

**SCOTTISH BORDERS COUNCIL**

**PLANNING AND BUILDING STANDARDS COMMITTEE**

**26 MARCH 2018**

**APPLICATION FOR PLANNING PERMISSION**

<b>ITEM:</b>	<b>REFERENCE NUMBER:</b> 17/01348/FUL
<b>OFFICER:</b>	Paul Duncan
<b>WARD:</b>	East Berwickshire
<b>PROPOSAL:</b>	Erection of 2 No wind turbines 11.8m high to tip
<b>SITE:</b>	Land South West Of 6 Lamberton Holding, Lamberton
<b>APPLICANT:</b>	Mr William Mykura
<b>AGENT:</b>	None

**SITE DESCRIPTION**

The proposed site lies west of existing agricultural sheds on the prominent ridge between Mordington and Lamberton which forms the skyline looking west from the A1 at Lamberton. The site itself is located up a farm track from No 5 Lamberton Holdings and is not prominent from the public realm, being located over 400m from Lamberton (Whale's Jaw), where the nearest dwellinghouses and public roads sit and from which the site is not visible. On the Mordington side of the ridge, the nearest public road is over 1km from the site. Three dwellinghouses sit at around 800m to the west of the site in the Mordington area. The site is most visible from a public footpath which runs to the south of the site at a distance of roughly 100m.

Notable existing features in the immediate landscape include the existing agricultural buildings which are finished in grey corrugated iron and timber cladding to a height of around 6-7m. An existing radio mast of around 10m in height is sited amongst these buildings. The development site is within an adjoining field to the west which is currently used for grazing. Other features in the surrounding landscape visible from the ridge area include further telecoms masts, overhead lines and poles, and a single micro-scale turbine at Moor Side to the north of the proposed site. A single turbine is located on lower ground south of the border towards Berwick-upon-Tweed at a distance of around 3km from the proposed site. This turbine is understood to be 50m to height.

**PROPOSED DEVELOPMENT**

Original proposal

The application originally sought full planning permission to erect 2no wind turbines, one on either side of the existing agricultural sheds. The rotor diameter of the proposed turbines was 5.6m. The turbine tower height was 15m giving an overall tip height of 17.8m. The specific model was Kingspan KW6.

Amended proposal

Following landscape objections (detailed below) the proposals were subsequently amended to reduce the overall turbine height to 11.8m to tip height. The proposed sites of the turbines were moved to the south west of the existing sheds. The revised proposals also utilise the Kingspan KW6 model of turbine with a 5.6m diameter. The turbines have a power capacity of 6kW and feature black turbine blades and galvanised grey towers. The height of the

proposed turbine towers was reduced from 15m to 9m, resulting in the lower overall tip height.

No ancillary buildings or tracks are proposed.

## **PLANNING HISTORY**

There have been previous wind turbine proposals in the vicinity of the site. Those proposed within the Scottish Borders are detailed below:

- 11/01543/FUL - Land South East Of Moorside 7 Lamberton - Erection of wind turbine 15.05m high to tip – Approved
- 11/01585/REN - Ardenlea 6 Mordington Holding - Erection of wind turbine 11.8m high to tip – No objection (since removed from the site)
- 13/00743/FUL - Land South West Of 6 Lamberton Holding Lamberton - Erection of wind turbine 54m high to tip, associated access track, electrical control building and crane hardstanding – Application withdrawn prior to determination following landscape objection

## **REPRESENTATION SUMMARY**

Twelve households lodged objections to the original proposal for two turbines with a tip height of 17.8m. Two campaign groups, Songbird Survival and Lamberton and Mordington Action Group (LMAG) also objected to proposals. A summary of these objection comments is listed below:

### Landscape objection comments

- Adverse impact on skyline
- Visual impact from Berwickshire Coastal Path; the Scotland/ England Border and associated visitor parking area; a nearby public footpath; and the A1.
- Impact on setting of battlefield site of Halidon Hill
- Fails to comply with Scottish Borders Council planning guidance 'Landscape and visual guidance on single and small groups of wind turbine developments in Berwickshire'
- No visual impact assessment
- Cumulative effects are likely to exceed the capacity of the landscape

### Ecological objection comments

- No EIA, ecological assessment or habitat survey conducted
- Impact on local birdlife including corn buntings, yellowhammers, curlew and skylarks
- A precautionary principle should be applied to protect a species at risk of local extinction.
- SRDP funding has sought to protect and enhance the local habitat
- The corn bunting population is teetering on the brink of local extinction in the Scottish Borders
- The RSPB response is vague and unconvincing/ is wrong to assume there are no examples of local corn buntings on the basis that no birdwatchers, visitors etc log their observations with the Bird Track System or RSPB
- Objector states that they witnessed a corn bunting on Lamberton hill in June 2016

### Other objection comments

- Turbines should be closer to the house they are supplying energy to
- Insufficient supporting materials/ documentation submitted
- Shadow flicker impacts on the A1
- Noise impacts/ no noise assessment
- Insufficient information
- Wind turbines are not efficient
- Would set a precedent
- Proposals would not comply with policy ED9
- Renewable energy targets will be met/ may be relaxed
- The objections to the earlier 2013 application should be taken into consideration
- The applicant should commit to responsibility for decommissioning including removal of the concrete base in the event of approval
- Energy storage should be used to address the intermittency of wind turbines
- Site restoration and decommissioning cannot be guaranteed unless through a legally binding obligation on current and future title holders
- Potential economic benefits will be relatively minor in terms of the Scottish Borders and the wider area economies
- Adverse impact on view from dwellinghouse [*not a material planning consideration*]

The proposals were subsequently amended following landscape objections. The two turbines were reduced in height from 17.8m to 11.8m high to tip and moved to the south-west of the original proposal. Further supporting information was provided in the form of photomontage visualisations. Objectors to the original proposals were notified of the amended proposals. Objections to the amended proposals were received from eleven of the same twelve households. Further objections were also received from both Songbird Survival and LMAG. Several objectors welcomed the reduction in height and/ or repositioning. Others felt the new turbine sites could exacerbate possible impacts on birds or on landscape impacts on the Mordington side of the ridge. The following new reasons for objection were lodged:

- Hazard to walkers/ footpath users
- Council should insist on a safety assessment and guarantee
- Photomontages incorrect/ basic/ incomplete
- No wireline visualisations submitted
- The photomontages do not provide a fully accurate impression of the extent to which the turbines would remain visible from the Border given the moving turbine blades would catch the eye to a degree that wholly static structures would not
- No confidence the changes will make much difference from the Mordington side of the hill
- The Landscape Officer consultation responses do not consider impact on the area West and South-west of the Lamberton ridge and do not consider landscape impact at all
- There is no consideration of the community of sensitive receptors living and working West and South-west of the Lamberton ridge
- The Planning Authority should not have allowed the applicant to amend the red line boundary without the need for a new planning application

All representations can be read in full on *Public Access*.

As noted above it was suggested that objections to the aforementioned 2013 application for a much larger scale turbine should be considered in the determination of this application.

These comments related to a quite different development proposal and separate application which was withdrawn four years ago. Reference to these previous comments is neither required nor appropriate as the current application should be considered on its own merits.

## **APPLICANT'S SUPPORTING INFORMATION**

The applicant submitted photomontage visualisations, elevation drawings, a noise report, and a short supporting statement with the revised proposals. The applicant also responded to objection comments via the public portal. This information can be inspected on *Public Access*.

## **DEVELOPMENT PLAN POLICIES:**

### **Local Development Plan 2016**

PMD1 Sustainability  
PMD2 Quality Standards  
HD3 Protection of Residential Amenity  
ED9 Renewable Energy Development  
EP1 International Nature Conservation Sites and Protected Species  
EP2 National Nature Conservation Sites and Protected Species  
EP3 Local Biodiversity  
EP5 Special Landscape Areas  
EP14 Coastline  
IS5 Protection of Access Routes

## **OTHER PLANNING CONSIDERATIONS:**

Scottish Planning Policy  
SPG Biodiversity (2005)  
SPG Renewable Energy (2007)  
SPG Wind Energy (2011)  
SPG Local Landscape Designations (2012)  
SPG Landscape and Visual Guidance for Single and Groups of 2 or 3 Wind Turbines in Berwickshire (updated 2015)  
Draft Supplementary Guidance on Renewable Energy (2017)  
SNH Siting and designing wind farms in the Landscape Guidance (2017)

## **CONSULTATION RESPONSES:**

### Scottish Borders Council Consultees

**Landscape Officer (first response):** Objection. While the turbines are of the 'small' typography, their proposed location on the skyline means they are seen from a section of the A1 approaching the border and from the lay-by at the border, as a feature on the ridge which otherwise has virtually no vertical elements. Skylines are identified as potentially sensitive in both SNH Siting and Designing Wind Farms in the Landscape Guidance (2017) and in the Landscape and Visual Guidance for Single and Groups of 2 or 3 Wind Turbines in Berwickshire SPG. Despite the modest size of the proposed wind turbines they will appear as a skyline feature in an area of high sensitivity. While the location plan shows sections of the ownership boundary blue line, it does not show the extent of land owned. The applicant could investigate an alternative site so that the turbines are not seen on the skyline from the A1 corridor or from the border. If the visual impact of the proposed turbines could be reduced by moving them out of the most sensitive zone along the ridge skyline, when seen from the A1 corridor and the border, this would need to be considered afresh. The

landscape could accommodate turbines of this size away from the more sensitive ridgeline location.

**Landscape Officer (second response):** No objection. The reduction in height and the relocation of the turbines has helped to take them back off the skyline so that their visibility is greatly reduced from the sensitive receptors, as demonstrated by the submitted photomontages. Any residual visual impact is so minimal there are no remaining landscape impact concerns.

**Ecology Officer (first response):** A proportionate Preliminary Ecological Appraisal (PEA) should be undertaken prior to determination of the application to identify the scope of any further surveys that may be required for habitats or protected species including breeding birds, badgers and bats.

**Ecology Officer (second response):** No objection. Based on a thorough desk and field study, it has been established that no designated sites and no protected species are likely to be significantly impacted by the proposed development, due to the scale, nature and location of the proposal, lack of field signs or desk study records, and/or lack of suitable habitat for wildlife (linked to the effects of livestock grazing, the absence of habitat diversity, the dominance of improved grassland, poor habitat structure, and a general lack of breeding bird habitat, as well as a lack of roost sites for bats).

Domestic micro-wind turbines are not predicted to have any effect on the qualifying features and interests of designated sites. No impacts on badger are predicted from the installation or operation of the micro-turbines. No impacts on bats are predicted. I agree with the judgement of the ecological surveyors that further bat activity transect surveys are unnecessary given the overall negligible suitability for bats on site. Based on the evidence from the desk and field surveys and the nature and scale of the development, along with other supplementary information and guidance as outlined, no significant impacts on breeding birds are predicted from this domestic micro-turbine development.

**Environmental Health:** No objection, subject to conditions. A noise report from Sgurr Energy has been submitted in respect of the proposed turbine model. The Applicant has also provided information on the locations of nearby noise sensitive premises and other wind energy developments in the locality.

**Access Officer:** No objection. According to the records held by Scottish Borders Council (SBC) there is one right of way / core path within this area of land (Core Path 99 / Right of Way BB54). There are other rights of way and core paths in the local area from which the development will be clearly visible, including the Berwickshire Coastal path (Core Path 2), which is one of Scotland's Great Trails. Wind turbines should be set back at a reasonable distance from core paths, rights of way and other potential recreational routes. The Access Officer initially had concerns about the proximity of the turbines to the Right Of Way but has since confirmed his concerns have been addressed.

**Roads Planning:** No objection. As the components of these turbines are likely to be delivered by standard road legal vehicles, there will be minimal impact on the public road network.

**Archaeology Officer:** No objection, subject to an archaeological watching brief and metal detection. The development area is within the area suspected to be where in 1333 the Scottish Army arrayed themselves before the Battle of Halidon Hill, after which they marched to Halidon Hill. There is a potential within the development area for finding evidence relating to the battle. This may include items (personal objects, armour, weaponry) dropped before or after the battle, and a lower potential for encountering buried human remains in, for

instance, grave pits. The scale of development is such that there should be no impact on the setting of the battlefield on either the Scottish or English sides. Taller turbines may, however, have this effect. There is a risk for encountering buried archaeology, and it is recommended that the development area (including turbine bases and cabling) undergo archaeological watching brief and metal detection. This is in accordance with guidance on battlefield archaeology.

#### Other Consultees

**Ministry of Defence:** No objection.

**National Air Traffic Services (NATS):** No objection. The proposed development has been examined from a technical safeguarding aspect and does not conflict with our safeguarding criteria. Accordingly, NATS has no safeguarding objection to the proposal.

**Royal Society for Protection of Birds (RSPB):** No objection. Corn buntings are a species of conservation concern whose numbers have declined nationally by 90% between 1970 and 2014. This trend has been broadly ascribed to intensification of and changes in agricultural practices, notably in arable areas.

In south-east Scotland (Lothian and Borders), corn bunting underwent a steep decline in the 1970s and 1980s and by 1993 there were only some 10 singing males left in the region. The species became extinct in Lothian soon after this and for a number of years Lamberton held the only remaining corn buntings in south-east Scotland. There were never more than 2-3 pairs here and by 2013 only a single pair remained. There was a single male in 2014 and '15 but, to the best of my knowledge, none has been seen since.

Over the years, a targeted programme of conservation measures at Lamberton and adjoining land, including supplementary feeding and the provision of winter foraging crops, has failed to retain a population of corn buntings. There has been little or no change in agricultural practices or the general habitat of the site over this period to which the birds' disappearance could be ascribed.

The species is, therefore, functionally extinct in the Borders. Consequently, the presence of two small wind turbines at Lamberton, sited close to an existing farm building, are not of significant concern. We would, therefore, consider it unrealistic to invoke the historic presence of corn buntings as a reason to refuse this application. Furthermore, to refuse the application on anticipatory grounds, in case the birds returned, would also be inappropriate. If corn buntings are to recolonise the region, they are as likely to choose any arable site in Berwickshire, in particular those where agri-environment measures have been recently undertaken to improve the habitat for farmland birds, as they are to choose Lamberton.

**Fouliden, Mordington and Lamberton Community Council (first response):** The community council raised the following concerns:

The turbines will be seen clearly above the skyline both from local properties and from the A1. Their siting on top of a 153m (500ft) hill will greatly increase their visual intrusion. The turbines are positioned a considerable distance from the farm that they are intended to serve. Previously approved turbines in this area are at the rate of one per farm/dwelling and generally are shielded by trees or seen against rising ground which lessen their visual intrusion.

The planning application also does not contain any Environmental or Ecological assessment. Information supplied on noise is generic and not specifically related to this location. The area attracts at least 4 species of birds on the RSPB's Red Endangered list. There is serious

local concern about the effect of these turbines on these and other wildlife, especially as a number of other local farmers are receiving government grants to encourage birds and wildlife in the immediate area.

Noise and visual impact will effect the public footpath from Mordington to Lamberton which passes close to the proposed location.

There is increasing concern about the proliferation of wind turbines in the area. While the need for increased use of green energy generation is understood, poorly considered developments could set a precedent that will bring about the proliferation of turbines. At a local public meeting for our constituency there was almost unanimous opposition to the proliferation of wind turbines in this area.

**Foulton, Mordington and Lamberton Community Council (second response):** The previous observations are still relevant and should be read alongside the following further observations:

The applicant been permitted to amend a planning application whilst it is still in progress. The normal procedure is for the original application to be withdrawn and a new application to be made with any amendments included.

The revised location of the turbines means that their moving blades will still be seen clearly above the skyline from the A1 main road. These reduced height (11.8m) turbines are still proposed to be sited near the top of a 153m (500ft) hill which will increase their visual intrusion from all viewpoints to the west and south of the Lamberton ridge. Residents in this area will have as great a visual intrusion as before. In addition these turbines will be clearly seen from the minor road running from Mordington to Lamberton Moor which is part of the National Cycle Network and attracts tourist visitors both nationally and internationally.

We question the need for the quantity of turbines for the farm they are intended to serve. Other less intrusive forms of renewable energy generation such as solar panels should be considered.

The planning application also does not contain adequate Environmental or Ecological assessment. A proper landscape assessment that properly assesses the impact on this area of very high landscape value should be undertaken. The photomontages are inadequate and do not consider a wide enough range of viewpoints and also omit any wire frame assessments.

The revised lower turbine heights will put the rotating blades closer to the normal flight patterns of birds of concern.

A previous application for a wind turbine in this exact location in 2013 was refused planning permission based on most of the above issues. We contend that all of these issues are still very relevant.

#### **KEY PLANNING ISSUES:**

Whether the proposed wind turbines can be satisfactorily accommodated into their proposed surroundings, whilst protecting the historic and natural environment, and residential amenity.

## **ASSESSMENT OF APPLICATION:**

### *Principle*

Planning policy within the Scottish Borders is generally supportive of renewable energy developments where they can be accommodated without unacceptable adverse impacts or effects. This includes both large scale commercial wind farms, and smaller scale developments such as this proposal. Scottish Borders Local Development Plan policy ED9 (Renewable Energy Development) sets out the overarching policy context for all renewable energy proposals and lists the key impacts and considerations proposals which should be assessed. Key considerations include landscape and visual impacts, ecological impacts and impacts on communities and individual dwellings. These impacts are considered below.

### *Landscape*

Wind turbine proposals are often contentious. Visual and landscape impacts are a key factor in this. The Council's wind energy policies have sought to ensure that wind energy developments within the Scottish Borders are appropriate for their location. The most sensitive locations may have no capacity for wind energy developments, whilst other areas may have capacity for only smaller scale turbines. It should be noted that the proposed site is not within an area designated for its special landscape qualities or sensitivities such as a Special Landscape Area (SLA) or National Scenic Area (NSA). The area is nevertheless subject to its own local sensitivities. The Council has previously published guidance to supplement Local Development Plan policy EP9 (Renewable Energy) in identifying landscape capacity and constraints in all areas of the Scottish Borders for turbine developments of different scales.

For Berwickshire, specific guidance is set out within the Single and Groups of 2 or 3 Wind Turbines in Berwickshire Supplementary Planning Guidance document. This details the potential capacity of the landscape to accommodate turbines either as multiple single features or multiple small groups and identifies the scale of turbines which may be appropriate within the varying Landscape Character Types (LCTs) within Berwickshire, and where these could be located within them. The guidance for each LCT takes into consideration matters including the numbers and heights of existing approvals within the vicinity, resulting cumulative impact issues and the characteristics of each LCT. Whilst this guidance mainly relates to small (20m+ to blade tip) to large scale turbines (80m+ to blade tip) it is also relevant to smaller turbines such as this proposal for micro-scale turbines of 11.8m in height. For comparison, the average height of a typical two-storey dwellinghouse in this country is around 8m to roof pitch.

The proposed site is located within LCT 20. This covers a cone-shaped area from Mordington and Lamberton north across Lamberton Moor to Ayton Hill and beyond to Fairnieside Farm. The SPG characterises the landscape in this area as being within the coastal pasture typology. The higher ground of this landscape forms a skyline as seen from the A1 on the approach to Scotland when travelling north and is punctuated by smallholdings, farms and small woodlands. The guidance identifies the landscape as having a high sensitivity to large and medium scale turbines. There is therefore no scope for turbines of such height within the LCT, but there is generally capacity for smaller scale turbines. The guidance identifies key constraints as well as opportunities. Intrusion on the skyline as seen from the A1 between Berwick-upon-Tweed and Burnmouth should be avoided and the guidance suggests this can be achieved by siting turbines on lower hill slopes or on the flatter areas of moorland and rough pasture at the core of the landscape. It states that impact as seen from the Scotland-England border - including the associated visitor parking area - should be given specific consideration. This also reflects other guidance which identifies skylines as potentially sensitive, for example the SNH guidance



document Siting and Designing Wind Farms in the Landscape Guidance. As an objector has noted, the prominence of turbines from the border was a point of specific consideration in the refusal by Government Reporter of a previous scheme for large turbines at Horn Burn. The Reporter considered impacts on tourist routes into and out of Scotland added a further element of sensitivity to the perception of adverse landscape and visual impacts. Other receptors on this side of the ridge include the Berwickshire Coastal Path.

There is no specific guidance contained with the SPG relating to the Mordington side of the ridge, though the land immediately west of the agricultural building would be considered to sit within an area of rough pasture at the core of the landscape which the SPG identifies as having greater suitability. This landscape is not considered to have a complex smaller scale landform which the SPG identifies as retaining sensitivity. General guidance for micro-scale turbines would also apply.

The original proposals for the larger 17.8m high turbines adjacent to the agricultural buildings on the ridge north of Lamberton (Whale's Jaws) would have been visible on the skyline from a section of the A1 approaching the border and from the visitor parking area at the border. The turbines would have been a feature on the aforementioned ridge which otherwise has few vertical elements. The Landscape Officer objected to the original proposals on this basis but suggested that the applicant investigate an alternative site so that the turbines would not be seen on the skyline from the A1 corridor. It was noted at this time that the landscape could accommodate turbines of this size away from the more sensitive ridgeline location.

As detailed above, the proposals were subsequently amended to both reduce the size of the turbines from 17.8m to 11.8m and to move the turbines west of the existing agricultural buildings. Upon request, the applicant also submitted photomontage visualisations of the revised proposals. Additional 'wireline' visualisations would also have been useful, but it has been possible to assess the impact of the revised proposals without them in this instance. The level of information submitted is proportionate to the scale of the proposal.

The amended proposals would see the turbines reduced in height and relocated to the rear of the agricultural buildings when viewed from the east. The photomontage visualisations show that from the Scotland-England border the turbines are only visible from the nacelle and above. It is acknowledged that moving blades will be visible, but at such a distance the thin blades will have a limited impact. From Lamberton (Whale's Jaws) the photomontage visualisations show one turbine visible from the nacelle and above. The blade of the second turbines is also partially visible. From this viewpoint, the turbines will be seen as part of the group of agricultural buildings, which already break the skyline, minimising the impact further. The Landscape Officer considers the visual impact of the amended scheme to be minimal and the objection on landscape impact grounds has been removed.

It is accepted that the turbines have been moved closer to receptors on the Mordington side of the ridge. However, the turbines have been reduced significantly in height and receptors on this side of the ridge are located a greater distance from the site. The amended proposal sees the turbines nestle in front of the agricultural buildings rather than on either side. This should further reduce the visual impact of the turbines. The photomontage visualisation from Mordington is located some 1.4km from the proposed site and shows no visibility of the turbines.

Overall, the amended proposals are considered to have suitably minimised the impact of the turbines on the skyline and from the key receptor locations along the A1. The resulting visual impact of the amended proposal is considered to be minimal. Cumulative impacts, taking into account the other nearby small scale turbine development and large scale wind

energy developments further afield are similarly minimal. It is concluded that the proposals satisfy the Council's policies and guidance with respect to landscape capacity and impacts.

Whilst objectors are concerned that approving this application would set a precedent, it should be noted that each application is considered on its own merits taking into account cumulative impacts arising from earlier approvals.

### *Ecology*

Potential adverse impacts on ecological interests - most notably the potential local presence of endangered corn buntings - were a key concern for objectors to both the original and revised proposals. The Ecology Officer was consulted on the original proposals and requested a proportionate Preliminary Ecological Appraisal (PEA) be undertaken in order to identify the scope of potential ecological interests. There was no requirement for EIA, or to screen for EIA. The PEA has since been submitted and the Ecology Officer's consultation response to the revised proposals takes account of the results of this report.

Local Development Plan policies EP1 (International Nature Conservation Sites and Protected Species) and EP2 (National Nature Conservation Sites and Protected Species) aim to give designated sites and protected species protection from potentially adverse development. These policies are supplemented by the Council's Biodiversity SPG. The Ecology Officer is satisfied that the amended proposals should have no effect on the qualifying features and interests of designated sites which are located within the wider area. These sites are Burnmouth Coast SSSI, Berwickshire Coast (intertidal) SSSI, and the Berwickshire and North Northumberland Coast SAC, all of which are located over 1km from the proposed site. The proposals therefore achieve compliance with policies EP1 and EP2 with respect to designated sites.

Policies EP1 and EP2 also aim to safeguard protected species. The Ecology Officer is satisfied that no impacts on badgers, or bats can be predicted from this proposal. Objector concerns have focussed on potential impacts on local birdlife, with reference mainly to corn buntings, but also yellowhammers, curlew and skylarks. It is noted that one objector believes a corn bunting was identified at Lamberton on one occasion in 2016 but no additional evidence is available to support this. Both the Council's Ecology Officer and the RSPB have been consulted on the potential for impacts on these species. The RSPB advise that corn buntings are a species of conservation concern whose numbers have declined steeply since the 1970s, a result generally attributed to changes in farming practices. In south-east Scotland only one pair of corn buntings remained by 2013. This was at Lamberton. The RSPB advise that to their knowledge, none have been seen since 2014, despite a targeted programme of conservation measures. The RSPB consider the species to be functionally extinct in the Borders. The Ecology Officer consulted The Wildlife Information Centre (TWIC) and the Environmental Records and Information Centre North East (ERIC). 11 TWIC records for corn buntings exist for the period 1989 to 2012, with no records returned thereafter.

SNH advise that consideration of birdlife impacts of a proposed wind farm should be proportionate to the scale of the wind development, the level of bird interest in the area, and restricted to those species likely to be affected by wind farms. Micro-scale turbines are not generally considered to be a significant risk to birds and similarly farmland passerine species are not generally considered to be significantly impacted by wind farms, even large-scale developments. In the case of farmland passerines and wind turbines, SNH advise that information should be gathered on crop and grazing rotations near the site. This data has been provided and confirms that crops are not currently in rotation. It is understood that crops provide a more attractive habitat for corn buntings than grazing land. The applicant has offered to retain the field in permanent pasture for a minimum period of five years should

consent be granted. A return to crop rotation could attract corn bunting back to the site after the turbines are erected if the species is not in fact locally extinct. This offer of precautionary mitigation is welcomed by the Ecology Officer and Members may wish to decide whether the recommended condition is necessary if the development is considered acceptable.

This application must be assessed and determined against the evidence available. Based on an assessment of the information available, and the assessment of the development characteristics, the Ecology Officer is satisfied that no significant impacts on breeding birds can be predicted from this proposed development. The Ecology Officer is satisfied that given the lack of suitable habitat or specific records attributable to the proposed site, no impacts can be predicted on other species. As a result, the proposals accord with the Council's ecology policies EP1, EP2 and EP3 and the related Biodiversity SPG.

The precautionary principle is not relevant to this assessment as it only applies to designated sites. Scottish Rural Development Programme (SRDP) funding for habitat improvement is a matter for the funder and is not strictly relevant to this application which must be assessed against relevant planning policies.

### *Archaeology and Heritage*

Local Development Plan policy EP8 aims to give strong protection to various archaeological interests including buried archaeology, Scheduled Monuments and the setting of designated battlefields.

The Battle of Halidon Hill (1333) battlefield is designated south of the border by English Heritage and the proposed site sits where the Scottish army grouped before marching to battle. There are no designations north of the border. The Council's Archaeology Officer is satisfied that the proposed development will have no impact on the setting of the battlefield on either side of the border. There is however potential for encountering buried archaeology or human remains within the development area and a condition to require an archaeological watching brief and metal detection is recommended. Subject to compliance with this condition the proposals would accord with the aims of Local Development Plan policy EP8.

### *Residential amenity*

Members will be familiar with Local Development Plan Policy HD3 which aims to protect residential amenity. The nearest dwellinghouse is located at a distance of over 400m from the proposed site, on the Lamberton (Whale's Jaws) side of the proposed site. Dwellinghouses to the north and west are located at a distance of 750m or more from the proposed site. Dwellinghouses to the south of the site are located at a greater distance from the site. The policy is also relevant for this proposal which must be assessed for potential amenity impacts which could include noise and shadow flicker.

Potential noise impacts have been assessed by Environmental Health. The applicant submitted a noise report in respect of the proposed turbine model and information on the locations of nearby noise sensitive premises and other wind energy developments in the locality. Environmental Health have no objection to the proposals but have recommended planning conditions are added to any consent granted to control noise and tonal character of noise, and to ensure there is a complaints process should issues arise. This is not unusual and although no impacts are anticipated it is recommended that this condition is added should Members be minded to approve this application.

Objectors have raised concerns in relation to possible shadow flicker effects. Shadow flicker generally refers to the phenomenon whereby, under certain combinations of geography and timing, the sun passing behind rotating blades can cast a shadow over neighbouring

residential properties. This can create a shadow which appears to flick on and off, and is normally experienced within buildings. The small diameter of micro-wind turbines greatly reduces the probability of shadow flicker occurring and there is a general acceptance that shadow flicker is only experienced at distances of 10 rotor diameters or less. In this case the distance of 10 rotor diameters would be 56m. As the nearest dwellinghouse is located some 400m from the proposed site there would be no expectation for shadow flicker impacts to affect neighbouring properties.

#### *Other matters*

The site is located over 400m from the nearest public road at the Lamberton (Whale's Jaws) building group, and over 1km from the A1 trunk road to the east. The proposals have however been assessed by the Roads Officer. Given the distance of the turbines from the nearest road it is not considered that the installation would raise any Roads concerns. The short height of the turbines will ensure components of these turbines are likely to be delivered by standard road legal vehicles. The significant distance to the public road is well beyond that which would be liable to cause shadow flicker impacts for road users.

It is acknowledged that potential economic benefits will be relatively minor. Economic impact is not a key consideration in wind energy developments of this scale. There is no requirement for the turbines should be closer to the farm/ house to which they may relate and there is no need to insist on energy storage for a proposal of this scale.

Two simple planning conditions are recommended to ensure the turbines are decommissioned upon the end of their working life, or 25 years if no planning permission is granted for their retention. This should include the removal of concrete bases. Planning permission runs with the land and it will be the landowner's responsibility to address this when the time comes.

Concerns have been raised that amendments were made to the proposals during the application process but addressing adverse impacts through negotiation and revisions is one of the fundamental purposes of the planning application process. This is common practice and so should not be a concern. A more specific point has also been raised in relation to the change of the red line site boundary during the application process. This is a procedural matter within the discretion of the Council to consider in its role as planning authority. The original boundary had been very tightly drawn around the turbine locations, leaving no scope for revision. The request was considered in the context of regulations and government guidance which only require that an application only requires sufficient detail to identify the site, rather than specifically restrict its location, even though that is the convention. In this instance, in order to achieve the necessary revisions, and taking consideration of the benefits and disbenefits of doing so, it was concluded that this approach has not resulted in any breach of regulations. Objectors were duly advised of the revised proposals through renewed notification to ensure they were aware of the changes proposed and therefore no party has been disadvantaged by this approach.

The efficiency or suitability of wind turbines as a means of generating energy is considered in the formation of national and local planning policies. Recent changes in national renewable energy policies and targets, and concerns around potential oversupply have been considered at recent large scale wind farm inquiries. There is no suggestion at present that renewables applications should now be refused on such grounds.

The responsibility for health and safety impacts of the development lies with the landowner/ developer. Concerns relating to such potential impacts on the public footpath are noted, but the 11.8m turbines will be located over 80m from the public footpath. This should be a safe distance from the footpath.

The Ministry of Defence has been consulted and has no safeguarding objection to the proposed development. A condition is recommended to ensure the developer provides the MoD with information that has been requested relating to the location, height and construction of the turbines.

## **CONCLUSION**

The proposals have been amended to address key landscape concerns and suitable evidence has been provided to allow potential ecological impacts to be properly assessed. There are no residential amenity concerns. Subject to compliance with the schedule of conditions, the development will accord with the relevant provisions of the Local Development Plan 2016 including Policy ED9 (Renewable Energy) as well as the Landscape and Visual Guidance for Single and Groups of 2 or 3 Wind Turbines in Berwickshire SPG and there are no material considerations that would justify a departure from these provisions.

## **RECOMMENDATION BY CHIEF PLANNING OFFICER:**

I recommend the application is approved subject to the following conditions:

### Conditions:

1. Noise from the installation must not exceed 35dBA L90,10 min up to wind speeds of 10 metres per second measured at 10m height, when assessed in free field conditions outside any noise sensitive premises where the occupier of the property has no financial interest in the development and having Planning Consent at the time of determining this Application.  
Reason: To protect the amenity of other Occupiers.
2. There will be no tonal character to the noise from the installation, audible within any noise sensitive premises. Tonality shall be determined with reference to BS 7445.  
Reason: To protect the amenity of other Occupiers.
3. At the request of the Planning Authority, following a complaint to Scottish Borders Council relating to noise from the wind turbines, the wind turbine operator shall shut down the turbine/s not later than 24 hours after receipt of the request and at his own expense employ an independent consultant, approved by the Planning Authority, to assess the level of noise emissions from the wind turbines (inclusive of existing background noise). The background noise level shall also be measured without the wind turbine operating. The noise of the turbine alone can then be calculated by logarithmic subtraction. If requested by the Planning Authority the assessment of noise immissions shall include an investigation of amplitude modulation in a manner agreed with the Authority. Such mitigation as is required to overcome any identified nuisance shall thereafter be agreed with the Council and put in place before the turbine/s is/are brought back into operation.  
Reason: To protect the amenity of other Occupiers.
4. No development shall take place within the development site as outlined in red on the approved plan until the developer has secured a Written Scheme of Investigation (WSI) detailing a programme of archaeological works. The WSI shall be formulated and implemented by a contracted archaeological organisation working to the standards of the Chartered Institute for Archaeologists (CIfA). The WSI shall be submitted by the developer no later than 1 month prior to the start of development works and approved by the Planning Authority before the commencement of any development. Thereafter the developer shall ensure that the programme of

archaeological works is fully implemented and that all recording, recovery of archaeological resources within the development site, post-excavation assessment, reporting and dissemination of results are undertaken per the WSI.

Reason: The site is within an area where development may damage or destroy archaeological remains, and it is therefore desirable to afford a reasonable opportunity to record the history of the site.

5. The turbine(s) hereby consented and any ancillary equipment or structures associated with them (including any foundations) shall be removed from the site, and the site restored to its former condition, within 25 years of the date of this planning permission unless a further planning permission is achieved that allows for the retention of the turbine(s) on the site beyond this period.

Reason: In the interests of the amenity of the area so that the turbine(s) hereby consented will be removed to avoid any unnecessary environmental impact resulting from the retention of turbine on the site beyond 25 years.

6. When either or both of the wind turbines hereby consented cease(s) to be required for the purposes of electricity generation, the wind turbine(s) concerned, and any ancillary equipment or structures no longer required for the purposes of electricity generation, shall be dismantled and removed from the site, and the site, or that part of the site no longer in use for electricity generation, shall then be restored to its former condition within 12 months of the cessation of operation of the turbine(s) concerned.

Reason: In the interests of the amenity of the area so that in the event of the turbines reaching the end of their operational life, these will be removed within a reasonable period of time to avoid any unnecessary environmental impact resulting from the retention of non-operational turbines on the site.

7. Unless otherwise agreed in writing by the Planning Authority and in advance of installation, the wind turbines shall match in all respects the finished appearance (including finished colour) of the approved drawings hereby consented. Further, and unless otherwise agreed in writing by the Planning Authority, there shall be no symbols, signs, logos or other lettering displayed on any part of the turbines other than those required for health and safety reasons, and the rotors of both turbines shall only rotate in the same direction.

Reason: In the interests of ensuring that the finished and operational appearance of the wind turbines has landscape and visual impacts which are sympathetic to the amenity of the site and surrounding area.

8. No development shall commence until the Developer has first provided the Planning Authority with documentary evidence that the Ministry of Defence has received, and confirmed its acceptance of, appropriate notification of the following details:

- i) the date(s) of commencement of the construction of the turbine(s);
- ii) the date(s) of completion of the construction of the turbine(s);
- iii) the maximum height (including extension height) of the construction equipment to be used to erect the turbine(s); and
- iv) the latitude and longitude of the turbine(s) when completed.

Reason: To ensure that appropriate notification is given to the Ministry of Defence to address the latter's concern that accurate information about the delivery and location of the development hereby consented, should be supplied to allow the Defence Estates Safeguarding to update its records.

9. Fields 7 and 8 on the land ownership plan submitted by the applicant on 5 December 2017 shall be retained in permanent pasture for a minimum period of five years from the date of the first turbine hereby approved being erected.

Reason: to ensure the surrounding habitat does not attract corn buntings to the site once the turbines are in operation, in the interests of biodiversity.

#### DRAWING NUMBERS

Type	Reference number	Drawn Date	Received Date
Site Plan			20/12/17
Elevation			21/12/17
Brochure	Kingspan KW6		28/09/17

#### **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
Paul Duncan	Assistant Planning Officer

