SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

3rd OCTOBER 2016

APPLICATION FOR PLANNING PERMISSION

ITEM:	**REFERENCE NUMBER**: 16/00141/S36 & 16/00145/S36
OFFICER:	Scott Shearer
WARD:	Mid Berwickshire
PROPOSALS:	1. Erection of 12 additional turbines and associated infrastructure (ref: 16/00145/S36) 2. Variation of Condition 2 of the Fallago Rig Wind Farm to extend the operational life of the wind farm by a further 5 years (16/00141/S36)
SITE:	Fallago Rig 2 Longformacus
APPLICANT:	EDF ER Energy Renewables Limited
AGENT:	Amec Foster Wheeler Environment & Infrastructure UK Ltd

1.0 PURPOSE OF REPORT

1.1 To advise the Scottish Government of the response from Scottish Borders Council on the two related applications by EDF ER Energy Renewables Limited. The first application seeks permission to construct 12 additional turbines and associated infrastructure at Fallago Rig Wind Farm. The proposed development is hereafter referred as Fallago Rig 2. The second application seeks permission to vary Condition 2 of the original Fallago Rig Wind Farm consent to permit the original windfarm (hereafter referred to as Fallago Rig 1) to operate for an additional 5 years or to coincide with a 25 year operational life from commissioning the 12 turbine extension (if consented).

2.0 PROCEDURE

2.1 Scottish Borders Council (SBC) is a consultee as a 'relevant planning authority'.

2.2 The views of SBC will be provided to the Energy Consents Unit at Scottish Government (ECU), the body responsible for processing onshore Section 36 planning applications. In this instance, the Fallago Rig 2 proposal is required to be determined via Section 36 of the Electricity Act 1989 because the extended total capacity of the windfarm would be in excess of 50MW. The second application to extend the operational life of the existing wind farm is required to be determined under section 36C of the Electricity Act. The ECU advertises the applications and carries out 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 specialists within the Council.

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

2.4 The northern boundary of the site is close to the Scottish Borders/East Lothian political boundary. The whole site is however within the Scottish Borders Council administrative area. The ECU has sought the views of East Lothian Council as part of their process of consideration.

3.0 SITE DESCRIPTION

3.1 The application site is located within an upland area of gently undulating moorland within the Lammermuir Hills and near its northern edge. The northern edge of the site is the boundary between the Scottish Borders and East Lothian. The site extends towards North Hart Law to the west, Wedder Lairs to the south and across Meike Law to the East. The site includes the existing Fallago Rig Windfarm which consists of 48 turbines (41 of which are 125m to tip and 7 towards the northern fringes are 110m to tip) with associated tracks and substation. A 440kv overhead power line crosses through the site. The Dye Water and its associated tributaries run across the site.

3.2 The steading at Byrescleugh lies 3.8km to the south east of the site. The nearest settlements area as follows:

- Gifford, 7.7 km to the north west
- Cranshaws, 8km to the north east
- Lonformacus, 9km to the east
- Westruther, 9km to the south east
- Oxton, 7.5km to the south west

Public Access and Paths:

3.4 Access within and around the site is for recreational use, mainly by walkers. The site itself contains two rights of way, the first being the Herring Road which connects Lauder to Dunbar and the second being a access from Byrescleugh. A customary path known as the Pylon Road is the main recreational access from Faseny Water (to the north east of the site).

3.5 The Southern Upland Way which is one of Scotland's Great Trails as a Coast to Coast route between Cockburnspath and Portpatrick is located to the south of the site and in places is approximately 3km away from the proposed development.

Landscape Designations:

3.6 The site is located within the Lammermuir Hills Special Landscape Area (SLA), as designated by policy EP5 of the Local Development Plan 2016 and shown within the 2012 Supplementary Planning Guidance Note on Local Landscape Designations.

Landscape Character:

3.7 The development site is situated within the core of Dissected Plateau Moorland Landscape Character Type (LCT) as indicated in the Borders Landscape Assessment (1998). The site borders the Central Lammermuir Plateau in East Lothian.

3.8 The landscape forms an expansive upland plateau with a generally simple landform of sweeping ridges with more defined hills and landmark features. The landscape is sparsely settled but it does form the backdrop to more settled valleys and lowlands within the Scottish Borders and East Lothian. Landcover is dominated by grass and heather moorland.

3.9 The existing windfarm is sited within a shallow bowl within the LCT. Other wind farms such as phases of Cystal Rig and Aitkengall are located within the same LCT with Dun Law occupying ground on a neighbouring upland LCT.

Designated Nature Conservation Sites:

3.10 The River Tweed Special Area of Conservation (SAC) lies approximately 1.5km to the east of the site. The SAC is designated for its Atlantic salmon, three species of lamprey and as a water course typically supporting water crowfoot species.

4.0 PROPOSED DEVELOPMENT

4.1 Application 16/00141/S36 seeks permission to vary condition 2 of the extant Fallago Rig 1 consent. This would allow the existing wind farm to operate for a further five years or coincide with a 25 year operational life from commissioning the 12 turbine extension to achieve a consistent operational period and decommissioning date for both developments.

4.2 Application 16/00145/S36 comprises of the following main development components;

- 12 new turbines producing around 3.45MW each and with each turbine having a maximum tip height of 126.5m
- New access tracks and crane pads;
- Two water course crossings;
- Two borrow pits for sourcing rock suitable for tracks and hardstandings;
- A temporary construction compound housing welfare facilities and a small car park;
- A temporary compound housing batching plant, general storage facilities and fuelling facilities; and
- An extension to the existing substation and control building, including cables and transformers which will utilise existing grid connection infrastructure.

4.3 10 of the 12 new turbines will be positioned around the southern edge of the existing wind farm with the other 2 being located towards the east on the upper part of Meikle Law.

4.4 The exact hub height and rotor dimensions may vary within the overall maximum blade tip height of 126.5m. The application has used the following parameters;

- Tip height of up to 126.5 comprising 74m hub, and 105 blade diameter; or
- Tip height of up to 126.5 comprising 81.5m hub, and 90m blade diameter.

4.5 The developer has sought a micro-siting allowance of 50m for each turbine, their associated infrastructure and access tracks.

4.6 The proposed Fallago Rig 2 Wind Farm would make use of the existing access track onto the Development Site where available. Approximately 6.2km of new access tracks would be constructed within the site to the new turbine locations.

4.7 Fallago Rig 2 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.

5.0 **NEIGHBOURING SITES/SCHEMES RELEVANT TO CONSIDERATION OF CURRANT PROPOSAL:**

Operational:

5.1 **Dun Law Phases 1 and 2** is situated 7km to the west of the site and, in total, consists of 61 turbines up to 75m in height.

Crystal Rig Phases 1 and 2 constitute the existing Crystal Rig wind farm, which is situated 7.5km to the north east of this site. It consists of 85 turbines up to 125m in height.

Aikengall is an operational phase of wind farm development of 15 turbines of 125m tip height, adjoining yet separate from Crystal Rig both in terms of its operation and its position entirely within East Lothian. It is situated 12km to the north east.

Toddleburn Wind Farm is located 12km to the south west and consists of 12 turbines between 110 and 125m high.

Penmanshiel is a recently constructed wind farm, consisting of 15 turbines which are 100m in height and is located 21km to the east of this site, next to Drone Hill Wind Farm.

Drone Hill is an operational wind farm consisting of 22 turbines, 76m height to tip, on Coldingham Moor approximately 24km east of the proposal.

Black Hill is an operational wind farm consisting of 22 turbines with a tip height of 78m, around 13km south east of the proposal.

Longpark Wind Farm is located 18.5km to the south west of the site and consists of 19 turbines at heights of 100 and 110m.

Consented:

5.2 **Crystal Rig 3** obtained consent for an additional 7 turbines of varying heights of 100 to 110m all of which are in East Lothian to be added to the existing Crystal Rig Wind Farm.

Quixwood is a consented wind farm intended to be built approximately 17.5km north-east of the proposal, which would consist of 13 turbines of dual tip height (10 @ 115m, 3 @ 100m). The developer is presently seeking to discharge conditions.

Aikengall II (sometimes referred to as **Wester Dod**) project with which Aikengall 2a (and the original Aikengall) would be combined. Planning permission was granted on appeal further to a public inquiry for 19 turbines of up to 145m tip height. This cluster would be built mainly to the north-west of the turbines proposed for Aikengall 2A, but would also be flanked by Aikengall 2a turbines on the south-west and north-east. This wind farm is presently under construction.

In the Planning System:

5.3 **Aikengall 2A** is a scheme seeking permission under Section 36 for 19 turbines of 125 and 145m high. The Council objected to the proposal and determination from the ECU is awaited.

Inch Moor seeks permission for 16 turbines of 126.5m high and located 11km to the south east of this site. This application remains under consideration. The ECU has granted an extension of response time to SBC until the 15th of December 2016.

An application to extend **Longpark** with a further 7 turbines of 100 to 110m is under consideration of SBC.

An application was recently received to erect 8 turbines of 100m high at **Howpark** which is located alongside Penmanshiel and Drone Hill wind farms.

6.0 PLANNING HISTORY

6.1 The existing Fallago Rig Wind Farm was consented by the Scottish Government on the 9th November 2010 under Section 36 of The Electricity Act 1989 and Deemed Planning Permission under S57(2) of The Town and Country Planning (Scotland) Act 1997.

6.2 The proposals which obtained permission were a revised scheme which reduced the number of turbines from 62 to 48. SBC Officers recommended approval, on balance, to the revised scheme. This recommendation was overturned at the Development and Building Control Committee principally on grounds of cumulative landscape and visual impact of the proposed windfarm. The Ministry of Defence (MoD) also objected to the proposal on grounds that the development would have an adverse impact on the Brizlee Wood Radar Station. A Public Inquiry took place in February 2008 and a report was submitted to Ministers recommending refusal because of the detrimental impact on national security. On-going discussions between the MoD and the then applicants resulted in the withdrawal of the MoD's objection. Ministers

decided to re-open the inquiry and ultimately granted consent under S36 of The Electricity Act 1989 and deemed planning permission.

6.3 In 2014 planning permission was received to vary conditions 33, 34 and 35 of the deemed planning approval for the Fallago Rig Wind Farm under application 13/01268/FUL. The application was uncontentious and enabled conditions to be varied to allow for decommissioning, restoration and aftercare of the site to take place according to an approved scheme within a period of 12 months following the expiring of the original planning consent instead of within the 25 year operational period.

7.0 APPLICANTS SUPPORTING INFORMATION

7.1 The Section 36 planning application is supported by a full ES, which comprises the following documents, all dated February 2016:

- Volume 1 - Non Technical Summary
- Volume 2 - Environmental Statement
- Volume 3 - Figures
- Volume 4 - Appendices
- Volume 5 - Planning Statements
- Volume 6 - Design and Access Statement
- Volume 7 - PAC Report
- Volume 8 – Borrow Pit Report

7.2 In accordance with regulations of Section 36C against which the variation of condition proposal is being considered, the original Environmental Statement for the extant Fallago Rig Wind Farm was required to be submitted. This information was provided on the 4th of July 2016 as an addendum to application 16/00141/S36. Re-advertisement and consultation exercises were carried out on receipt of this additional information.

8.0 REPRESENTATION SUMMARY

8.1 Third party representation are submitted to the ECU and it is for that authority to take these in to consideration when assessing the proposed developments on behalf of the Scottish Ministers.

8.2 At the time of writing this report, objections from two third parties are noted to have been received by the ECU. This does not include submission by Community Councils.

9.0 DEVELOPMENT PLAN POLICIES

9.1 Local Development Plan 2016 (LDP):

Policy Reference	Policy Name
PMD1	Sustainability
PMD2	Quality Standards
ED9	Renewable Energy Development
HD3	Protection of Residential Amenity
EP1	International Nature Conservation Sites

	and Protected Species
EP3	Local Biodiversity
EP5	Special Landscape Areas
EP7	Listed Buildings
EP8	Archaeology
EP9	Conservation Areas
EP10	Gardens and Designed Landscapes
EP15	Development Affecting the Water Environment
IS2	Developer Contributions
IS5	Protection of Access Routes
IS8	Flooding
IS9	Waste Water Treatment Standards and Sustainable Urban Drainage

9.2 **SESplan Strategic Development Plan June 2013:**

Policy 1B The Spatial Strategy: Development Principles
Policy 10 Sustainable Energy Technologies

10.0 **OTHER PLANNING CONSIDERATIONS:**

10.1 **Adopted SBC Supplementary Planning Guidance (SPG) and other documents:**

- Renewable Energy (2007)
- Wind Energy (2011)
- Visibility Mapping for Windfarm Development (2003)
- Biodiversity (2005)
- Local Landscape Designations (2012)
- Developer Contributions (2010)

- Ironside Farrar Study (2013) on Wind Energy Consultancy Landscape Capacity and Cumulative Impact

10.2 **Scottish Government Policy and Guidance:**

- Scottish Planning Policy (SPP) (June 2014)
- National Planning Framework for Scotland (3) (June 2014)

10.3 **Scottish Government On-line Renewables Advice:**

- Circular 3/2011 Environmental Impact Assessment (S) Regulations 2011
- PAN 60 Planning for Natural Heritage 2008
- PAN 51 Planning, Environmental Protection and Regulation
- PAN 1/2011 Planning and Noise
- PAN 2/2011 Planning and Archaeology
- PAN 1/2013 Environmental Impact Assessment

10.4 **Historic Scotland Publications:**

- Scottish Historic Environment Policy (2011)

10.5 **SNH Publications:**

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

10.6 **Other Publications:**

ETSU-R-97 - The Assessment and Rating of Noise from Wind Farms

11.0 **CONSULTATION RESPONSES**

11.1 The following consultation responses have been received in by specialist officers at Scottish Borders Council. A summary of the consultation responses received to each application (16/00145/S36 & 16/00141/S36) is provided within each section.

11.2 **Landscape Architect** - 16/00145/S36: The Landscape Architect has made a detailed assessment of the proposed scheme in relation to Policy ED9 of the LDP. The consultee does not object to the proposal, observing that;

- The existing landform screen views to the north and north west
- Less containment is afforded to the east, south and west where there will be distant views beyond 10km of the development
- The Southern Upland Way is considered to be the main affected receptor where the additional turbines increase the impact of the wind farm from Twin Law Cairns. However, the overall effect is not sufficient to affect the recommendation.
- Landscape changes as a result of the development are generally contained to areas close to the site within the LCT and with few impacts on skylines.
- The presence of the existing wind farm and the 440kv overhead powerline means the site is characterised by large structures so the level of change as a result of these proposals is diminished. Similarly effected on 'wild land' is minimal because of this context.
- Cumulatively, the proposal has been designed to fit with the existing array and the overall change is minimal.
- Separation distance to other scheme is sufficient.
- The effects by the associated works are localised and can be mitigated by conditions.

16/00141/S36: No objection.

11.3 **Archaeologist** - 16/00145/S36: Content with the findings of the ES and no objection is raised, recommending that;

- Design accounts for the historic environment and mitigates impact on Scheduled monuments, particularly the Munity Stones. Effects remain for the Scheduled Byrescleugh settlement, the undesignated Twin Law Cairns and Tilting Cairn however the proposals are not recommended to alter the setting of these assets.
- The majority of heritage assets exist at lower elevation however there is still potential to discover buried archaeology, possibly of regional

significance. Mitigation of direct impacts can be handled via a condition seeking agreement of a Written Scheme of Investigation.

16/00141/S36: No archaeological implications for this proposal. Extending the life of the existing wind farm will have no direct or indirect impacts on the historic environment beyond what is consented.

11.4 **Forward Planning** - 16/00145/S36: This consultee identifies the range of relevant policy, guidance and material considerations. In summary whilst acknowledging the extension of existing wind farms and consequent cumulative impact issues are contentious, the Ironside Farrar Study, commissioned to guide policy development and which is therefore a material consideration, does recognise there is an opportunity to extend Fallgo Rig.

16/00141/S36: No objection has been raised.

11.5 **Environmental Health** - 16/00145/S36: Commented in relation to noise and risk to private water supply. A Construction and Operational noise assessment was agreed with SBC in accordance with current best practice with Cumulative noise addressed within the ES. Conditions to control noise limits of the development, investigation of complaints and cease of operation until resolution the event of noise exceeding the specified limits are recommended. No concerns have been raised regarding the risk to private water supplies.

16/00141/S36: No comment.

11.6 **Ecology Officer** – 16/00145/S36: No objection has been raised. A summary of the most pertinent matters are as follows:

- It is unlikely that the development will have a significant adverse effect on the integrity of the Dye Water which forms part of the River Tweed SAC.
- The borrow pits are adjacent to the watercourse so detailed mitigation will be required.
- Recommend that floating tracks are used in area of active blanket bog with a peat depth of ≥0.5m.
- A variety of protected species have been identified and a condition is recommended for pre-construction checking surveys where the findings should inform further mitigation through a Species Mitigation and Management Plan.
- Identifies requirement to provide a Habitat Management and Enhancement Plan to deal with a variety of habitats within and out with the site which includes measures for blanket bog, other wetland habitats, grassland, heathland habitats and breeding waders.
- The appointment of an Ecological Clerk of Works is recommended to ensure compliance with pre-construction obligations, habitat management and decommissioning ecological requirements.
- A post construction species monitoring programme is required.

16/00141/S36: Recommend that the relevant discharged ecological conditions for the original consent should be amended to account for the extension of the operational life of the wind farm. This should include a revised monitoring protocol under Condition 23, a revised Operational Protocol under Condition 24 and a revised Land Management Plan under

Condition 25. The terms of the ECoW regarding any operational ECoW obligations and decommissioning may also need to be amended.

11.7 **Roads Planning Service** - 16/00145/S36: The proposed delivery route catered for the construction of the original wind farm. A Traffic Management Plan will be required to ensure the construction is carried out in a controlled manner which mitigates impacts upon the public road and provides mitigation for abnormal loads. A pre and post construction survey will establish if any damage to the road network is required to be remedied. A detailed drawing of the junction from the public road into the site is also required for approval. Suggest that a Section 96 agreement will be required between the Council and the developer with regards to extraordinary expense in road maintenance as a result of construction traffic associated with the proposal.

16/00141/S36: No objection to the proposed extension of time.

11.8 **Access Officer** – 16/00145/S36: Continue to object because the Southern Upland Way incurs significant cumulative impacts where the wind farm will be theoretically visible for over 10km along the route at distances of less than 3km in some locations. Turbine 60 is close to the Herring Road so it is likely that the construction of this turbine would interfere with the route.

At a meeting with the developers, attended by the Access Officer it was agreed that a draft condition requiring the temporary diversion of this path and its reinstatement along its historic route, along with the provision of signage and interpretation boards across the site would overcome concerns raised about the impact of the development on paths within the site.

12.0 **OTHER IMPORTANT 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 ECU have been made known to the Department and Members may be interested in the more significant responses which are detailed below.

12.2 **Scottish Natural Heritage (SNH)** – 16/00145/FUL: The development is likely to have a significant effect on the Atlantic salmon qualifying interest of the River Tweed Special Area of Conservation (SAC). Recommend objection unless a condition is attached to require mitigation in the form of a Construction Environment Management Plan (CEMP).

12.3 No objection has been raised on landscape and visual grounds, but the following comments are made:

- Strategic design objectives of the extension are broadly acceptable.
- Siting of additional turbines towards the upper limits of the topographical bowl means that the extension presents some adverse visual impacts, primarily from the west and south where the appearance of the array will be intensified and from the east where turbines appear to ‘sit up’ as more prominent features.
- No modification is sought however the adverse effect could be addressed by constructing turbines of a lower height to integrate more harmoniously with the existing array and smooth simple profile of the Lammermuir Hills.

- From the north, the new turbines may slightly extend and/or intensify the appearance of the array but there is also a good sense of design integration with the existing turbines.
- Recommend use of a micro-siting condition to avoid turbines moving further up the hill slope.

12.4 An updated response of 22nd Aug 2016 advised that;

- In areas of deep peat there may be valid reasons for micro siting, a planning condition should test the validity of such reasoning.
- Turbine lighting should be of an infrared rather than visible type to reduce landscape visual effects.
- Recommend the full range of ecological mitigation and enhancement measures identified in the ES are implemented, additionally it is advised that; breading population of curlew should be included within the Outline Management Plan, mitigation will be require to protect black grouse lek if any are discovered before construction and an outline decommissioning and restoration plan in accordance with SNH guidance should be agreed.

16/00141/S36: No objection is raised to the extended lifespan of the existing windfarm. A limited number of turbines along the northern edge of the existing development are viewed to have a detrimental impact on landscape character and amenity. Retention of these turbines for a short period is pragmatic; however these locations may not be suitable for future repowering. The consent process should provide safeguards to ensure that future re-development secures an improved siting and design.

12.5 **Scottish Environmental Protection Agency (SEPA)** – 16/00145/FUL: An email from SEPA to the ECU on 15th June 2016, clarified a Peat Management Plan can address the agreement of peat depth used in the reinstatement of borrow pits. Otherwise comments from their original response remain relevant and advise that conditions are used to address the following matters;

- A CEMP to protect the water environment
- Invertebrate surveys are carried out pre, during and post construction
- Protection Ground Water Dependent Terrestrial Ecosystems (GWDTS) from construction operations.
- Decommissioning and Restoration measures.

16/00141/S36: No construction work is associated with development so there will be minimal risk of pollution of the water environment or from waste management. Decommissioning of the extant windfarm was required to be agreed 5 year prior to cease of operation and it is noted that the application intends to decommission both sites simultaneously.

12.6 **East Lothian Council** - 16/00145/FUL: Object on grounds that Turbines 49, 50 and 60 are judged to have an adverse landscape and visual impact. Omission of Turbines 45 and 50 and reduction of 60 to bring the hub and blades below the skyline are recommended to address these concerns. If approved, conditions covering decommissioning and noise are recommended.

16/00141/S36: Turbines 22, 26, 34, 37, 36 and 48 of the existing array are viewed to have an adverse landscape and visual impact. On granting consent it should be stipulated that paragraph 170 of SPP does not apply whereby these locations are not deemed to be suitable for wide turbine development in

perpetuity. An additional noise condition is recommended to cover cumulative impact of Fallago Rig 1 & 2.

12.7 **Historic Environment Scotland (HES)** – 16/00145/S36: Proposal will impact on a number of heritage assets, while not significant enough to warrant objection it is recorded that the tips of turbines 52 - 56 will affect the experience and appreciation of the Munity Stones (Scheduled Ancient Monument). The applicants provided HES with a technical note explaining why the locations of the turbines are not being reviewed.

12.8 Other notable consultee responses to the ECU on application 16/00145/S36 have included:

- Ministry of Defence – No objection, although agreement to the use of Infrared Aviation Lighting and a condition to mitigate against impacts on the air defence radar at Brizlee Wood is recommended.
- NATS – objected on grounds that the proposal would have an unacceptable impact on aviation safety. The applicants have advised that a contract was being signed by NATS and EDF ER to resolve this objection.
- RSPB – No objection, recommend that a habitat management plan, a breeding bird protection plan, employment of an Ecological Clerk of Works and post construction monitoring to mitigation ornithology impacts.
- Transport Scotland – Conditions are required to agree route of abnormal loads on the trunk road and additional signage or temporary traffic control measures.
- Marine Science Scotland – Inclusion of a condition for post construction water quality monitoring overcomes original objection.
- Scottish Water – Recommend use of floating roads where peat is 0.5m thick.
- Scotways – A conditional access management plan addresses concerns expressed on Muir Road (Right of Way BB107) and pylon road however remain to object on grounds that the proposal has; an adverse effect on the recreational amenity of the Southern Upland Way, micro-siting may lead to the turbines being positioned at a greater height and the cumulative impact on the Lammermuir Hills.

12.9 Other than those previously referred to above, all other consultation responses to the EDC on application 16/00141/S36 ultimately raised no concerns in response to this development.

12.10 The **Lauderdale Community Council** oppose application 16/00145/S36 on the basis that is not required to meet Scottish or UK renewable targets.

13.0 **KEY PLANNING ISSUES:**

13.1 Bearing in mind that SBC is a consultee rather than the determining authority, the following are the key issues to be reported in the following Assessment:

- land use planning policy principle
- economic benefits attributable to the scheme
- benefits arising in terms of renewable energy provision
- landscape and visual impacts including residential amenity visual impacts, arising from turbines and infrastructure

- 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
- impact on road safety and the road network
- impacts on the public path network and public access on accessible land
- Fallago Rig 1 suggested variation condition

14.0 **ASSESSMENT OF APPLICATION:**

Planning Policy Principle:

14.1 Scottish Government Policy, regional strategic policy and local planning policy/guidance are supportive of the principle of constructing wind energy projects unless, with regard to the specific circumstances, the environmental harm caused outweighs the benefits of energy provision.

14.2 Assessed against Table 1 of SPP 2014, the site falls outside of Group 1 designations (National Parks and National Scenic Areas), meaning that it is located within an area where further wind farm development *may* be acceptable. It is therefore the detail of the proposal which is key in this case. The primary topics requiring consideration by the Council are as follows:

Economic Benefit:

14.3 Wind Energy development is important in terms of the contribution it makes to the economy in the UK and internationally, alongside other forms of alternative energy production. Associated with implementation, planning and operation are employment opportunities for a wide range of contributors both directly and indirectly across supply chains.

14.4 Fallago Rig 1 is operational and successful in making its contribution to the energy industry. Adding 12 turbines to the existing wind farm conceives a sizable cluster of 60 turbines which can consolidate the Central Lammermuir operations as a sizeable economic entity.

14.5 Scottish Government identifies this type of contribution as important and valuable to the Scottish Energy Industry. However, the potential for such benefits and thereby economic growth to be supported in consideration of energy proposals must be balanced with the likelihood that wind energy developments in particular can bring high levels of environmental impact which are potentially of greater significance than the economic benefits

Renewable Energy Benefits:

14.6 Fallago Rig 1 has an installed capacity of 144MW. The proposed development would add up to 41.4MW and it is therefore acknowledged that Fallago Rig 2 would make a reasonable contribution to the provision of sustainable renewable energy.

14.7 Extending existing wind farms provides a degree of logic because it provides opportunities to take advantage of existing infrastructure. Furthermore, the

presence of an existing development can to some extant offset environmental and visual impacts and concerns. Fallago Rig 2 broadly follows this principle.

14.8 Additionally, it should be borne in mind that extending the operational life of Fallago Rig 1 would allow the existing wind farm to continue to contribute to the renewable energy production for a further five years.

Design Methodology:

14.9 The siting and design of the development has evolved since its initial 20 turbine layout which is illustrated in Figure 7.6a in Volume 3 of the ES. The following changes have been made;

- Removal of turbines from northern edge of the Lammermuir Hills, away from the skyline of East Lothian.
- A reduced number of turbines to the south with the turbines being located on lower elevations of Wedder Lairs and Hunt Law to attempt to keep the additional turbines within the topographical bowl of the existing windfarm which is defined by the summits of these hills.
- Attempts to replicate the pattern of the siting of existing turbines and the spacing between one another within the layout of Fallago Rig 2 so that the additional turbines appear alongside Fallago Rig 1 as "one wind farm".

Landscape and Visual Impacts:

Landscape Capacity

14.10 Policy ED9 gives significant weight to The Landscape Capacity and Cumulative Impact Study 2013 being an initial reference point for landscape and visual assessments for wind energy developments. Table 6 (iii) considers the potential for further windfarm development within the LCT where it is recommended that despite the area nearing capacity there is;

"still capacity for limited development within small areas around Fallago Rig taking advantage of areas with lower intervisibility and topographical containment for further windfarm developments of large or very large sized turbines."

14.11 Figure 6.1c within the study which provides a spatial study for the potential for turbines of over 100m within the Scottish Borders, and the assessment has identified that the location of the application site for Fallago Rig 2 is one of the few areas to have a 'Medium Low Capacity' for additional turbines.

14.12 In light of the findings of The Landscape Capacity and Cumulative Impact Study 2013, it is considered that the development of Fallago Rig 2 is being located within an area where there may be landscape and visual capacity to accommodate the proposals.

Wild Land

14.13 The site is not one of the nationally designated areas of Wild Land. Landscape qualities of the landscape have already been affected by the presence of the existing windfarm and largescale overhead power line. The addition of 12 extra turbines would not have a significant impact on the landscape, due to the presence of the existing development.

Theoretical Visibility

14.14 According to the submitted Zone of Theoretical Visibility (ZTV) mapping showing potential visibility (refer to Figure 7.4 and 7.5 Volume 3 of the ES), the ZTV illustrates that Fallago Rig 2 is well contained by landform which provides screening of the development to the north and north-west. The ZTV does show that across the study area that 10-12 wind of turbines may be visible in association with Fallago Rig 1. Apart from the immediate surroundings there is very little visual impact on receptors within 10km range, with the exception of the Southern Upland Way.

14.15 Because the proposal relates to the extension of an existing wind farm, the theoretical visibility of Fallago Rig 2 compared to Fallago Rig 1 is extremely important as part of the consideration of the landscape and visual impact of this development. A comparative ZTV has been submitted, see Figure 7.11c. This analysis shows that there are very few locations where there will be new visibility as a result of Fallago Rig 2 with the ES indicating that visibility of only Fallago Rig 2 accounts for only 1.42% of the total study area. While there will be visibility of Fallago Rig 2, this is almost always in association with the existing wind farm. Areas subjected to the additional visibility are generally areas of little population. The settlement of Leitholm to the south east appears to be the nearest new settlement affected by Fallago Rig 2 but due to Leitholm being over 15km from the development, actual visibility of Fallago Rig 2 will be minimal.

14.15 The proposed development will unquestionably result in an increase in the scale of the combined windfarm at Fallago Rig from certain locations and this will be discussed further below. Nevertheless the theoretical visibility of the new development is considered to closely match the theoretical visibility of the existing windfarm. This concludes that the theoretical visual impact of the new development is considered to be minimal based on its association with the existing windfarm.

Landscape Impact

14.16 The Landscape Capacity and Cumulative Impact Study 2013 undertaken by Ironside Farrar acknowledges that the presence of the existing Fallago Rig 1 as well the Crystal Rig/Aikengall cluster has led to the northern part of the Lammermuir Plateau LCA to practically become a Wind Turbine Landscape. The site and the majority of its surroundings fall within the Lammermuir Hills SLA. The description of the SLA within the Local Landscape Designations SPG does not mention Fallago Rig 1; its presence along with the 440kv overhead powerline is significant within the landscape.

14.17 The acceptably of landscape impacts depends on the level of change of the existing character ‘pre-development’ weighed against the ‘post-development’ impact of the proposals. The context of existing large structures at the site means that the effect of the development has to be considered against the established baseline. The ZTV illustrates that the effects of the development are largely restricted to the immediate surroundings with the cumulative ZTV showing there to be few new affected areas. Because the effects of the development are confined to areas close to the existing wind farm, the Council’s Landscape Architect has observed that there is relatively few impacts on important skylines and that the character changing effects are

confined to the receiving LCT. This also means that the impact on the SLA is limited.

14.18 The siting of the additional turbines has attempted to contain them within the topographical bowl where Fallago Rig 1 is located. SNH have identified viewpoint (VP) 7 from the east and VP15 in the west as areas where the additional turbines have a poorer design relationship. ELC have also identified an adverse impact from VP7. From these VPs the new turbines appear more evidently "up and down" in the landscape than the existing windfarm. Additionally from VP15, SNH advise that the proposal fails to integrate as successfully as Fallago Rig 1 with the smooth profile of the skyline of the Lammermuir Hills. It is conceded that as a result of these impacts the development is not fully complaint with SNH guidance on Siting and Designing Wind Farms in the Landscape 2014.

14.19 Despite these concerns, SNH advise that they are not seeking any modifications. It is considered that because the turbines are being added to an existing wind farm array these less favourable landscape changes are somewhat diluted. Additionally, from VP7 it is worth noting that there are views across to the Crystal Rig and Aikengall cluster so the viewer does understand that you are within a Wind Turbine Landscape therefore visibility of turbines from VP7 is expected.

14.20 Policy ED9, recommends that wind development should be supported unless there are "unacceptable significant adverse effects". Because of the developments relationship to the existing wind farm it is the view of SBC Officers that prominence of certain new turbines from a small number of viewpoints is not significantly adverse to warrant refusal and the wider landscape impacts are tolerable.

Visual Impact

14.21 The ZTV analysis confirms that the extent of theoretical visibility would be very similar to that of existing Fallago Rig 1 with the containing landform around the site, generally screening views to the north and north-west outside of the 5km range. A selection of key viewpoints (VPs) has been selected to illustrate the visual effects of the development from important public locations. As previously stated, because this is an extension to an existing wind farm it is critical to determine if the visual impact of the additional turbines is supportable.

Visual Impacts – Roads and Paths

14.22 SNH have identified VP3 in the east and VP11 in the south as public roads where the previously identified landscape concerns will be noticeable. In the case of VP3, the extent of effect on this route is clear where the two eastern turbines 49 and 50 appear prominent. The VP is close to the development so some impact is not unexpected. This road is however a minor route where there is already high visibility of the existing array. By virtue of the prominence of turbines presently in the north eastern corner of the array the impact of the proposed Fallago Rig 2 turbines is tolerable.

14.23 Turning to VP11, this is a junction of two well used A and B class roads. As a result of the proposed development the wind farm does extend across the skyline with its prominence increased with turbines 59 and 60 giving rise to an

element of stacking. If the turbines were to be reduced in height, the tips of the southern grouping would align with those behind. From this location, the impact of the Fallago Rig 2 turbines still allows the extended array to be read as one wind farm. While the increase in impact is not ideal from this VP, the distance to the development provides some mitigation.

14.24 VP10, which is just on the 10km cusp to the east of the windfarm from Kirtonhill. From this location Fallago Rig 2 brings the overall development closer to the VP and extends the extent of the array. The extended wind farm does, however, remain within the containing bowl from this VP.

14.25 The ZTV identifies that there will be significant visibility from the Southern Upland Way (SUW) towards the proposed Fallago Rig 2. VPs 9 and 4 show the impact of the development from these locations and Figure 7.9b-7.9f provide a sequential assessment of various visual impacts along the route using wirelines.

14.26 Section 7.9.21 & 22 of the ES concedes that this is a significant receptor but that the effect overlaps with significant effects from Fallago Rig 1. The SUW is unquestionably already affected by the existing wind farm and while the additional turbines may not significantly affect any new parts of the route, VP4 illustrates that Fallago Rig 2 will increase the magnitude of the wind farm.

14.27 The impact of the development upon the SUW is arguably the greatest single impact on receptors in the Scottish Borders. Some of the new turbines are more prominent than the existing turbines from points along the SUW, as shown by VP4. This part of the SUW falls within the receiving LCT which has been described within The Landscape Capacity and Cumulative Impact Study 2013 as a landscape which is becoming a wind turbine landscape. As a result of this existing context it will probably not be surprising for users of the route to have views of prominent turbines.

14.28 The increased impact of the development on the SUW cannot be disputed. Nonetheless, given the existing context for receptors along the SUW where wind turbines are already directly visible and in the absence of any objection from the Landscape Architect on the visual impact of the proposal, it is considered that the impact on the SUW alone is not significant enough to warrant objection against Policy EP9.

Visual Impacts – Residential Receptors

14.29 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. No settlements are located within this distance of the site. The lack of viewpoints from settlements illustrates that the development of Fallago Rig 2 will have little impact on more densely populated areas. There are two settlements (Gifford and Westruther) towards the outer edge of the 10km area. VP8 from outside of Gifford shows that there is no impact the area surrounding the settlement. In terms of Westruther the ZTV does indicate that 1-3 turbines may be visible from around the Cemetery however this impact is not considered to be significant.

14.30 Within 5km of the site there are 5 residential properties, 4 of which are identified as being involved with the development within the ES. The

unrelated property of Trottingshaw is the furthest of the five from the proposed development. Each of these 5 properties are already impacted visually by the existing windfarm. Fallago Rig 2 will contribute towards additional impacts for these houses and this is to be expected. Given the existing baseline of visual impact which these properties are subjected to, the description in the ES of Fallago Rig 2 having a 'slight' effect on these dwelling is not disputed.

14.31 Section 14 of the ES has considered Shadow Flicker. The applicants have applied a test under National guidance on Shadow Flicker provided by the Scottish Government and report that the result find shadow flicker is scoped out of the ES. Given that the closest property is some 2.8km from the site then these findings are expected.

14.32 Overall, it is considered that the proposed wind farm extension will not have unacceptable adverse impacts upon residential receptors in local communities or nearby dwellinghouses.

Visual Impact from East Lothian

14.33 SNH have provided commentary on the impact of the development from viewpoints to the north, particularly from settled areas of East Lothian where is observed that;

"while there is an appreciable but slight extension to the overall extent of the array, there is also a favourable sense of design integration of the proposed turbines."

14.34 East Lothian Council (ELC) has raised concerns about the development of Fallago Rig 2. The comparative ZTV information suggests that from East Lothian there are practically no new receptors as a result of this development. From selected viewpoints various parts of Fallago Rig 2 will be visible however this is practically always alongside the existing windfarm with SNH viewing the integration of the proposal to be reasonable. Various VPs from East Lothian show the development to extend the existing wind farm across the skyline which is not ideal but visibility of this change from settled areas is often from distances of over 15km from the development. On balance, it is not considered that the visual impacts of the development from East Lothian are significant enough to warrant object from SBC. The concerns raised by ELC remain a matter for the determination of the ECU.

Turbine Micro-siting

14.35 The issue of micro-siting is important to consider. Should the turbines have to be moved to a higher altitude then they may start to come out of the confining topographical bowl and will become more visually prominent in the landscape. If there is a clear habitat or technical reason to micro-site a turbine then a degree of flexibility is needed but this has to be balanced against the visual impact of the change.

14.36 To avoid an adverse visual impact, Members are asked to consider recommendation of a micro-siting planning condition which will require the applicants to undertake wireframe analysis of any micro-siting requirements to illustrate if the turbine new position can be tolerated in the landscape with

the preference being that there is no discernible change. The applicants have suggested that they would be content with such a request.

Visual Impacts of Associated infrastructure:

14.37 The presence of the existing windfarm means that the associated development is generally adding to existing infrastructure which is already present on site. The works are predominantly all localised around the existing windfarm and due to its isolated location, works relating to; new tracks and bridges, borrow pits and an extension to the existing substation themselves do not have any detrimental impact on the landscape and visual amenity of the surrounding area.

14.38 It is the intention that the majority of the associated infrastructure is to be removed at the end of the operational life of the wind farm. To avoid unnecessarily lasting impacts suitably worded planning conditions can agree the eventual removal of these components.

Cumulative Landscape and Visual Impacts:

14.39 In Paragraph 125 of the SESplan Strategic Plan, the cumulative issue in the Borders is given coverage:

"Consideration of location, landscape, environmental quality and community impacts will be required for onshore developments. For example, wind farms in East Lothian, the Scottish Borders and West Lothian currently contribute to the SESplan area; however, concerns have been expressed about cumulative impacts and LDPs should undertake an assessment of the impact of development."

14.40 Berwickshire has been the subject of a high level of pressure in recent times, for further developments to be added to the current baseline. This is reflected in the summary of other relevant schemes earlier in this report.

14.41 Figure 7.10b of the ES shows the pattern of existing development around the site with the principal cumulative effect being the current proposal's association with Fallago Rig 1. As considered previously, the cumulative impact of Fallago Rig 2 with Fallago Rig illustrated by the comparative ZTV illustrates that the proposed development will have a very limited additional visual impact with few new receptors. As discussed previously some existing receptors will experience an intensification of magnitude but because the proposal has been designed to fit with the existing array, Fallago Rig 2 forms part of the existing cluster of turbines and generally avoids the provision of isolated or incongruous turbines within the landscape. The Council's Landscape Architect has advised that the cumulative change is "generally minimal".

14.42 SNH observe that from some viewpoints the existing separation of Fallago Rig to the Crystal Rig/Aikengall cluster is marginally narrowed. Nevertheless, both SNH and SBC's Landscape Architect share the view that the sense of separation between these clusters is not diminished. The development of Fallago Rig 2 is therefore judged to accord with the cluster and space strategy which is often promoted with large wind energy development.

14.43 There is no other consented wind energy development which is viewed to materially affect the cumulative impact of this proposal.

14.44 The application is considered to comply with cumulative impact requirement listed within Policy ED9.

Landscape and Visual Impact of Extending the Operational Life of Fallago Rig 1:

14.45 Fallago Rig 1 presently has consent to operate until 2038. In landscape and visual terms, the containment provided by the topographical bowl where the development is located and the limited impact of the development from settled areas means Fallago Rig 1 is generally perceived to be a good site for wind energy development.

14.46 There is a logic to the simultaneous operation and end point of the combined schemes. Fallago Rig 2 has been designed as an extension to the existing windfarm and not as a separate entity. If Fallago Rig 1 were to be removed when Fallago Rig 2 was still operational then there would be a sporadic form of development within the landscape. Extending the operational life of Fallago Rig 1 will enable Fallago Rig 2 to be seen alongside the existing development as a single wind farm for its whole operational life. At the shared end of their operational lives, both developments will be able to be decommissioned simultaneously which is cost effective and minimises local disruption which would be caused by two separate decommissioning periods. Despite benefiting from separate consents, the decommissioning of Fallago Rig 1 alongside Fallago Rig 2 can be governed by both consents having suitable decommissioning requirements which can be governed through planning conditions.

16.47 The Landscape Architect has not voiced any concerns regarding this particular application. Despite SNH and ELC raising concerns of the prominence of some of the turbines along the northern edge of the existing array, retention for a short time is not opposed. Caution has been expressed that granting a extension to Fallago Rig 1 should not be read as an acknowledgement that the whole site is suitable for wind development in perpetuity, under paragraph 170 of SPP. Provided that the further consent of operational time of Fallago Rig 1 remains time-limited, as advised in paragraph 170 of SPP then any proposals for further retention or future repowering outwith the specified period which can be controlled by condition and would fundamentally require determination of such proposals through relevant planning or Section 36 processes.

14.48 Overall, should Fallago Rig 2 be consented, extending the operational life of Fallago Rig 1 for a short time period to dove-tail with the operational life of Fallago Rig 2 is an obvious decision in landscape and visual terms and complies with relevant requirements of Policy ED9.

Cultural Heritage Impacts:

14.49 The Council's Archaeologist has not objected to the addition of 12 turbines and associated works. The development site is located at an elevation above known heritage assets but it is recorded that during the development of Fallago Rig 1 an Anglo-Saxon farm steading and several fit pits from approximately 10,000 years ago were discovered. This evidence suggests

that the development of Fallago Rig 2 may also encounter buried archaeology, therefore mitigation in the form of a Written Scheme of Investigation is recommended and has been accepted by the developers.

14.50 Turning to indirect impacts, the Council's Archaeologist has suggested that application 16/00145/S36 (the extension) will not adversely affect the setting of surrounding heritage assets. HES have raised concerns about the impact of the development on the setting of the Munity Stones which is a cairn approximately 2km to the east of the site. The setting of the cairn is characterised by its location on a gentle southwest facing slope of Byrecleugh Ridge. Figure 8.4 of the ES does suggest that the upper part of the blades of turbines 52, 53, 54, 55 and 56 will creep over the hillslope which is unfortunate. In response to HES comments the applicants provided a Technical Note on Fallago Rig 2: Effect on the Setting of Munity Stones which illustrates that a previous design of the wind farm had a worse effect on the setting of the cairn. While turbines 52-56 do continue to break the skyline, this is by a much shorter part of the turbine with the intervening landform continuing to rise to the north which helps provide some containment.

14.51 HES have conceded that the proposal will not affect the understanding of the cairn but it will disrupt its sense of place. While it is not suggested that the development will not impact on the setting of the Munity Stones, in light of HES not raising a formal objection coupled with the advice provided by the Council's own Archaeologist, on balance, it is considered that the proposal will not have a significant enough impact on the affected cairn or any other heritage assets to warrant objection against LDP Policy ED9 or EP8. Fundamentally, it will be the role of the ECU to determine if the concerns raised by HES require further mitigation.

14.52 The extension of the operational life of Fallago Rig 1 poses no detrimental implications upon any cultural heritage assets.

Ecology and Habitat Impacts:

14.53 SNH have advised that the development is located close to the River Tweed Special Area of Conservation (SAC) where the development has potential, particularly during the construction process to have an effect on the Atlantic salmon qualifying interest of the SAC. The impact of the development on the SAC has attracted an objection to the development from SNH. However, this objection can be mitigated by the imposition of a planning condition to require the agreement of a Construction Environment Management Plan (CEMP) which in particular should protect the water environment and would addresses SNH's objection.

14.54 In addition to the impact of the development on the SAC and the need for a CEMP, the Council's Ecologist has identified that the development has the potential to impact on a range of species, including protected species and habitats. In order to comply with LDP policy provision covering biodiversity various forms of mitigation will be required to be undertaken. Mitigation measures will include; pre-commencement species surveys where the findings of these investigations should inform Species Mitigation and Management Plans, Habitat Management and Enhancement Plans and post construction species monitoring. In addition an Ecological Clerk of Works is recommended to be appointed to ensure that ecological and habitat

requirements are upheld during construction and also decommissioning requirements of the development are upheld.

14.55 The ES identifies that areas of deep peat lie along much of the new access route and turbine locations. The Council's Ecologist has recommended that use of floating roads should be used in areas with a peat depth of ≥0.5m instead of areas with a peat depth of >1m. There has been some dubiety about which would be the right depth in which to use floating roads to ensure that peat is not unnecessarily disturbed or destroyed. A view was sought from SNH however at the time of writing, no view has been received, therefore an appropriately worded planning condition is recommended to agree when floating roads are required to be used.

14.56 Taking into account the consultations responses of the specialist in these matters, the proposals do not give to any biodiversity impacts, including impacts on the SAC that cannot be resolved by a suite of planning conditions covering the aforementioned matters.

14.57 No consultee concerned with biodiversity has raised any significant concerns that the extension of the operational of Fallago Rig 1 will have a detrimental impact on ecology and from an ecological perspective decommissioning both sites simultaneously would be logical. The Council's Ecologist has noted that relevant post development conditions which are still pertinent for Fallago Rig 1. It is recommended that the relevant conditions of the original Fallago Rig consent for on-going compliance and management of ecological interest and suitable decommissioning should be re-imposed. Fundamentally, these requirements are similar to the protective measures sought as mitigation to Fallago Rig 2 and it would be at the discretion of the developers to formally seek to change any of the original conditions.

Residential Amenity (Noise):

14.58 Environmental Health officers have fully assessed noise issues. A noise assessment for the proposed development has been carried out and extended to include the cumulative noise effects from Fallago Rig 1 and Fallago Rig 2. Environmental Health Officers are satisfied with the findings of the noise assessments which have been carried out. Noise generated by the development of Fallago Rig 2 has not been found to detrimentally affect the amenity of affected residential properties subject to the imposition of planning conditions to set appropriate noise levels and proper investigation and resolution of noise complaints.

14.59 The noise limits set for Fallago Rig 1 under its original permission would remain unchanged and conditions covering these matters should be re-imposed as part of its consent to extend its operational life.

Traffic Management and Road Safety:

14.60 The site will be accessed via the route which successfully served the development of Fallago Rig 1. There are no reasons why the development would not comply with LDP Policy ED9 in relation to trunk road and traffic impacts with no overriding concerns raised by Transport Scotland or the Council's Roads Planning Officer (RPO). Planning Conditions can seek the agreement for a Construction Traffic Management Plan which will also require the provision of mitigation measures to cater for abnormal loads using the

route and a separate condition will ensure that the junction from the public road into the site can appropriately cater for vehicles accessing the development.

14.61 The Roads Planning Officer has advised about possibly entering into a Section 96 agreement. This is a formal agreement to ensure that damage to the public road caused by the development will be repaired by the developers. This obligation would have to be undertaken using a legal agreement. This type of obligation was not used during the construction of Fallago Rig 1; therefore it is not appropriate to pursue such an agreement for Fallago Rig 2. Appropriately worded planning conditions can be used to ensure that the developer is liable for damage caused to the public road network as a result of works from this development.

Public Access/Path Network:

14.62 The development would have the potential to have significant effects on the public path network. There are, as explained in the consultation response of the SBC Access Officer and also Scotways, paths within and crossing the site that may be physically affected and indirectly affected by the development and its infrastructure. In addition, paths outwith the site which will be indirectly affected by the development of Fallago Rig 2 have been identified.

Public Paths and General Access within the Site

14.63 During a meeting with the applicants, the impacts of the development upon the identified access routes within the site. Of particular concern was the siting of Turbine 60 which is less than 80m from the historic core path known as the Herring Road. The route of the core path along the affected area is not understood to be its original route. It was agreed with the developers that the impact on this route can be mitigated by diverting this path during construction phases and then realigning with its original route which should follow its route depicted in a plan from the 1960 which is held by the Council's Access Officer. This mitigation can be covered by a suitably worded planning condition which forms part of an Access Management Plan. Additionally, the access management plan can agree appropriate signage and interpretation boards across other routes within the site to provided mitigation of the effects of Fallago Rig 2 on these routes.

Paths outwith the Site

14.64 The cumulative impact of the development upon the SUW remains to receive objections from the Council's Access Ranger and Scotways.

14.65 The overriding concern of access specialists is that the development gives rises to an increased visibility of turbines which detrimentally affects the experience of users using this route. The landscape and visual impact from this receptor was thoroughly considered in detail earlier in this report.

14.66 While it is regrettable that the development will detract from the outlook and experience from this nationally important route, it is perceived that this effect will be for a short distance in comparison to the total length of this route. Bearing in mind that the route is already affected by the existing wind farm and the characterisation of the wider landscape, the detrimental impact of the development from the SUW in wider land use planning terms it not judged to

be significantly adverse in its own right to recommend refusal of this proposed development against Policy ED9.

14.67 No access concerns have been raised by consultees in response to application 16/00141/S36.

Fallago Rig 1 Suggested Variation Condition

14.67 Within application 16/00141/S36, it is suggested that Condition 2 of the original permission which stated;

"The consent is for a period from the date of this consent until the date occurring 25 years after the date of the Commissioning of Development. Written confirmation of the date of Commissioning of Development shall be provided by the Company to Scottish Ministers, the Planning Authority, and to National Air Traffic Services no later than one calendar month after that event."

Is replaced with the following condition;

"The consent is for a period to 24 January 2043. Written confirmation of the date of decommissioning shall be provided to Scottish Minister, the Planning Authority and to national Air Traffic Services within six months of the date of consent, ***UNLESS*** *the Company provides written confirmation to the same parties of the Commissioning of Fallago Rig 2. In the event that the Company provides written confirmation of the Commissioning of Fallago Rig 2, this consent is for a period from the date of this consent until the sate occurring 25 years after the date of the Commissioning of Fallago Rig 2"*

14.68 Fallago Rig 1 was commissioned on the 24th of January 2013. The suggested condition, provides a further 5 years of consent from the original 25 year period which would expire on the 24th of January 2038 or to a period to coincide with Fallago Rig 2, subject to obtaining agreement with the directly affected regulatory authorities which includes SBC. The condition provides the developers with flexibility to match the period of consent for both wind farms to provide the economic, visual and decommissioning benefits considered above. Ultimately, the precise wording of the condition which is an amended to the original Section 36 consent and not the deemed planning permission is a matter for the ECU, however the suggested condition appears to adequately achieve the aims of the proposed development and there is logic in this approach.

15.0 CONCLUSION FOR APPLICATION 16/00145/S36

15.1 Scottish Borders Council remains positive towards the principle of wind energy development, as reflected in its policies and guidance. As required by policy considerations, the benefits of energy production, and the disbenefits of environmental impact must be weighed carefully against one another. This is made clear in the 2014 SPP and reflected within the primary LDP Policy consideration for this development, Policy EP9.

15.2 Several key issues stand out in this report. There are clear benefits from the potential production of 41.4MW of electricity which will be added to the installed capacity of 144MW at this site. This would make a large contribution to delivery of sustainable renewable energy development and align with the

broad objective of Scottish Government to become 100% self-sufficient in producing energy. However, these benefits have to be finely balanced against the environmental impacts of the development which mainly relate to landscape and visual effects.

15.3 In landscape and visual terms the existing Fallago Rig Wind Farm is still considered to be generally a good site for wind energy development owing to its containment within a topographical bowl with little impact on settled locations. The location of the additional development proposed by Fallago Rig 2 are found to be located within an area which is recognised within our Landscape Capacity and Cumulative Impact study as being an area where there may be opportunity to extend the existing Fallago Rig Wind Farm.

15.4 Cumulative theoretical visibility analysis finds that the development is well associated with the existing windfarm, only giving rise to very minimal areas of new visibility with the development seen to generally fit into the design of the existing array. The proposal does result in an increase in magnitude of the combined windfarm from affected locations. Close analysis of the key viewpoints establishes that the presence of the existing windfarm and acknowledgement that the area is viewed as being part of a wind turbine landscape. Importantly, the perceived landscape and visual change as a result of this development is found to be limited.

15.5 The impact of the development upon the Southern Upland Way does represent a negative effect which arises from the development of Fallago Rig 2. The basis of the concern is centred on the developments visual effects on the route. Owing to the visibility of the existing windfarm from this route, the impact of the proposed development on the Southern Upland Way alone is not considered to be a unacceptable significant adverse impact to outweigh the benefits of the proposed development.

RECOMMENDATION BY CHIEF PLANNING OFFICER FOR APPLICATION 16/00145/S36:

That the Council indicate to the Scottish Government that is does not object to application 16/00145/S36 for the construction 12 additional turbines and associated infrastructure at Fallago Rig Wind Farm, subject to the imposition of the recommended schedule of conditions.

Reason for Recommendation for application 16/00145/S36:

On balance, by virtue of the siting and design of the turbines and infrastructure and its integration with the existing wind farm, the mitigation proposed and the acceptable visual relationship of the development with landscape character, private residences and other sensitive receptors, the proposals would accord with planning policies (listed above) relating to:

- development quality
- renewable energy
- protection of cultural heritage
- protection of biodiversity and habitat
- protection of recreational access
- protection of residential amenity

16.0 **CONCLUSION FOR APPLICATION 16/00141/S36**

16.1 The consented wind farm is already operational and produces electricity yields which contribute to the renewable targets set by the Scottish Government. The proposed development of Fallago Rig 2 has been designed as an extension to Fallago Rig 1 and not as a separate windfarm. Aligning the operational time of the existing windfarm means it can continue to generate electricity for the period of consent of Fallago Rig 2 and importantly consolidate the development as one wind farm for the duration of their combined operational lives.

16.2 The additional operational time for Fallago Rig 1 will be proportionately relatively short, approximately 5 additional years from commencement of its original consent period. In landscape and visual terms allowing the retention of Fallago Rig 1 avoids each of these wind energy developments being removed separately which means that Fallago Rig 2 will not be left standing alone in the landscape which would undermine the integrity of its design and appear visually disruptive. Aligning the period of consent for both developments enables both wind farms to be decommissioned simultaneously which is efficient and minimises the impact of these works in the local area which two separate decommissioning processes would cause.

16.3 On recommending no objection to the related application which seeks permission to extend Fallago Rig, it is considered that agreeing to extend the operational life of the existing wind farm is pragmatic and does not conflict with Council LDP Policies on Renewable Energy or any relevant material considerations. No grounds of objection to the extension of the operational life of Fallago Rig 1 have been raised by any specialist Council Officers consulted as part of this application.

RECOMMENDATION BY SERVICE DIRECTOR (REGULATORY SERVICES) FOR APPLICATION 16/00145/S36:

That the Council indicate to the Scottish Government that is does not object to application 16/00141/S36 to vary of Condition 2 of the Fallago Rig Wind Farm to extend the operational life of the wind farm by a further 5 years.

Reason for Recommendation for application 16/00145/S36:

The variation proposed under Section 36C of the Electricity Act 1989 (as amended) is suggested to be agreeable, subject to the imposition of the relevant planning conditions of the original consent which remain necessary to ensure on-going compliance with the original permission

List of Proposed Conditions and Informative Notes for Application's 16/00145/S36 & 16/00141/S36

Separate Schedules of Conditions and appendixes to this report are attached, providing the list of items referred to ECU for further consideration.

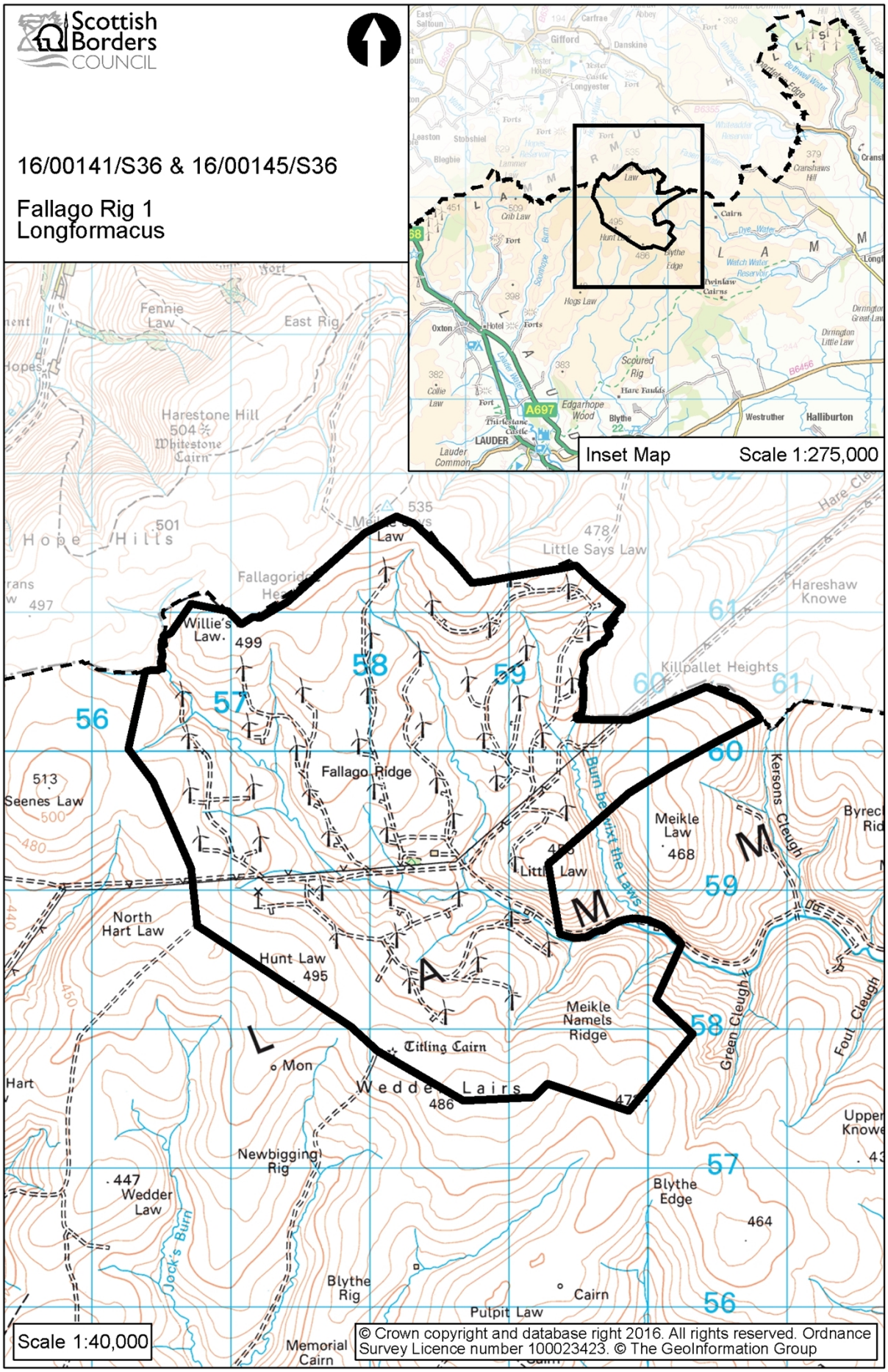
Approved by

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
Scott Shearer	Assistant Planning Officer


Scottish Borders COUNCIL
16/00141/S36 & 16/00145/S36
Fallago Rig 1
Longformacus
Inset Map
Scale 1:275,000
Scale 1:40,000
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Fallago Ridge
Little Says Law
Killpallet Heights
Hareshaw Knowe
Meikle Law
Meikle Namels Ridge
Titling Cairn
Wedder Lairs
Hunt Law
North Hart Law
Seenes Law
Harestone Hill
Whitestone Cairn
Fennie Law
East Rig
Hope Hills
Willie's Law
Newbigging Rig
Wedder Law
Blythe Rig
Blythe Edge
Pulpit Law
Memorial Cairn
Jock's Burn
Kersons Cleugh
Green Cleugh
Foul Cleugh
Burn between the Laws
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