visual amenities.

Turbine Failure/Removal

- 8. In the event of any wind turbine failing to produce electricity supplied to the local grid for a continuous period of 12 months, not due to it being under repair or replacement, then it will be deemed to have ceased to be required and, unless otherwise agreed in writing with

the Planning Authority, the wind turbine foundation to a depth of 1.2 metres below ground level, the wind turbine and its ancillary equipment shall be dismantled and removed from the site and the site restored to a condition to be agreed by the Planning Authority. The restoration of the land shall be completed within 6 months of the removal of the turbine, or any such longer period agreed by the Planning Authority.

Reason: To safeguard against the landscape and visual environmental impacts associated with the retention of any turbines that are deemed no longer to be operationally required.

Construction Hours

9. Construction work which is audible from any noise-sensitive receptor shall only take place on the site between the hours of 07.00 to 18.00 on Monday to Friday inclusive and 08.00 to 14.00 on Saturdays, with no construction work taking place on a Sunday or on national public holidays. Outwith these specified hours, development on the site shall be limited to concrete pours, turbine erection, maintenance, emergency works, dust suppression and the testing of plant and equipment, unless otherwise approved in advance in writing by the Planning Authority. HGV movements to and from the site (excluding abnormal loads) during construction of the wind farm shall be limited to 07.00 to 18.00 Monday to Friday and 08.00 to 14.00 on Saturdays, with no HGV movements to or from site taking place on a Sunday or on national public holidays.

Reason: To safeguard residential amenity.

Noise

10. No development shall commence until a Construction Method Statement has been submitted to and approved in writing by the Planning Authority. The development is then to be carried out in accordance with the agreed Statement.

Reason: To safeguard residential amenity.

11. The rating level of noise emissions from the combined effects of the wind turbines forming part of the development (including the application of any tonal penalty) shall not exceed the values for the relevant integer wind speed set out in, or derived from, the tables attached to this condition at any dwelling which is lawfully existing or has planning permission at the date of this consent. The turbines shall be designed to permit individually controlled operation or shut down at specified wind speeds and directions in order to facilitate compliance with noise criteria and:

- a. The Company shall continuously log power production, wind speed and wind direction. These data shall be retained for a period of not less than 24 months. The Company shall provide this information to the Planning Authority within 14 days of receipt in writing of a request to do so;

- b. There shall be no First Commissioning of the Development until the Company has received written approval from the Planning Authority of a list of proposed independent consultants who may undertake compliance measurements in accordance with this condition. Amendments to the list of approved consultants shall be made only with the prior written approval of the Planning Authority;

- c. Within 21 days from receipt of a written request from the Planning Authority following a complaint to it from an occupant of a dwelling alleging noise disturbance at that dwelling, the Company shall, at its expense, employ a consultant approved by the Planning Authority to assess the level of noise emissions from the wind farm at the complainant's property. The written request from the Planning Authority shall set out at least the date, time and location to which the complaint relates and any identified atmospheric conditions, including wind direction, and include a statement as to

- whether, in the opinion of the Planning Authority, the noise giving rise to the complaint contains or is likely to contain a tonal component;
- d. The assessment of the rating level of noise emissions shall be undertaken in accordance with an assessment protocol that shall previously have been submitted to and approved in writing by the Planning Authority. The protocol shall include the proposed measurement location(s) where measurements for compliance checking purposes shall be undertaken, whether noise giving rise to the complaint contains or is likely to contain a tonal component, and also the range of meteorological and operational conditions (which shall include the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise emissions. The proposed range of conditions shall be those which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the written request of the Planning Authority under paragraph c above, and such others as the independent consultant considers likely to result in a breach of the noise limits;
 - e. Where the property to which a complaint is related is not listed in the tables attached to this condition, the Company shall submit to the Planning Authority for written approval proposed noise limits selected from those listed in the tables to be adopted at the complainant's property for compliance checking purposes. The proposed noise limits are to be those limits selected from the tables specified for a listed location which the independent consultant considers as being likely to experience the most similar background noise environment to that experienced at the complainant's property. The rating level of noise emissions resulting from the combined effects of the wind turbines shall not exceed the noise limits approved in writing by the Planning Authority for the complainant's property;
 - f. The Company shall provide to the Planning Authority the independent consultant's assessment of the rating level of noise emissions within 2 months of the date of the written request of the Planning Authority for compliance measurements to be made under paragraph e, unless the time limit is extended in writing by the Planning Authority. Certificates of calibration of the instrumentation used to undertake the measurements shall be submitted to the Planning Authority with the independent consultant's assessment of the rating level of noise emissions;
 - g. Where a further assessment of the rating level of noise emissions from the wind farm is required, the Company shall submit a copy of the further assessment within 21 days of submission of the independent consultant's assessment pursuant to paragraph d above unless the time limit has been extended in writing by the Planning Authority.

Table 1 – Between 07:00 and 23:00 – Noise limits expressed in dB LA90,10 minute as a function of the standardised wind speed (m/s) at 10 metre height as determined within the site averaged over 10 minute periods.

Location (including coordinate s)	Standardised wind speed at 10 meter height (m/s) within the site averaged over 10-minute periods											
			<3	4	5	6	7	8	9	10	11	12
Lurgiescleuch	355197	606837	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.0
Langburnshields	353411	604138	35.0	35.0	35.0	35.0	38.2	41.4	43.7	44.7	44.7	44.7
Slitrig Cottage	353576	604032	35.0	35.0	35.0	35.0	38.2	41.4	43.7	44.7	44.7	44.7
Wyndburgh Cottage	353622	604008	35.0	35.0	35.0	35.0	38.2	41.4	43.7	44.7	44.7	44.7

Shankendshiel	353323	604017	35.0	35.0	35.0	35.0	38.2	41.4	43.7	44.7	44.7	44.7
Home Covert	356235	608302	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
Harwood	356519	608311	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
Signal Box	352550	605552	35.0	35.0	35.1	37.2	39.4	41.1	41.9	41.9	41.9	41.9
Shankend Station	352400	605719	35.0	35.0	35.1	37.2	39.4	41.1	41.9	41.9	41.9	41.9
Shankend Farm	352323	605963	35.0	35.0	35.1	37.2	39.4	41.1	41.9	41.9	41.9	41.9

Table 2 – Between 23:00 and 07:00 – Noise limits expressed in dB LA90,10-minute as a function of the standardised wind speed (m/s) at 10 metre height as determined within the site averaged over 10 minute periods.

Location (including coordinates)	Standardised wind speed at 10 meter height (m/s) within the site averaged over 10-minute periods											
			<3	4	5	6	7	8	9	10	11	12
Lurgiescleuch	355197	606837	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.0
Langburnshields	353411	604138	43.0	43.0	43.0	43.0	43.0	43.0	43.9	46.5	47.2	47.2
Slitrig Cottage	353576	604032	43.0	43.0	43.0	43.0	43.0	43.0	43.9	46.5	47.2	47.2
Wyndburgh Cottage	353622	604008	43.0	43.0	43.0	43.0	43.0	43.0	43.9	46.5	47.2	47.2
Shankendshiel	353323	604017	43.0	43.0	43.0	43.0	43.0	43.0	43.9	46.5	47.2	47.2
Home Covert	356235	608302	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
Harwood	356519	608311	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
Signal Box	352550	605552	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.5	43.5	43.5
Shankend Station	352400	605719	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.5	43.5	43.5
Shankend Farm	352323	605963	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.5	43.5	43.5

Reason: To protect nearby residents from undue noise and disturbance and to ensure that noise limits are not exceeded and to enable prompt investigation of complaints.

Shadow Flicker

- No development shall commence until a written scheme has been submitted to and approved in writing by the Planning Authority setting out a protocol for the assessment of shadow flicker in the event of any complaint to the Planning Authority from the owner or occupier of a dwelling which lawfully exists or for which planning permission has been granted at the date of this permission. The written scheme shall include mitigation measures to alleviate any shadow flicker attributable to the development. Operation of

the turbines shall take place in accordance with the approved protocol unless the Planning Authority gives its prior written approval to any variations.

Reason: To offset impacts of shadow flicker on residential amenity.

Television interference

13. The development shall be implemented in accordance with the Television Reception Mitigation Plan, which was agreed on 26th April 2019 in response to Condition 13 of consent 17/00010/FUL, unless otherwise agreed in writing with the Planning Authority. Any claim by any individual person regarding television picture loss or interference at their house, business premises or other building, made during the period from installation of any turbine forming part of the development to the date falling twelve months after the date of Final Commissioning, shall be investigated by a qualified engineer appointed by the developer/operator and the results shall be submitted to the Planning Authority. Should any impairment to the television signal be attributable to the development, the developer/operator shall remedy such impairment so that the standard of reception at the affected property is equivalent to the baseline television reception.

Reason: To ensure local television services are sustained during the construction and operation of this development.

Air Traffic Safety

14. No development shall commence until the developer has provided written confirmation to the Planning Authority and the Ministry of Defence of the:
- Anticipated date of commencement of each stage of construction;
 - The maximum height above ground level of construction equipment, each turbine and any anemometry mast and
 - The position of each turbine (in latitude and longitude).

The developer shall provide the Planning Authority and Ministry of Defence with details of any changes to this information as soon as reasonably practicable.

Reason: In the interests of aviation safety.

15. Prior to the erection of the first wind turbine a scheme of aviation lighting for the wind farm shall be submitted to and approved in writing by the Planning Authority in consultation with the Ministry of Defence. This lighting shall be installed at the highest practical point on the perimeter turbines, and shall be infrared warning lighting with an optimised flash pattern of 60 flashes per minute of 200ms to 500ms duration. The turbines shall be erected with the approved lighting installed and the lighting shall remain operational throughout the duration of the consent.

Reason: In the interests of safety for military aviation.

Threat Radar

16. No development shall commence until a Radar Mitigation Scheme setting out measures to be undertaken to address the impact of the wind farm upon military testing and training, in particular, the operation of threat radar type equipment at the remote threat radar sites at Larriston Fell and Wigg Knowe and the military testing and training activities that utilise the radars, has been submitted to and approved in writing by the Planning Authority in consultation with the Ministry of Defence. No turbines shall become operational until those measures within the Radar Mitigation Scheme have been fully implemented and evidence of this has been submitted to and approved in writing by the Planning Authority, in consultation with the Ministry of Defence. The development is then to be operated fully in accordance with the approved Radar Mitigation Scheme for the operational life of the wind farm or during the time that the remote threat radar sites at Larriston Fell and Wigg Knowe are retained by the Ministry of Defence for the purposes of military testing and training.

Reason: To secure mitigation of impacts on the threat radar type equipment at the remote threat radar sites at Larriston Fell and Wigg Knowe and the military testing and training activities that utilise the radars.

Road Safety

17. No development shall commence until a Traffic Management Plan (TMP) has been submitted to and approved in writing by the Planning Authority. The TMP to include:
- a. The detailed delivery route and vehicle numbers for all cars, HGV deliveries and abnormal loads associated with the development and measures to ensure that the specified routes are adhered to, including monitoring procedures;
 - b. Details of all ancillary works required to the public road network to facilitate deliveries, including all signage and lining arrangements, a programme and timescales for implementation and reinstatement proposals after the development is complete and a programme and timescales for completion;
 - c. Road condition survey of the 'C' Class road from Hawthornside to the B6399 carried out prior to the development commencing and details of any upgrading (passing places and strengthening) and a regime for routine maintenance during construction of the development. Any remedial works required as a result of damage/deterioration by construction traffic (to be highlighted in a post-construction road condition survey) to be rectified at the expense of the developer after the development has been completed in accordance with an agreed timescale;
 - d. Details of tree or hedge removal along the route for the abnormal loads and a scheme for replacement planting and a timescale for its implementation and completion;
 - e. Swept path analysis drawings for agreed areas of concern along the route for the abnormal loads and remedial measures;
 - f. Areas of the abnormal load route where the removal of street furniture, including lighting, is required and all temporary lighting measures required for the duration of the abnormal load movements;
 - g. A detailed engineering drawing of the proposed access and visibility splays from the B6399;
 - h. Name and contact details of a nominated person to whom any road safety issues can be referred.

The approved TMP thereafter to be implemented in full, unless otherwise agreed in advance in writing by the Planning Authority and all work within the public road boundary to be undertaken by a contractor first approved by the Council.

Reason: To ensure all construction traffic access the site in a safe manner and that any upgrading works or repairs to public roads are carried out timeously to the Council's specifications, in the interests of road safety.

Access Tracks

18. No development shall commence until details of the position, length, width, materials and drainage of the new and upgraded tracks within the site have been submitted to and approved in writing by the Planning Authority. The tracks then to be installed in accordance with the approved details. Newly formed hard surfaces should be attenuated to existing greenfield runoff rates.

Reason: To safeguard areas of ecological interest, watercourses and visual amenities and to ensure there is no increased flood risk to downstream receptors within Hobkirk and Bonchester Bridge.

19. No development shall commence until details of all watercourse crossings, culverts and alterations to existing crossings (position and design) have been submitted to and approved in writing by the Planning Authority, in consultation with SEPA. These should

be designed to convey the 1 in 200 year flow. The development then to be completed in accordance with the approved details.

Reason: To ensure that all construction operations are carried out in a manner that minimises their impact on the water environment and thereby minimising residual impacts on the River Tweed Special Area of Conservation.

Public Access

20. No development shall commence until a scheme for enhancing public access within the site upon completion of the development has been submitted to and approved in writing by the Planning Authority. This is to include tracks used for construction or service vehicles and creating a new link path between Turbines T4 and T7 suitable for use by walkers, cyclists and horse riders, unless otherwise agreed in writing by the Planning Authority. Where any access tracks pass through or nearby the development area, sign boards to be erected detailing information on routes that are accessible and those routes that are temporarily closed due to construction.

Reason: To enhance public access and to assist with the safe management of the site.

Private Water Supplies

21. No development shall commence until a Private Water Supplies Risk Assessment has been submitted to and approved in writing by the Planning Authority, detailing all mitigation measures to be delivered to secure the quality, quantity and continuity of water supplies to properties which are served by private water supplies at the date of this consent and which may be affected by the development. The Risk Assessment shall include water quality sampling methods and shall specify abstraction points. The approved method statement shall thereafter be implemented in full.

Reason: To maintain a secure and adequate quality water supply to all properties with private water supplies that may be affected by the development.

Borrow Pits

22. No development shall commence until a site specific scheme for the working and restoration of each borrow pit forming part of the development has been submitted to and approved in writing by the Planning Authority in consultation with SEPA. The scheme shall include:

- a. A detailed working method statement based on site survey information and ground investigations;
- b. Details of the handling of any overburden (including peat, soil and rock);
- c. Drainage, including measures to prevent surrounding areas of peatland, water dependant sensitive habitats and Ground Water Dependant Terrestrial Ecosystems (GWDTE) from drying out;
- d. A programme of implementation of the works described in the scheme; and
- e. Full details of the reinstatement, restoration and aftercare of the borrow pit(s) at the end of the construction period, to include topographic surveys of pre-construction profiles, and details of topographical surveys to be undertaken of the restored borrow pit profiles. The approved scheme shall thereafter be implemented in full.

Reason: To ensure that excavation of materials from the borrow pit(s) is carried out in a manner that minimises the impact on road safety, amenity and the environment, and that the mitigation measures contained in the Environmental Statement accompanying the application, or as otherwise agreed, are fully implemented. To secure the restoration of borrow pit(s) at the end of the construction period.

23. Blasting shall only take place on the site between the hours of 10.00 to 16.00 on Monday to Friday inclusive and 10.00 to 12.00 on Saturdays, with no blasting taking place on a

Sunday or on national public holidays, unless otherwise approved in advance in writing by the Planning Authority. Ground vibration from blasting shall not exceed a peak particle velocity of 6mm/second at agreed blasting monitoring locations. The measurement shall be the maximum of three mutually perpendicular directions taken at the ground surface. Reason: To ensure that blasting activity is carried out within defined timescales to control impact on amenity.

Archaeology

24. The development shall be implemented in accordance with the Written Scheme of Investigation (WSI), which was agreed on 22nd April 2019 in response to Condition 24 of consent 17/00010/FUL, unless otherwise agreed in writing with the Planning Authority. Reason: The site is within an area where ground works may interfere with, or result in, the destruction of, archaeological remains and it is therefore desirable mitigate the loss and potential loss of known and unknown archaeological features.
25. No development shall commence until a detailed scheme of cultural heritage enhancement has been submitted to and approved in writing by the Planning Authority. The approved scheme then to be implemented in full before the development hereby approved becomes operational. Reason: To improve the understanding, appreciation and experience of heritage assets where their settings and historic landscape contexts are affected by the development.

Ecology

26. No SUDS ponds or settlement lagoons shall be placed on areas deemed to be Ground Water Dependent Terrestrial Ecosystems. Reasons: To avoid impacts on wetland ecology.
27. The development shall be implemented in accordance with the appointment of the Ecological Clerk of Works (ECoW) which was agreed on 12th June 2019 in response to Condition 27 of consent 17/00010/FUL, unless otherwise agreed in writing with the Planning Authority. The Ecological Clerk of Works (ECoW) shall be appointed to carry out pre-construction ecological surveys, to inform a Construction Environmental Management Plan (CEMP) and to oversee compliance with the Construction Environment Management Plan, Species Protection Plan, Ecological Monitoring Plan and Decommissioning, Restoration and Aftercare Plan (“the ECoW works”). The terms of the appointment shall be submitted for the approval in writing by the Planning Authority in consultation with SEPA and SNH. The terms shall include the requirement to:
- Impose a duty to monitor compliance with the ecological and hydrological commitments provided in the Environmental Statement and other information lodged in support of the application, the Construction Environmental Management Plan and other plans; and
 - Require the ECoW to report to the Company's nominated construction project manager, the Planning Authority and SEPA any incidences of non-compliance with the ECoW works.
- Reason: To secure effective monitoring of and compliance with the environmental mitigation and management measures associated with the development.
28. No development shall commence until a Construction Environment Management Plan (CEMP) has been submitted to and approved in writing by the Planning Authority, in consultation with SEPA. The CEMP shall include:
- Risk assessment of potentially damaging construction activities;
 - Identification of “biodiversity protection zones”;
 - Method Statements to avoid or reduce impacts during construction, to include the location and timing of sensitive works to avoid harm to biodiversity features, the times

during construction when specialist ecologists need to be present on site to oversee works, include the use of protective fences, exclusion barriers and warning signs;

d. A Drainage Management Plan;

e. A Site Waste Management Plan;

f. An Accident Management Plan;

g. Responsible persons and lines of communication;

h. The role and responsibilities on site of an Ecological Clerk of Works ECoW).

The approved CEMP shall be implemented throughout the construction period and operational phase as appropriate, strictly in accordance with the approved details, unless otherwise agreed in writing by the Planning Authority in consultation with SEPA.

Reason: To ensure that all construction operations are carried out in a manner that minimises their impact on the water environment and thereby minimising residual impacts on the River Tweed SAC and that mitigation measures contained in the Environmental Statement accompanying the application, or as otherwise agreed, are fully implemented.

29. No development shall commence until a Species Protection Plan, including measures for bats, otters, badgers, red squirrels, breeding birds (including goshawk and crossbill), reptiles and amphibia as appropriate, has been submitted to and approved in writing by the Planning Authority. This to be informed by pre-commencement surveys carried out no more than 8 months prior to construction works commencing. Any works shall thereafter shall be carried out in accordance with the approved scheme.

Reason: To ensure that the species affected by the development are afforded suitable protection from the construction, operation and decommissioning of the development.

30. No development shall commence until a Habitat Management Plan, including measures to compensate for habitat loss and enhance existing habitats including blanket bog, wet modified bog, acid grassland, marshy grassland, calcareous grassland, dry dwarf shrub heath and woodland habitats, has been submitted to and approved in writing by the Planning Authority. Any works shall thereafter be carried out in accordance with the approved scheme.

Reason: To mitigate the loss of habitats as a result of the development.

31. No development shall commence until an ecological monitoring programme, including monitoring for breeding waders in years 1, 3, 5, 10 and 15 following construction, has been submitted to and approved in writing by the Planning Authority. This should also include proportionate post-construction monitoring of protected mammals (bats, otters, badgers and red squirrels as appropriate) and habitats. Any works shall thereafter be carried out in accordance with the approved scheme.

Reason: To ensure suitable procedures are in place to monitor the impacts of the development on ecological interests.

32. The development shall be implemented in accordance with the Goshawk Mitigation and Monitoring Plan which was agreed on 9th July in response to Condition 32 of consent 17/00010/FUL, unless otherwise agreed in writing with the Planning Authority. Any works shall thereafter be carried out in accordance with the approved scheme.

Reason: To ensure that the species affected by the development are afforded suitable protection from the construction, operation and decommissioning of the development.

Replanting of Forestry

33. No development shall commence until a forestry and woodland planting scheme to compensate for the removal of woodland areas and forestry within the site (“the Replanting Scheme”) has been submitted to and approved in writing by the Planning Authority, in consultation with Forestry Commission Scotland. The Replanting Scheme must comply with the requirements set out in the UK Forestry Standard (Forestry

Commission, 2011. ISBN 978-0-85538-830-0) and the guidelines to which it refers, or such replacement standard as may be in place at the time of submission of the Replanting Scheme for approval. The Replanting Scheme must include:

- a. Details of the location of the area to be planted;
- b. Details of land owners and occupiers of the land to be planted;
- c. The nature, design and specification of the proposed woodland to be planted;
- d. Details of all consents required for delivery of the Replanting Scheme and timescales within which each will be obtained;
- e. The phasing and associated timescales for implementing the Replanting Scheme;
- f. Proposals for the maintenance and establishment of the Replanting Scheme, including annual checks, replacement planting, fencing, ground preparation and drainage; and
- g. Proposals for reporting to the Planning Authority on compliance with timescales for obtaining the necessary consents and thereafter implementation of the Replanting Scheme.

Unless otherwise agreed in writing by the Planning Authority, the development shall not be commissioned to supply electricity on a commercial basis unless all relevant consents necessary for implementation of the approved Replanting Scheme in accordance with the phasing and timescales set out therein have been obtained.

In the event that there is no reasonable prospect of the relevant consents necessary for implementation of the approved Replanting Scheme being obtained, then the developer shall submit an amended Replanting Scheme to the Planning Authority for approval in consultation with Forestry Commission Scotland. Unless otherwise agreed in writing by the Planning Authority, the development shall not be commissioned to supply electricity on a commercial basis unless all relevant consents necessary for implementation of the approved amended Replanting Scheme in accordance with the phasing and timescales set out therein have been obtained. The approved Replanting Scheme (or, as the case may be, an approved amended Replanting Scheme) shall be implemented in full, unless otherwise agreed in writing by the Planning Authority after consultation with Forestry Commission Scotland.

Reason: To secure replanting to mitigate against effects of deforestation arising from the development.

Decommissioning and Financial Guarantee

34. The Development will be decommissioned and will cease to generate electricity by no later than the date falling thirty years from the date of Final Commissioning. The total period for restoration of the site in accordance with this condition shall not exceed three years from the date of Final Decommissioning without prior written approval of the Planning Authority. No development shall commence until a Decommissioning, Restoration and Aftercare Plan has been submitted to and approved in writing by the Planning Authority in consultation with SEPA and Scottish Natural Heritage. The Plan shall detail measures for the decommissioning of the development, restoration and aftercare of the site and will include proposals for the removal of the above ground elements of the development, the treatment of ground surfaces, the management and timing of the works and environmental management provisions. No later than 3 years prior to decommissioning of the development the Decommissioning, Restoration and Aftercare Plan to be revised and submitted to and approved in writing by the Planning Authority in consultation with SNH and SEPA. The revised Decommissioning, Restoration and Aftercare Plan will provide updated and detailed proposals for the removal of above ground elements of the development, the treatment of ground surfaces, the management and timing of the works and environment management provisions. The development shall be decommissioned, site restored and aftercare thereafter undertaken in accordance with the approved Plan, unless otherwise agreed in writing in advance with the Planning Authority in consultation with SNH and SEPA. Any decommissioning works shall be carried out in accordance with the approved Plan.

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

35. No development shall commence until the developer/operator has delivered a bond or other form of financial guarantee in terms acceptable to the Planning Authority which secures the cost of performance of all decommissioning, restoration and aftercare obligations contained in condition 34. The financial guarantee shall thereafter be maintained in favour of the Planning Authority until the date of completion of all restoration and aftercare obligations. The value of the financial guarantee shall be determined by a suitably qualified independent professional as being sufficient to meet the costs of all decommissioning, restoration and aftercare obligations contained in condition 34. The value of the financial guarantee shall be reviewed by a suitably qualified independent professional no less than every five years and increased or decreased to take account of any variation in costs of compliance with restoration and aftercare obligations and best practice prevailing at the time of each review.

Reason: to ensure that there are sufficient funds to secure performance of the decommissioning, restoration and aftercare conditions attached to this deemed planning permission in the event of default by the developer/operator.

Informatives

- 1. The length of the permission:** This planning permission will lapse on the expiration of a period of three years from the date of this decision notice, unless the development has been started within that period (See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).
- 2. Notice of the start of development:** The person carrying out the development must give advance notice in writing to the planning authority of the date when it is intended to start. Failure to do so is a breach of planning control. It could result in the planning authority taking enforcement action (See sections 27A and 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).
- 3. Notice of the completion of the development:** As soon as possible after it is finished, the person who completed the development must write to the planning authority to confirm the position (See section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended)).
- 4. Display of notice:** A notice must be displayed on or near the site while work is being carried out. The planning authority can provide more information about the form of that notice and where to display it (See section 27C of the Town and Country Planning (Scotland) Act 1997 Act (as amended) and Schedule 7 to the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013).
- 5. Relevant scheme:** All conditions above relate to the details of the development and supporting information, including all approved plans, drawings and diagrams that was granted planning consent following appeal on 17 August June 2018, under application reference 17/00010/FUL, including the subsequent non-material variations referred to in this report.