

SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

2 FEBRUARY 2015

APPLICATION FOR PLANNING PERMISSION

ITEM:	REFERENCE NUMBER: 14/00738/FUL
OFFICER:	John Hiscox
WARD:	Tweeddale West
PROPOSAL:	Construction of wind farm consisting of 8 No turbines up to 100m high to tip with associated external transformers, tracking, new site entrance off A701, borrow pit, underground cabling, substation and compound and temporary construction compound
SITE:	Land South East of Halmyre Mains Farmhouse (Hag Law Wind Farm) Romanno Bridge Peeblesshire
APPLICANT:	Stevenson Hill Wind Energy Ltd
AGENT:	West Coast Energy Ltd

SITE DESCRIPTION:

The proposed site for Hag Law Wind Farm is situated on ridges of a range of hills south-east of the A701 near Romanno Bridge. These hills are known generally as the Cloich Hills, which lie between the Eddleston Water to the east, and Lyne Water to the west. The site extends westwards downhill from the turbine site to the A701, where access would be formed close to Halmyre Mains hamlet. The overall site area is described in the ES as being approximately 459 hectares. It goes on to state that development would occupy 6.6 hectares, which would equate to 1.4% of the total site area.

The 8 turbines would be sited in a generally linear manner along the three peaks of Green Knowe, Hag Law and Wether Law Hills; the turbine area would be accessed via a newly constructed access track that occupies the lower flanks of Wether Law (to the A701).

Landscape Character:

The development is situated entirely within the Upland Type, Plateau Outliers Landscape Character Type (LCT). The Cloich Hills are outlier hills to the Southern Uplands and Moorfoots, separated from greater upland masses by other LCTs having more of a valley character.

The 1998 Borders Landscape Character Assessment describes the LCA as follows:

- An upland plateau landscape characterised by hills and ridges covered by a mosaic of coarse grassland, heather and forestry, clearly separated from adjoining types by major river valleys

Its Key Characteristics are listed as:

- discrete hill masses separated from main plateau by major river valleys
- greater height difference between summits and valley floors
- mosaic of land cover types: heather moor, grassland and woodland plantation
- low density settlement, mainly confined to sheltered valleys

The following positive attributes of the LCA are further described:

- strong definition of topographic boundaries
- large amplitude of relief between valley floors and summits
- visual enclosure and backdrop features relatively common
- gradation of landscape scale between hill slopes and valleys
- visual harmony through integration of landform with diverse mosaic of land cover types
- valley routeways are of high archaeological significance

Under 'Negative Attributes' the following are mentioned:

- 'edge effects' from juxtaposition with adjoining major route corridors (A701, A703, A72) restrict qualities of isolation and tranquillity
- relatively high visual sensitivity due to major routes, together with network of minor routes on valley floors and lower hill sides
- occasional visually intrusive forest edges

Landscape Designations:

The site itself is not within any designated landscape areas. However, the following designations relate to the site:

- the Upper Tweeddale National Scenic Area is situated approximately 4km to the south of the nearest turbine
- the Tweedsmuir Uplands Special Landscape area is situated to the south of the site, the nearest turbine being approximately 3.7km distant
- the Tweed Valley Special Landscape Area is approximately 3.2km east of the nearest turbine
- the Pentland Hills Special Landscape Area is approximately 5.7km north-west of the site (nearest turbine)

The Portmore House Historic Garden/Designed Landscape is a little under 5km to the east of the nearest turbine.

PROPOSED DEVELOPMENT:

8 no. 100m high (to tip) turbines would be built along with associated tracks (approx 10.7km), crane pads, a borrow pit, transformer units at the base of each turbine, underground cabling within the site, a compound area and a substation. No control room building and no anemometry mast have been proposed. The turbines would be sited at the following heights above Ordnance Datum:

T1: 419m (NE of Wether Law summit)

T2: 455m (N of Wether Law summit)

T3: 463m (SW of Wether Law summit)

T4: 460m (between Wether Law and Hag Law summits)

T5: 456m (N of Hag Law summit)
T6: 445m (on Hag Law summit)
T7: 403m (on N of Green Knowe summit)
T8: 368m (on S of Green Knowe summit)

The proposed access track would run from the A701 SW of Halmyre Mains up through the SW slopes of Wether Law, reaching Turbine no. 1 first at the northern end of the turbine row, although the proposed construction compound and borrow pit are proposed just SW of, and below T1 and T2.

A Micrositing allowance of 50m for all development components is requested to enable minor changes to be made to layout in response to ground constraints encountered during construction.

A lifespan of 25 years is proposed for the wind farm, at the end of which it would be decommissioned and the land restored to an agreed condition, unless further consent to extend the wind farm's life or to re-develop it ('re-powering') is obtained.

Infrastructure relating to grid connection (overhead/underground cable connection to an appropriate electricity station) would be the subject of a separate application to Scottish Government via Section 37 of the Electricity Act of 1989.

Development Visibility:

The ZTV material submitted as part of the ES (see, for example, Figure 5.5a 'Theoretical Visibility – Turbine Sections') shows that the main areas of visibility are as follows:

Out to 2.5km, the development would be theoretically visible prominently from most of the area. Topography precludes visibility of the turbines from a small area around Halmyre next to the A701 (although from the A701 within this zone the turbines are likely to be visible most of the time), and further from an area close to the Lyne Water near Bordlands. To the east and south-east, notwithstanding the presence of mature forestry plantations, the development would not be visible from sizeable areas of Cloich Forest.

Out to 5km, visibility is concentrated to the west, north-west, north and north-east and appears to be achievable (either to ground level at worst or to hub level at best) from around 50% of this 2.5km-5km ring. This area includes the settlements of Mountain Cross, Romannobridge, a section of the A701 and connecting routes from the A701 to West Linton.

Out to 7.5km, a section of the A72 near Kirkurd has potential visibility, a long stretch of the A702 is affected, more of the A701 near Leadburn and a significant stretch of the A703 heading from Leadburn towards Peebles. This area includes the settlements of West Linton, Blyth Bridge and Eddleston. From the east of Eddleston visibility increases as the land ascends to the east. Within this ring, it would appear that theoretical visibility extends to about 60% coverage.

The trend continues out to 10km where visibility is likely from further stretches of the A702 near Dolphinton (SW) and Carllops (NW) and then into the south-eastern slopes of the Pentland Hills. A section of the A721 west of Kirkdean is affected, more of the A703 heading north to Penicuik has a high level of theoretical visibility and high ground near Peebles comes into the picture.

The ZTV shows that beyond the 10km zone significant swathes of visibility occur within the Pentland Hills, still further along the A701 to the north-west of Penicuik, south-east of Penicuik through to the Moorfoot Hills and then to the south and south-east on higher ground of the Southern Uplands.

The ZTV demonstrates that theoretical visibility out to 10km is relatively high – this is an indicator that good topographical containment is not afforded to the scheme, inevitably because the turbines are proposed to be sited on prominent hill ridges.

NEIGHBOURING SITES/SCHEMES RELEVANT TO CONSIDERATION OF CURRENT PROPOSAL:

Bowbeat: An operational wind farm approximately 9km to the east of the application site, within the Moorfoot Hills. The development was built in 2002, and consists of 24 turbines with a tip height of 80m. Its output is 31.2MW in total.

Mount Lothian: A current proposal in a major planning application to Midlothian Council, to which SBC has responded identifying its concerns about the landscape and visual impacts of the scheme. This scheme is currently at appeal with the DPEA. The site lies approximately 10km to the north-east of the Hag Law site. The development would consist of 9 turbines with a maximum tip height of 102m.

Spurlens Rig: A planning application for 6 turbines on this site near West Linton was refused in 2011. Tip height for each machine would have been 125m. This site is situated approximately 5km north-east of the Hag Law site. No appeal was made against this refusal.

Cloich Forest: The Cloich site is adjacent to Hag Law, just to the east and within the area of commercial forest known as Cloich Forest. 18 turbines with a tip height of 115m are proposed. Cloich is now to be the subject of a Public Inquiry, as a result of the objection submitted by SBC. The Inquiry sessions are scheduled for the end of May 2015.

There are other more peripheral schemes that may be of relevance to consideration of the Hag Law project. Those at **Glenkerie/Glenkerie Extension** and **Clyde/Clyde Extension** are examples of other significant projects with which Hag Law would have a sequential landscape and visual impact. Travellers using A-roads (e.g. A701) through Borders would potentially experience these schemes in sequence. However, the cumulative effects of Hag Law with these schemes may be of less significance than the effects that Hag Law would have by itself. This is because Hag Law would introduce large commercial turbines into an area where presently there are none.

PLANNING HISTORY:

12/01434/FUL - Erection of 10m high meteorological mast (retrospective) – approved 25.1.13 for a temporary period of 3 years.

13/00882/PAN – this is the Proposal of Application Notice that preceded the current application. Initially, the PAN related to a higher number of turbines on the site. However, this does not preclude changes to be made from PAN to application, as long as those changes do not present a fundamentally different type/level of development.

It should be noted that when the proposal was at Scoping stage, up to 25 turbines were proposed. At that time, the development was heading towards a Section 36

submission to Scottish Government as the output would have exceeded 50MW. The developer has opted to reduce the scheme in response to issues it has raised itself and in response to advice from consultees.

REPRESENTATION SUMMARY:

A total of 125 letters of objection and 1 letter of support have been received in respect of the application up to the date of writing this section of the report (19.12.14). The 125 letters of objection represent 100 households or third party groups. 18 households/parties have submitted more than one objection by different persons, whereas in the case of 3 persons, multiple objections have been submitted.

A summary of the matters of relevance raised in the letters of objection would be as follows:

- development fails to meet requirements of Scottish Planning Policy June 2014 – list of paragraphs and explanation provided
- adverse impacts on adjacent (designated) landscapes such as Pentland Hills/Tweed Valley/Tweedsmuir Uplands Special Landscape Areas (x3) and Upper Tweed National Scenic Area, due to high level of intervisibility
- development would add to adverse effects relating to Pentland Hills Regional Park – cumulative impact on views from the Park
- potential for shadow flicker to adversely affect residential amenity of properties in Halmyre due to elevation of site above them and proximity of turbines to homes - ES not giving issue adequate coverage
- potential for shadow flicker to adversely affect health of occupiers of nearby dwelling(s)
- shadow flicker also potential issue for Newlands School and Newlands Centre (with playgroup)
- turbines/development would have adverse impacts on landscape character and are not suited to this landscape area (including impacts caused by access tracks, borrow pit and hedgerow removal) – turbines on distinctive skyline and prominent on attractive hills – turbines rotating
- adverse landscape and visual impacts relating to the Meldon Hills and Glentress Forest
- SBC decision to object to Cloich should mean that Hag Law is also rejected, due to landscape and visual impacts
- together with Cloich, this proposal would amount to a saturation of wind farms in an inappropriate location
- concern that landscape and visual assessment does not adequately portray the likely landscape and visual effects of development
- concern that visual screening afforded by existing forestry could at any time be removed due to felling (harvesting)
- turbines are too close to residences/settlements, therefore would cause adverse visual impacts (including cumulative impacts with Cloich) on residential amenity – Romannobridge, Mountain Cross and West Linton cited
- relationship of turbines with Fingland Cottage, used for adults with mixed 'different abilities', would cause future visits by this group to cease
- potential adverse sequential impacts due to possibility that Mount Lothian and Cloich wind farms will also be present – A701 Scenic Route to Scotland impacted
- comparison to Bowbeat Wind Farm shows Bowbeat to be suited to its environs, whereas Hag Law is not due to ridge location

- adverse visual impacts also experienced from A702 and A703 – skyline development and out of scale with surrounding rounded hills
- potential adverse coincident cumulative landscape and visual impacts due to number of wind farm developments within 30km
- turbines at 100m tip height would be out of scale with underlying hills at 250m (turbines too large for receiving hills/landscape)
- potential for adverse landscape and visual impacts to harm tourism economy by being a deterrent to visitors – area described as ‘Gateway to the Borders’
- likely to be greater impacts on recreational resource including the public path network due to usage by walkers/riders and visitation within the site (Wether Law summit cited) than portrayed in the ES
- area acts as significant recreational resource in relation to broader area including Edinburgh – development has potential to harm this resource
- adverse impact on the recently designated Scottish National Trail (Cross Borders Drove Road), which lies in close proximity to the development – turbines too close to path
- potential for development to harm birds and wildlife habitat – impact of blade-strike on raptors mentioned and potential for development to affect bats and bees
- adverse visual impacts on the setting of historic asset – terracing at Noblehall
- harm to setting of Category A listed building – Spitalhaugh House – principal views from front elevation to turbines at 3.5km distance on ridge
- visual impact on setting of Portmore House – Category A Listed Building within Historic Garden/Designed Landscape
- adverse impacts of development on Historic Landscape
- unacceptable impact on the cultural significance of the area, notably the rich variety of ancient monuments, designed landscapes and historical buildings
- potential adverse impact on archaeology (subterranean archaeological resource)
- inappropriate industrialisation of rural environs
- potential adverse impact on residential amenity caused by generation of noise and vibration (although material presented within the ES not conclusive i.e. no noise impact surveys relating to properties within Halmyre Mains and other potentially suitable locations)
- statutory noise levels would be exceeded at 2 no. dwellings – Upper Stewarton and another unspecified dwelling
- data to enable proper assessment of wind impacts has not been provided and developer is not willing to publish as material is commercially sensitive
- concern that appraisal of wind resource has not been properly carried out, therefore the actual output from the wind farm is not assured
- potential for ground level works including earthworks, excavation and displacement to harm balance of water environment – potential risk of flooding caused by implementation of development (in relation to properties downhill from the site)
- concern relating to level of investigation discussed in ES covering ground water and surface water
- significant disturbance of peat and the water table
- potential for disturbance of water environment to harm private water supplies of residents in Halmyre

- proposed site boundary too close to Halmyre Mains Cottages
- concern that ES does not adequately assess potential environmental effects relating to Halmyre Mains
- concern that access would be located in unsuitable (dangerous) location on A701
- transportation of development would lead to adverse impacts on residential amenity – noise, vibration dust and delays
- ES not accurate in terms of swept path analysis – A701 not suitable for abnormal loads traffic – narrow, twisty and undulating in places
- transportation of abnormal loads on stretch of narrow road has potential to harm trees on opposite side of A701 (at Halmyre Mains)
- proposed route unclear – more than one route shown in ES
- location and heights of turbines not in accord with SBC Local Development Plan
- siting of turbines on crest of hills means that they would be highly visible over long distances
- rural Scotland becoming saturated with wind farms – remaining spaces should be preserved/protected
- unlikely that economic benefits including job creation would be substantial
- likely productivity of site in terms of energy production in relation to wind resource has not been adequately researched
- a windfarm of this size will not generate sufficient renewable energy to balance the cost of a damaged landscape
- Scottish Government targets for renewable energy generation will be met by already operational, consented and other applications awaiting determination, therefore no need for this wind farm scheme to be consented
- information relating to energy targets inaccurate/misleading
- likelihood that site would be re-developed rather than decommissioned towards the end of its intended lifespan
- development would set precedent for other wind farms and extensions in the locality
- alternative of offshore wind farms preferable as there is a great deal of space offshore
- developer's own ES confirms high level of adverse effects, but these have been underestimated
- concern relating to potential flashing red lighting as required by MoD
- potential electromagnetic interference harming residential amenity in West Linton and Romannobridge

A summary of the matters of relevance raised in the letter of support would be as follows:

- development would promote revenue for the surrounding area
- majority of people find wind turbines attractive – local opinion should not obscure this

Members are asked also to note that matters of 'grants' to the community, otherwise known as community funding, are not considered as part of the planning process and are not material planning considerations.

APPLICANTS' SUPPORTING INFORMATION:

The application is supported by a full Environmental Statement, which comprises the following components (all dated June 2014):

'Planning Documents' – this item contains an introduction to the scheme, describes site selection and the project itself, includes a needs and benefits section and a planning appraisal.

'Non-Technical Summary' – an executive summary/overview of the project.

'Pre-Application Consultation Report' – giving coverage to pre-application activity within local communities affected by the development.

'Design and Access Statement' – document discusses design evolution leading to current layout and gives an overview of access concerns.

Volume 1 'Written Text' – the main written, explanatory section of the ES giving detailed coverage to a range of environmental issues as well as setting the scene for the proposal (including a policy appraisal).

Volume 2 'Appendices' Part A and Part B, containing a range of statistical and graphical material to correspond with the remainder of the ES.

Volume 3 'Graphics and Figures', this being a document with most of the relevant maps, montages and wireline drawings forming part of the ES.

In December 2014, Supplementary Environmental Information was formally submitted in relation to matters raised in the objection by SEPA. The material covers primarily flood risk and matters pertaining to peat.

CONSULTATION RESPONSES:

Scottish Borders Council Consultees:

Archaeology Officer:

Recommends that the application be refused, because the development would unacceptably harm the settings of 4 scheduled monuments of national importance and a historic landscape of at least regional importance, and because the benefits of the scheme do not outweigh the value of these assets.

A detailed analysis of the potential effects confirms the impacts on the four following monuments to be overridingly harmful:

- Wether Law Cairn
- Romanno Mains Barrows
- Drum Maw Settlement
- Whiteside Hill Fort

These monuments are situated within, and contribute to the historic landscape "comprised of evidence for human activity from the Neolithic to the present, with an exceptional number of prehistoric settlements and features surviving and perceptible."

Advice relating to conditions that could help to mitigate in respect of direct impacts (i.e. to the unknown, subterranean archaeological resource) is provided, and which should be applied if permission is granted.

However, confirms that mitigation by removal of turbines would not be achievable and that the principle of introducing large-scale turbines here is an overriding issue due to the sensitivity of the location. Further, the introduction of access tracks in relation to Wether Law Cairn would be visually overly intrusive into the monument's setting.

Cumulative visual impacts with Cloich are also given coverage, but in its own right the Hag Law scheme promotes overriding concerns.

Roads Planning Manager:

No objection to the development as it does not promote any overriding, unacceptable road safety issues.

Conditions are recommended that would address matters of traffic management and construction of the access onto the A701.

Ecology Officer:

No objection to the proposal, as it is unlikely to cause a significant adverse impact on the ecological interest providing mitigation is implemented as identified in the ES and adopting recommendations for changes to the scheme and/or conditions.

In alignment with the SNH response, it is suggested that infrastructure components could be relocated onto ground where effects are less likely to impact on the River Tweed Special Area of Conservation.

Recommendations include: relocation of Turbine 2 so that impacts on bog habitat are reduced; mitigation measures for minimising habitat impacts (e.g. floating tracks); compensation for habitat loss through Habitat Management Plan; effects on the water environment controlled via Construction Method Statement and Drainage Management Plan; ensuring that habitat for bats, otter, badger, reptiles and protected birds are conserved.

A range of conditions is proposed.

The updated response on 16.1.5 indicates that although the FEI material overcomes SEPA's objection, there are other impacts on habitat that have not been addressed. In particular, it is proposed that the development at T5, T6 and T7 including tracks requires further attention in terms of mitigation.

Outdoor Access Officer:

Recommends that the application be refused. This recommendation is based upon the proximity of the development (turbines) to the Cross Borders Drove Road, which is adopted as part of the Scottish National Trail from Kirk Yetholm to Cape Wrath.

Conditions are recommended for use if permission is granted. These relate to:

- avoidance of obstruction of Cross Borders Drove Road

- requirement to advise about diversion of other path routes and changes to path infrastructure
- requirement to ensure adequate set-back distances of turbines from rights of way

In addition, it is requested that reasonable developer contributions are made towards maintenance/promotion of the path network.

Environmental Health Officer:

Advises that further information would be required prior to determination, as to date there are a number of areas where clarification (or correction of information) is required. Further information contained within the response would potentially give rise to planning conditions or informative notes, if planning permission is granted.

No change to their position in response to the FEI material received in December 2014.

Flood Risk Officer:

No objection. Request is made for detailed drainage design/pollution mitigation to be submitted.

The Flood Risk Officer provided an updated consultation response on 16.1.15. The response confirms that the applicant has provided information that gives comfort on relation to the following matters:

- confirmation of greenfield run-off rates
- satisfactory design of water crossing on Fingland Burn
- measures for sediment management agreeable
- content/provision of Construction Environmental Management Plan

Landscape Architect:

Does not support the application. Development considered primarily in relation to Local Plan Policy D4.

The principal concerns relate to:

- although the site itself is not within any landscape designations, a range of designations exist within 3.2 – 5.6km such as National Scenic Area and Special Landscape Area. Despite absence of designation on the site itself, Criterion 1 of the Policy is not fully satisfied
- relationship of site with surrounding landscape designations and landscape types makes the proposal not fully compatible with Criterion 2 of the Policy, which relates to locating wind farms in large scale upland landscapes
- overall lack of good topographical containment and high level of visibility from a range of areas make the proposal not compliant with Criterion 3
- the high level of visibility and nature of the proposal (ridgetop) in relation to high sensitivity receptors (including main road routes and settlements) render the proposal at odds with Criterion 4 of the Policy

- due to the effects on landscape character in particular when viewed from West Linton and environs, the proposal does not conform with Criterion 5(i) of the Policy
- proposal conflicts with Criterion 5(iii) of the Policy due to the adverse landscape impacts of Hag Law when appraised cumulatively with the Cloich Wind Farm proposal, in both a coincident and sequential sense
- concerns relating to potential landscape and visual implications of the access proposal where it ascends from the A701 in full view of the road (mitigation required)

Conclusion to this response reads:

“A variety of significant adverse impacts have been identified in the applicant’s ES. Section 5.13.9 states that adverse impacts are ‘reversible’ and 5.13.10 states that adverse impacts are ‘largely limited to the areas closest to the site’. However, the same can be said of any windfarm. 5.13.10 goes on to conclude that the impacts: “can be considered proportionate to the development of this commercial scale windfarm”.

The judgement for planning approval is compliance with policy, in particular, Policy D4. This application starts with a severe disadvantage because it is located within a small outlier of ‘large scale’ upland landscape surrounded by smaller scale river valley and upland fringe landscapes which contain a much greater number of sensitive receptors including residential properties, paths and 3 A class roads. There are designated landscapes on all sides. There is inadequate surrounding landform to provide effective topographical containment and so we find the application site sitting on top of a skyline ridge overlooking the Midland plain (LCT 8WL) and dominating views from that direction where the Cloich Hills form the south eastern skyline. There are also potential cumulative impacts with the neighbouring application at Cloich and sequential cumulative impacts caused by the extension of ‘windfarm affected landscape’ across the 3 A class roads where travellers are likely to encounter other windfarms on their onward journey. I cannot agree with the conclusion that the landscape and visual impacts are proportionate and I do not consider that the application satisfies policy D4.”

No change to this position in response to the FEI material received in December 2014.

Statutory Consultees

Scottish Environmental Protection Agency (SEPA):

Originally objected to the application, on the grounds of a lack of information relating to impacts to peatland. It offered to review its position if the developer addressed a range of issues and also recommended conditions for use if planning permission is ultimately granted.

Recommended re-siting (potentially via Micrositing) of Turbine 2 and the access track to Turbine 3, which are presently on bog habitat. If this was not possible, asked for justification of the proposal in its current form.

Relocation of the construction compound onto less sensitive habitat was recommended.

SEPA **withdrew** its formal objection to the proposal following the submission of information directly from the developer to SEPA in November 2014.

However, SEPA advised that conditions recommended in its original response should still be attached to any consent and that more broadly all comments (apart from Section 1) apply. This would still potentially lead to conditions being imposed that affect the layout of the scheme.

Scottish Natural Heritage (SNH):

Does not object to the proposal. However, a range of issues, which SNH points out are interrelated, are discussed which are potentially very significant to consideration of the application. In summary, these are:

- adverse impacts on landscape character and distinctiveness due to prominent siting of turbines
- adverse landscape and visual impacts relating to key transport routes (including key tourist routes) and settlements
- adverse landscape and visual impacts relating to Upper Tweed National Scenic Area
- extensive cumulative landscape and visual effects, in particular with Cloich Wind Farm – conflicting appearance of two schemes, should both be consented
- potential inappropriateness of establishing a wind farm development area where presently the locality is relatively wind farm-free
- proposal not likely to promote harmful impacts on Special Areas of Conservation or Special Protection Areas, as long as appropriate mitigation is implemented – ‘appropriate assessments’ not required
- although it has not been proposed in the ES, a Habitat Management Plan would be required
- borrow pit, construction compound and substation proposed on steeply sloping ground – relocation should be considered due to potential landscape and visual impacts and impacts to the River Tweed SAC
- construction of tracks would have potential to cause permanent change to land profiles – careful management/mitigation required

A detailed Appendix describing/expanding upon landscape and visual impacts and their significance is included with the planning consultation response.

On 30.12.14 SNH confirmed that it had no comment to make on the Addendum material received in December, as it does not relate to SNH concerns.

Ministry of Defence:

Originally objected to the application, on the grounds that development would interfere with Eskdalemuir Seismological Recording Station (turbine noise/vibration). However, the objection was **withdrawn** in October, following update of position relating to Eskdalemuir limitations.

Advises on requirement for conditions covering notification of final proposals to MoD and installation of directional lighting.

Historic Scotland:

Objects to the proposal on the following grounds:

- adverse impacts of turbines and access tracks on setting of a nationally important scheduled monument known as Wether Law Cairn

Notes concerns relating to other heritage assets (monuments, Inventory gardens/designed landscapes, Category A listed buildings) but none overriding in the manner of Wether Law Cairn. Gives detailed appraisal of effects on the Cairn.

Indicates that objection could potentially be removed with mitigation in respect of T2 and T3 and section of access track affecting setting of Cairn.

Advises that Micrositing of T1 would mitigate to some extent by moving this turbine out of direct sight between Wether Law cairn and Arthur's Seat.

Maintains original position in response to the FEI material received in December 2014.

Manor, Stobo and Lyne Community Council:

Objects to the application on the following grounds:

- adverse landscape and visual impacts relating to the Upper Tweed National Scenic Area – Policy N10 requires development to offer benefits of national significance to outweigh effects on NSA (SBC note – Policy N10 is a Structure Plan Policy and therefore is now obsolete)
- potential energy output from the development less than 0.1% of Scottish Government targets – not significant nationally (wind capacity for Scotland already at 98%)
- wind data not provided – essential to enable understanding of benefits development has potential to bring
- noise assessment incorporates serious errors and therefore is of no value to consideration of the application – does not take account of all relevant matters
- ES is of very poor quality, inhibiting appraisal of the proposal
- landscape and visual impacts relating to Newlands and neighbouring localities
- potential for residents in settlements on A701 to experience high levels of noise from turbines – noise arising does not comply with recommendations in ETSU-R-97

A detailed Appendix setting out this CC's reasons for objection is submitted as part of the objection. It discusses in detail matters of:

- landscape and visual impacts
- noise
- socio-economic benefits
- lawfulness/competence of the application (relating to noise/data)

This Community Council submitted a further response in January 2015, following re-consultation on the FEI material. The submission discusses principally flood risk, and the opinion that the ES/FEI does not give adequate coverage to the issue of flooding.

It is suggested that there is not adequate information upon which an accurate view can be taken.

The updated consultation reply was specifically drawn to the developers' attention on 12.1.15. The developer indicated, by return, that they had no further comment to make.

Peebles and District Community Council:

Objects to the application on the following grounds:

- visual impact in an area of outstanding natural beauty
- landscape impact in an environmentally sensitive area, where its economy is so dependent on the high standing of its environment and landscape
- relationship of development with adjacent 18-turbine scheme at Cloich Forest; would rather have no wind farms at Cloich/Hag Law but has preference to support Cloich out of the 2 proposals – view based on timing of submission, ownership of Cloich (in public ownership) and:
- view based on need for two sets of infrastructure to serve two separate developments – over-development of the sites

Carlops Community Council:

Whilst not stating an objection, listed a number of concerns, relating to the following issues:

- cumulative impact of the development with the adjacent Cloich development
- combined impact of both schemes would have very significant impact on landscape character – visibility from/relationship with Tourism traffic route and Pentland Hills cited
- area around site has rich archaeology which is not properly mapped – detailed archaeological survey required prior to construction

Eddleston Community Council:

Objects to the application on the following grounds:

- unacceptable visual impact in an area of scenic beauty;
- unacceptable impact on the natural environment, including water supplies and water courses;
- unacceptable impact on the built environment and amenity;
- unacceptable impact on wildlife;
- unacceptable impact on local infrastructure and roads.

Lamancha, Newlands and Kirkurd Community Council:

Objects to the proposal on the following grounds:

- adverse landscape and visual impacts on the surrounding area
- harm to ground environment (peat, soil, hydrology)
- development too close to residential housing and farmland

- adverse impact on amenity of area causing detriment to tourism value/attractiveness as destination
- noise levels unacceptable – harm to residential amenity
- access proposals likely to harm road safety
- potential for shadow/sun flicker to increase danger to road users
- access proposals give rise to adverse landscape impacts
- potential increase in run-off floodwater due to development, including access
- adverse impacts on heritage assets
- no clear indication of potential connection into electricity grid
- development has potential to create precedent for later phases to be added – concerns that this phase not economically viable

The updated response of 14 January 2015 reaffirms the reasons for objection originally cited, but adds the following:

- reiterates concern relating to flood risk, and absence of adequate detail/mitigation
- wind data should be provided (data currently not provided as applicants withhold it due to commercial sensitivity)
- inadequate Environmental Impact Assessment
- inadequate community involvement

West Linton Community Council:

Does not support the proposal for the following reasons:

- Scottish Borders has an over sufficiency of turbines – care should be taken on where to site new developments
- absence of full suite of wind data – needs to be provided before any decisions made
- concern that mode/route for grid connection is not known/stated
- potential for noise nuisance relating to residential properties, from turbines
- problems arising from increase in heavy traffic on road network
- lack of certainty relating to swept path of abnormal load vehicles, in relation to garden/road/bridge boundaries
- concern relating to potentially invasive nature of new road infrastructure
- lack of information/clarity relating to impact of works on flooding (run-off)

RSPB:

No objection to the proposal, but makes comments relating to birds and habitat that should be further considered by the planning authority.

Transport Scotland:

No objection, but recommends conditions relating to transportation/management of abnormal loads and nature of proposed signage/traffic control.

Edinburgh Airport:

No objection.

Midlothian Council:

Whilst formally objecting to the proposal, submits a range of observations/concerns, as follows:

Landscape and Visual Impact:

- The proposal sets a risk of precedent for large turbines in this location and increases potential for cumulative impact of turbines, as seen from the north in Midlothian, along the whole length of the northern edges of the Moorfoot and Lammermuir Hill ranges. To date the area of this proposal is devoid of large turbines and this Council considers this position should remain to help reduce potential for cumulative impact associated with turbines in the northern parts of the Moorfoot and Lammermuir Hills.
- concerned at the risk of considerable adverse visual impact from the proposed turbines on Gladhouse Reservoir SPA; from the Midlothian visitor routes of the road from Gladhouse Reservoir to the A703 (including views to the Pentland Hills) and from the A703 approaching Midlothian from the south; as well as on a number of communities in southern and south western Midlothian.

Scotways (Scottish Rights of Way and Access Society):

Objects to the development, due to the potential adverse impacts on the Cross Borders Drove Road, which forms part of the Scottish National Trail.

Joint Radio Council:

No objection.

NERL:

No safeguarding objection in relation to management of en route air traffic.

Scottish Badgers:

Does not identify any overriding planning issues relating to badgers.

The Coal Authority:

No objection.

Other responses:

No consultation responses have been received from the Scottish Wildlife Trust, Peebles Civic Society, Scottish Water or the Association for the Protection of Rural Scotland.

DEVELOPMENT PLAN POLICIES:

SES Plan Strategic Development Plan 2013:

Policy 10 – Sustainable Energy Technologies

Consolidated Scottish Borders Local Plan 2011:

Policy G1 – Quality Standards for New Development
Policy G4 – Flooding
Policy G5 – Developer Contributions
Policy BE1 – Listed Buildings
Policy BE2 – Archaeological Sites and Ancient Monuments
Policy BE3 – Gardens and Designed Landscapes
Policy BE4 – Conservation Areas
Policy NE3 – Local Biodiversity
Policy NE4 – Trees, Woodlands and Hedgerows
Policy NE5 – Development Affecting the Water Environment
Policy EP1 – National Scenic Areas
Policy H2 – Protection of Residential Amenity
Policy Inf2 – Protection of Access Routes
Policy Inf6 – Sustainable Drainage
Policy D4 – Renewable Energy Development

Emerging Scottish Borders Local Development Plan:

Members are advised that the LDP should not be material to the consideration of the proposal. Until the LDP has been the subject of an Inquiry by Scottish Ministers and the result of the Inquiry is published, its status will not change. The primary local policy document relevant to the application remains the adopted 2011 Local Plan.

OTHER PLANNING CONSIDERATIONS:

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

- Renewable Energy (2007)
- Wind Energy (2011)
- Biodiversity (2005)
- Local Landscape Designations (2012)

Scottish Government Policy and Guidance:

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

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

Historic Scotland Publications:

Scottish Historic Environment Policy (2011)

SNH Publications:

Siting and designing windfarms in the landscape (2014)
Assessing the cumulative impact of onshore wind energy developments
Plus a range of on-line advice on renewables provided by SNH

KEY PLANNING ISSUES:

- 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
- impacts on peat and groundwater resource
- impact on road safety and the road network
- shadow flicker
- developer contributions

ASSESSMENT OF APPLICATION:

Land Use Planning Policy Principle:

National, regional and local planning policy positively supports the principle of delivering renewable energy via implementation of on-shore wind farms. Unless there are overriding environmental effects, consent should be given for well located and designed wind farms, in particular if mitigation measures are in place to address environmental effects.

Consideration must be given to the suitability of a site in perpetuity rather than temporarily; the new SPP published in 2014 confirms this. This acknowledges the potential to re-power sites as they reach the end of their intended operational life.

This site is on upland farmland/moorland, is not within a National Scenic Area and has no other designations that would prevent the principle being considered. It is not designated as a Special Landscape Area within the SBC Supplementary Guidance (Local Landscape Designations).

In terms of the SBC Wind Energy SPG Spatial Strategy adopted in 2010, the turbines would be situated where an Area of Minor Constraint (yellow) meets Areas of Moderate Constraint (Lower and Higher – light and dark blue respectively). The A701 has blanket coverage as an Area of Significant Protection (red), which extends either side of the road to protect its visual environs.

Economic Benefits:

The renewable energy industry is important nationally, leads to employment and investment during construction and during the lifespan of the development.

It is likely that the level of employment activity in particular during implementation would be significant. This would have the potential to promote use of local facilities and services including accommodation, shopping and recreation. Following

implementation of development, it would be likely that a relatively low level of employment would occur on a day-to-day basis; whereas at decommissioning stage there would again be a high level of activity.

Whether the implementation of wind farms promotes disbenefits to local economies (or, indeed national economies) in terms of potential to harm tourism and visitation is a matter still under scrutiny. The Scottish Borders is visited because of its attractiveness and for the recreational opportunities it offers. Whether the implementation of wind farms is harming, or has harmed Borders' tourism economy is not qualified. It would be true to state, however, that their implementation divides opinion – the presence of wind farms causes some to be deterred, some to be ambivalent and some to respond positively. At the present time, no published information describing potential tourism effects is material to the consideration of an application of this type.

It may therefore be concluded that in terms of economic benefits, there would be some mentionable gain, but not so significant as to be a major determining factor.

Benefits arising in terms of renewable energy provision:

The proposed wind farm would provide an output of up to 20MW, on the basis that each turbine would have the potential to generate 2.5MW.

This proposed additional generating capacity might be described as a modest contribution to national targets. In a recent decision by the DPEA Reporter on the appeal at Barrel Law, near Robertson in Borders (a comparable scheme – 8 turbines generating up to 24MW – ref. PPA-140-2046), the significance of such contributions raised interesting dialogue. Paragraphs 37 and 38 ('Benefits of the Proposal') of the decision follow:

“37. Barrel Law would have an installed capacity of up to 24 megawatts. The Scottish Government target for renewable electricity generation is for renewables to generate the equivalent of 100 per cent of gross annual consumption by 2020, with an interim target of 50 per cent by 2015. The latest statistics published in June 2014 indicate that in 2013, around 46.6 per cent of Scotland's electricity needs came from renewables. The 100 per cent target roughly equates to 16 gigawatts of installed capacity (all technologies, onshore and marine), of which the Barrel Law turbines could contribute 0.15%. This would be a small but useful contribution.

38. However, the recent statistics indicate that 6.8 gigawatts of capacity was operational in March 2014, with a further 6.5 gigawatts under construction or consented, giving a total of 13.3 gigawatts and leaving only an additional 2.7 gigawatts required by 2020 to meet the target. Against that, proposals for 7.2 gigawatts were in planning, more than two and a half times the amount needed to close the gap. I accept that some of these proposals will be at an early stage and might not be capable of completion by 2020, and that some will fail to win approval. However, others have been approved since March. I also accept that the target is not a cap, and that any additional capacity will help to reduce the UK's carbon emissions. However, the rate of progress and the availability of alternatives suggest that the weight that should be given to Barrel Law's contribution is not as great as it would have been with a larger shortfall against the target, or a lack of other schemes.”

Although the appeal decision primarily reflects one Reporter's opinion, it brings into question the significance of the contributions that would be made by small wind farm

proposals such as Hag Law, in particular as this contribution must be weighed against the significant environmental effects arising.

Landscape and visual impacts

The ES is supported by a range of graphical material supposed to portray the potential landscape and visual impacts of the development from a range of areas and/or receptors, represented by photomontage information taken from 35 viewpoints, in total.

Consideration should be given to the following observations, which relate to viewpoints which identify significant matters:

Viewpoint 1 – Cross Borders Drove Road:

This viewpoint is situated a little over 300m from the nearest turbines, and is situated close to the southern end of the row of turbines.

The way the montages have been put together is not as helpful as it might have been, because each montage merely shows Hag Law hill in isolation from the viewpoint itself – it is a long, narrow, horizontal montage section not giving full context by excluding what is at viewer level.

However, what the montages do not fail to show is how the two southernmost turbines in particular would dominate Hag Law, sitting on top of its ridge. The effect of placing turbines on a ridgetop above the receptor at close quarters is to exacerbate the apparent effect and cause the apparent scale of turbines to appear greater.

The Cross Borders Drove Road forms part of the Scottish National Trail and is an important receptor in terms of its potential to be used as a regional and national long-distance walking route. Placement of the turbines would give rise to a very high level of visual impact for a section of the Trail – the montage represents the type of view users would obtain, although it does not enable an understanding of what the user's overall experience would be.

However, it confirms that for this receptor, potentially over several kilometres, the amenity of its users would be changed substantially by bringing the turbines into the close field of vision of walkers at the lower level. Given the attractiveness of the hills and the section of the Drove Road, this substantial change would be adverse, especially where the nearest turbine is so close at a little over 300m.

VP2 - A701, West edge of Romannobridge:

This viewpoint is approximately 3km from the turbine group showing on the ridgeline between two small hills. It shows how 6 of the 8 turbines proposed would appear as a line on the ridge very clearly from the A701, and in relation to Romannobridge settlement. The montage does not enable the full impression of the turbines to be understood, as from this stretch of road they would be the dominant, moving new component of what is currently a gentle scene of pastoral landscape with intervening tracts of woodland.

The A701 is an important tourist route to and from Scotland. It is important to ensure that the experience for users is not dominated by wind turbines. The Clyde/Extension schemes are prominent further south and the Glenkerie development comes sharply into focus for a brief period near Tweedsmuir. But, as yet, this general area is not

characterised by wind farms; nor is the sequential effect for travellers noticeable in and around the nearby populated sections of the route. Hag Law is highly prominent, benefitting from very little in the way of topographical screening. This is one of the viewpoints clearly demonstrating this type of effect, which is characteristic of the scheme.

VP3 – A701 near Whitmuir:

This viewpoint is situated approximately 2km from the nearest turbine, and is seeing the 5-6 turbines above mature plantations in the foreground. This view of the turbines is in the opposite direction to VP2, for road users travelling south.

It demonstrates again the likely prominence of the development in relation to the A701, and on the ridgeline above the road. The ES acknowledges that the effects from this location would be ‘significant adverse’. There is a strong likelihood that the turbines would feature prominently on the horizon for a significant distance where they are not shielded by foreground trees (not the plantation – lower down slopes towards the road).

VP4 – Mountain Cross Settlement:

This viewpoint is situated approximately 4km west of the development on the A701. It demonstrates how highly visible the row of turbines would be from this important route, but also how the turbines are situated on top of the topography for the most part.

The row would dominate its visual environs and cause the turbines to be eye-catching, challenging the primacy of the range of gentle hills.

VP5 – B7059 near Lyne Water:

In this montage it is possible to get a sense of the scale of the turbines in relation to the scale of the receiving landscape. Notwithstanding the relationship of the turbines with Whiteside Hill in the left of the picture, at least 3 of the turbines would be highly visible from this general direction and look too big for the underlying hills receiving them. The turbines ‘skyline’ very noticeably. This is an adverse and undesirable landscape effect.

VP6 – B7059 near Boghouse:

From this locale, the row of turbines fiercely competes with the undulating series of small hills, seeming to dominate the ridge and dwarf the scale of existing landscape components, such as the plantations and tree belts in the left half of the picture.

What is also apparent is the open and exposed nature of the Wether Law peak/monument area and the sloping fields in front of it within which it is proposed to locate the primary access.

VP9 – Bogsbank/Pirn Hill:

This viewpoint at around 4km to the west on a route connecting West Linton to the A701 allows the development to be seen (in terms of the turbines) in its most adverse visual form. The long line of turbines dominates the ridge and detracts from the gentle undulations of the plateau outliers. In this type of view, the turbines conflict with their receiving environs rather than harmonising.

This type of effect challenges landscape character by setting into the scene a new component that is so clearly visible and dominant that the underlying landscape loses its primacy. Again, this demonstrates the effects of placing turbines on top of topography rather than utilising topography to mitigate potential impacts.

VP10 – Black Meldon Fort:

This viewpoint is sensitive due to its status as a scheduled hilltop monument. It is a well-used hill for recreation (walking). The most noticeable effect from here, at a little under 4.5km, is that the Cloich proposal and the Hag Law proposal do not marry. Cloich and Hag Law look like what they are – two schemes designed very differently, close enough to be viewed coincidentally so that overall it might be perceived as one wind farm, but with part of that wind farm looking out of kilter with the remainder.

Notwithstanding the cumulative effects with Cloich, Hag Law by itself would be a visible intervention, even at this distance.

VP12 – West Linton:

This viewpoint is situated 5km away from the turbines, and is on the southern fringes of West Linton village. Unfortunately, the montage does not reflect the actual potential effects of the turbines as the contrast and picture quality is poor.

However, this view generally reflects the effects to be expected from environs in and around West Linton, from where views across the Cloich Hills are readily available.

From this direction and at this distance, it is possible to get an understanding of how small the hills are perceived to be, and therefore how the scale of the turbines is too great for the scale of the hills. Furthermore, it is from this side-on view that the overtly linear nature of the turbine grouping is witnessed. The montage depicts dominance rather than harmony, in particular because of the lack of topographical containment but also due to the way the turbines sit openly on the ridge, thus preventing the ridge from being the prime visual component of the landscape. Instead, the turbines become the focus of the view as the landscape does not have the capacity to absorb them.

VP13 – A702, north of Dolphinton:

This viewpoint is situated a little over 6.5km to the west of the turbine group, representing a stretch of the A702 which, according to the ZTV, has potential visibility of turbines to ground level most of the time from Penicuik through to Dolphinton and beyond.

It demonstrates the prominence of the turbines even at this distance, with six of the eight turbines showing hub upwards as a line along the horizon. It also demonstrates the lack of topographical containment once again.

VP15 – Core Path 154 above Eddleston:

In fact, this viewpoint is located at Milkieston Rings in a hilltop location approximately 6km east of the turbines. The main effect witnessed from this direction is the cumulative coincident landscape and visual effect of Cloich and Hag Law combined.

It might be argued that from this direction, due to the apparent scale of the Cloich Hills, Hag Law by itself would be reasonably well related to the scale of the hills, whereas Cloich from here is witnessed as quite dominant and having a skylining effect.

However, Hag Law and Cloich combined looks to a great extent like one wind farm, with the Hag Law smaller turbines (15m less than Cloich to tip) appearing like a small backdrop to Cloich. If Hag Law were to be developed in tandem with Cloich, it may be argued that from this direction the effects would be acceptable.

These effects are also seen from **VP21 (Dundreich Hill)** although from VP21 the view is highly panoramic – many phases of landscape are visible even in the montage. However, compared to Cloich the Hag Law turbines do appear to sit on the ridge (especially T1-T6) despite their lesser height. This is most apparent in Figure 5.33, where Hag Law is montaged by itself. It should be noted that in some climatic conditions, the turbines would appear much more clearly than the montage depicts.

VP18 – A703, Layby north of Millenium Farm:

This viewpoint is a little under 7km from the turbines and is elevated in relation to its environs, thereby giving a view on a clear day across several phases of landscape/hills. The low profile of the afforested Cloich Hills is readily apparent in the montage, and it may be argued that from here, either cumulatively with Cloich or by itself the Hag Law proposal does not harmonise with its receiving landscape.

With Cloich, the proposal looks like a poorly sited/ designed outlier to a main wind farm. It is neither close enough to be seen coherently with Cloich, nor far enough away to be seen with clear separation. It looks like a cluster of ‘outliers’ stacking together and causing a negative focal point that does not relate well to the profile of the hills.

Without Cloich, it has no coherence with its receiving environs when viewed from this area because the view is of the line (albeit jumbled/staggered) more or less end-on. The scale of the turbines from this area looks too great for the hills as they sit on top of the ridge in a group, which together would be intensified by proximity of turbines within the group, drawing attention to Hag Law as an anachronism in the landscape.

Similar effects are witnessed from **VP 26 at Leadburn/A701**, although at greater distance (just less than 8.5km).

VP22 – Carlin’s Loup, Carlops:

This montage is taken from the top of the rocky mound, giving an opportunity to look across the landscape where, at just under 8km distant, the Cloich Hills are readily visible.

From this viewpoint, the wirelines/montages demonstrate once again how prominent the turbines would be and how the row skylines along the top of the hills.

VP23 – Auchencorth Moss:

This viewpoint is a little less than 8.5km to the north-west of the development. From here the Cloich Hills and the development would be viewed clearly together. The wirelines/montages show from this direction how the Cloich and Hag Law do not harmonise with each other and how both schemes appear to sit on the hills. Hag Law

is slightly more prominent due to the ridgeline siting of the turbines and is also more gappy.

VP27 – A702/A766 Junction:

This viewpoint is 9.5km from the turbines, looking south-east towards the cluster. The most noticeable effect here is that of the coincident cumulative relationship of Cloich and Hag Law. There is no coherence between the two schemes, although they would be seen adjacent to one another. Hag Law from this angle looks "gappy" and poorly laid out, and more prominent on the ridge than Cloich despite the shorter turbines.

Notwithstanding the distance, this incoherence would be observed in the landscape and if both Cloich and Hag Law were developed, the view of both wind farms together would be 'jarring'.

By itself, the Hag Law scheme from here is again shown to be too great in terms of vertical scale in relation to the scale of the hills.

VP29 – Cademuir Hill:

This viewpoint doubles up as a heritage viewpoint due to the importance and designation as a scheduled monument site. It is a popular destination for walkers and relates to the John Buchan Way (it is regularly taken in as part of the JBW experience as a detour).

This viewpoint looks through to Cloich and Hag Law via the White and Black Meldons. Several of the turbines are seen behind or on top of Black Meldon from here, and despite the distance at just over 10km, the presence of turbines moving in the landscape would easily be seen on clear days.

A significant effect when viewing the wind farm from here is that cumulatively Hag Law and Cloich do not harmonise. Hag Law looks like a part of the Cloich proposal that should be 'designed out' to promote visual coherence (especially T4, T5 and T6).

By itself, the scheme would add a prominent, kinetic and intrusive development that does not benefit from topographical containment and which skylines, partially on top of the Black Meldon hill.

Conclusion in respect of Landscape and Visual Impacts (not including residential amenity and cultural heritage):

Hag Law would occupy a prominent ridgetop location which has high levels of visibility from settlements and from important highways and path routes. It has no real topographical containment, which is somewhat inevitable as the turbines are to be sited on top of the hill ridges.

By itself, it would appear as a poorly designed and laid out development, which from some vantage points looks like an intense and jumbled cluster and from others would appear as a dominant linear feature on top of the landscape. The scale of the turbines from some views is too great in relation to the scale of the hills which accentuates the prominence and dominance of the turbines.

The proposed access route would give rise to adverse impacts on the landscape as it crosses land sloping down to the A701 at Halmyre, and it is unlikely that mitigation

would soften the visual effects adequately because this area in front of Wether Law is so open and highly visible from the A701 and from viewpoints further afield. Reference to diagrams on Page 10 of SNH's May 2014 Guidance 'Siting and Design of Wind Farms in the Landscape' just above paragraph 2.19 may be of interest as it gives an example of insensitive siting and design of wind farm infrastructure which is quite similar to the potential effects relating to Hag Law.

The proposed siting of the borrow pit and compound give rise to concerns relating to visual impact because they would be sited close to the Wether Law summit (less than 400m away) and because even once restored in line with the new profile shown on Figure 8.6 (near the back of Volume 3 of the ES) the appearance of the pit site would conflict with the natural curvature of the slopes and hills, which are open to view from the A701. An unnatural looking hollow would appear; given the overall worked borrow pit area would be around 160m x 100m, the resultant re-profiled area would not be harmonious with its setting, which is made more sensitive due to its relationship with Wether Law.

Cumulatively with Cloich the scheme does any real coherence, the different design of each being so apparent and there being such a strong level of coincident viewing that the disharmony is easily viewed from a range of viewpoints/areas.

Visual Impacts Relating to Residential Amenity:

Although there is no graphical information showing the likely visual impacts of the development on individual residences, Appendix 5.9 'Residential Amenity Tables' includes a brief written assessment of the likely impacts on all dwellings within 2.5km. Figure 5.12 (within Volume 3) is a map identifying the locations of all the properties assessed.

The application would have benefitted from a section including photomontages, or at least wireline drawings from these properties. Without such information available, it is difficult to make an assessment of how the properties are likely to be affected. The ES does confirm that a range of properties would be affected in a 'significant adverse' manner. It identifies 12 properties (although at some of the property locations there are more than one residence) within the 2.5km range that would experience this level of adverse impact.

When turbines are positioned up above residential receptors, and where the users of those receptors (including the garden and access areas) have views to the turbines, the apparent effects of height are exacerbated, or accentuated due to the sense that the resident is underneath the turbines. The sense of proximity to the moving structures is increased due to this relationship.

The Hag Law site is up above the A701 and within quite close proximity. The access site is in between some of the residences most affected by views of the turbines themselves, which would also be affected by the access proposals, including how they would change the appearance of the slopes up to Wether Law.

The relationship between the development and the residential receptors on the A701 gives rise to immediate concerns because of future visibility/proximity. Viewpoint 6, although not specific to the area concerned (is further back away from the A701 to the west) gives an idea of how the turbines might appear on the horizon, albeit they would be closer when viewed from those residences. The montage includes some of the buildings/dwellings at Halmyre and also includes the slope and the Wether Law summit.

Most of the residences expecting a significant adverse visual impact are a little under or over 2km from the nearest turbine. However, the sense of proximity is likely to appear more intense, with the turbines appearing closer due to their elevation. The settlements of Mountain Cross, Romannobridge and West Linton would have strong visibility towards the development at fairly close range. The environs of these settlements would develop an association with Hag Law as it dominates the nearby ridge.

Viewpoint 2 close to Romannobridge shows how at 3km the turbines are a new and strong visual intervention up above the village. The montage includes dwellings closer to the site that would experience a high level of change, and this change would be associated with the settlement as a whole as well as with the individual residences within it. The experience at Mountain Cross would be similar but less intense as it is nearer 4km away; further out at West Linton (5km) the wind farm would be a prominent associated item with a high level of visual interplay with the village.

Although the information presented is limited in this context, it would appear that the relationship of the wind farm with a range of sensitive receptors as described in the ES is less than ideal, and indeed with the entire settlement at Romannobridge (Halmyre) the development would become a dominant component of the environs, changing the nature of daily life in and around the settlement. For those residents predicted to have a 'significant adverse' impact on their visual amenity, notwithstanding the proposed access, the situation would be bordering on overwhelming with the turbines sometimes closer than 2km and elevated above.

In conclusion, it is considered that the development would give rise to issues of adverse visual impact that are of high significance; and, rather than these impacts being just about tolerable, they are considered to be unacceptable, especially with such a high number of dwellings (including the settlements) experiencing strong visibility of the turbines elevated above their valley environs. Furthermore, the chosen location for the site access and the proposal to construct it across the open slopes of Wether Law would be highly intrusive and very challenging to mitigate at all due to the gradient and exposed nature of the access area.

The relationship between the wind farm and residential receptors is disharmonious and would give rise to an unacceptably high level of adverse visual impact.

Visual Impacts Relating to Cultural Heritage:

The issue of visual impact on heritage settings is discussed in detail within the consultation responses of Historic Scotland and the SBC Archaeology Officer. Neither favours the development in its current form; indeed, it seems likely that the principle of developing a commercial wind farm in this general location raises very significant heritage issues.

First, and taking into account the presence of a range of scheduled monuments of national importance, the scheme is considered to give rise to overwhelming harmful effects, in particular in relation to the Wether Law cairn, which is a hilltop cairn within the ridge proposed for accommodating the wind farm. Because Wether Law is a hilltop monument and because the hill itself is discernible as the location of the monument, and because the turbines and infrastructure are proposed so close to it, this is the most clear cut overriding harmful visual impact on setting. Historic Scotland, while not raising any major concerns about the effects on other

monuments, has objected because of the setting impacts for Wether Law. It should be noted that whereas Historic Scotland indicates that turbine and infrastructure removal would potentially overcome its objection, this view is not shared by the SBC Archaeology Officer.

In relation to a further 3 scheduled monuments, the SBC Archaeology Officer has identified overriding concerns relating to setting impact. In respect of each, the consultation reply gives detailed advice about why the impacts are unacceptable. In each case, the interrelationship of the monuments with other monuments and their settings is key to consideration of the visual effects.

In terms of Whiteside Hill Fort, its relationship with the nearby Flemington Burn and Lyne Water valleys, and with Drochil Hill Fort are influential.

In relation to the scheduled Drum Maw settlement, its relationship with the Flemington Burn and Fingland Burns and the impact of the turbines on the setting is of high concern.

In respect of the Romanno Mains Barrows, there is a wider relationship with nearby Wether Law, the Fingland Burn and the Lyne Water Valley. This is impacted adversely by the turbines being present on the ridgeline directly above the monument.

In relation to Historic Landscape, it is advised that the richness of heritage in this Cloich Hills locale is second in the Borders only to that of the Cheviot foothills and Southern Uplands south of Hawick. The introduction of the wind farm is described as out of keeping and incongruous within the surviving historic features of the landscape. This issue is highly similar to that of the Cloich wind farm, which promoted an objection to that scheme. In the case of Cloich, the following text was included in the report:

“The placement of the development at Cloich would be prominent in an area that is highly sensitive to visual change, in particular because it is a Historic Landscape but equally because it would cause an unacceptable level of harm to the settings of SAMs.”

In the case of Hag Law, which shares the Cloich Hills with the Cloich wind farm proposal, issues are similarly overriding and are not mitigatable.

Physical Impacts on Cultural Heritage:

The consultation response of the SBC Archaeology Officer has confirmed that although the ES has undervalued the potential archaeological resource, there are no issues relating to impacts on subterranean archaeology that are overriding. A suite of conditions has been proposed which would enable analysis and recording if the development goes ahead, and protection of assets encountered in-situ where appropriate.

Impacts on Residential Amenity Arising from Noise:

In this respect, the planning department takes its specialist advice from the Environmental Health Officer.

It can be seen within the planning consultation response that a significant number of issues remain that are required to be addressed prior to determination. Unless noise

information is improved and clarification given, the noise specialist for SBC cannot make the full assessment and is not in a position to indicate precisely what noise issues are, what their implications are and whether mitigation/control of noise is achievable.

The developer has not submitted the material requested by the SBC noise specialist, and as a result noise remains a matter that has the potential to be influential in the recommendation. In the absence of accurate information, and in acknowledgement of the clear concerns being raised, this would preclude support of the application. This is because it is not known whether the principle of introducing Hag Law would be acceptable, in particular when noise is measured with Cloich Wind Farm adjacent.

Ecological, Ornithological and Habitat Effects:

Although no consultees have identified any fundamental concerns relating to biodiversity and habitat, SNH, SEPA and the SBC Ecology Officer have all identified potential issues that could be addressed through mitigation. Mitigation in this context is likely to involve relocation of various components of the scheme on grounds only relating to this subject area.

For example, the SBC Ecology Officer and SNH have agreed/advised that to minimise risk to the River Tweed Special Area of Conservation (SAC) consideration should be given to moving the borrow pit, construction compound and substation onto lower, more level ground. The ability to move these items may be within the gift of the developer to a certain extent, if a Micrositing allowance were to be permitted within a planning permission. However, it seems likely that the changes being suggested by SNH and the Ecology Officer would relocate the items further away than 50m. The developer would be required to assess whether revisions could be made to re-site the items mentioned; or, in the event of permission being granted, it could be appropriate to apply a condition that identifies these items as 'not approved' and requiring to be approved post-consent. This would be reasonable, because if it can be accepted that the wind farm is acceptable in principle, it must also be accepted that infrastructure including a substation and construction compound is inevitably required.

In relation to the borrow pit, and in the context of SPP Para 243, it would appear that SNH is questioning the appropriateness of introducing any borrow pits here. Borrow pits should only be permitted if there are significant environmental or economic benefits compared to obtaining material from local quarries, they are time-limited and tied to a particular project and appropriate reclamation measures are in place.

However, one borrow pit would appear to be proportionate to the level of development being proposed, and if implemented in an agreeable location that is not harmful to the landscape or to biodiversity and habitat, it is likely that the principle of its creation can be accepted, in particular if its restoration can be properly managed to minimise all environmental effects.

The Water Environment:

This topic has promoted a great deal of interest from objectors, in particular because of concerns that interference with the water resource could lead to flooding overland and downhill towards the properties at Halmyre, but also due to potential impacts on drinking water.

Displacement of soil would inevitably cause change to the ground and therefore development would need to be undertaken with mitigation in place to ensure that water supplies are not harmed and that flood risk is managed. However, there is no overriding reason to resist the development in terms of its potential impact on the water resource.

The SBC Flood Risk Officer has indicated in the consultation reply that care needs to be taken in managing the surface water due to potential increase in overland water flow during development. There is no indication that any increased risk of flooding is such that it would lead to a reason to resist the development. In the event of planning permission being granted, suitable conditions would be proposed.

Further, SEPA has indicated that although the development has the potential to affect Ground Water Dependent Terrestrial Ecosystems (GWDTEs) the effects are manageable. Again, conditions would be appropriate to deal with this issue. One such condition would require the compound to be re-sited to protect GWDTEs.

Peat:

The ground environment that would be affected by the development is peaty and is therefore of value as a natural resource. This promoted an objection by SEPA to the scheme as originally submitted.

However, no consultees with specialist expertise relating to peat and habitat have raised overriding concerns about impacts on peat. The material submitted in the Addendum (December 2014) enabled SEPA to withdraw its objection. The scheme would affect the peat resource but not so harmfully that it would present a reason to refuse. In the event of permission being granted, it would be necessary to impose suitable conditions. It is possible that any such conditions might lead to revision of the layout to overcome certain issues.

Impact on Road Safety and the Road Network:

The proposal has given rise to a lot of adverse comment from the public in terms of impacts on road safety. The nature of the section of road that would provide the new site access has been mentioned repeatedly insofar as it is considered by many to be unsuitable due to alignment, undulation, limited forward visibility and the speed/nature of traffic using the road.

This is not reflected in the planning consultation replies of the two specialists available to SBC. In technical context, it may be considered that the placement of a new access to serve the wind farm, with abnormal loads included, is acceptable.

It is a little concerning that the new access would be sited fairly near several domestic properties with no connection to the wind farm. During the construction period there would be potential disturbance to residents of properties at Halmyre Mains and Halmyre House. However, taking into consideration the responses of the relevant consultees, any such impact to amenity would not translate to a significant road safety concern. The proximity of the proposed access to the aforementioned properties is not so close that the relationship between the residences and the development would be dangerous 'per se'.

There are no significant concerns relating to the formation of the access in terms of road safety. All secondary matters could be handled via conditions.

Shadow Flicker:

There is the potential for the sun to shine through moving turbines as it rises in the east, and for shadow to be cast towards properties in Halmyre/Romannobridge. There is reasonable separation between the dwellings and the turbines in the context of shadow flicker, but nonetheless it is plausible (it has not been demonstrated otherwise) that properties could be affected.

It would therefore be appropriate to require shadow flicker to be mitigated/managed if it becomes a problem. This could be secured via suitable planning conditions, if permission is granted.

Developer Contributions:

Having regard to the nature of the development and its predominantly occurring effects, i.e. those which are most significant to the recommendation of the application, it is considered that it would be appropriate to seek developer contributions in respect of the following matters, in the event of consent being granted:

- financial contribution towards the upkeep and maintenance of the public path network and areas of public access in particular where those paths/areas relate to important walking destinations and are most impacted by the development
- financial contribution towards the archaeological analysis of the historic landscape at and adjacent to the Hag Law site, potentially through LiDAR aerial surveying

CONCLUSION:

In relation to national, regional and local planning policy, applications for onshore wind development are to be supported unless there are overriding reasons to refuse. There is no cap to the amount of energy that may be produced by wind generation in mainland Scotland. 20MW is relatively little compared to the potential output of many of the wind farms operational or approved in Borders, but it would be commensurate with outputs from the like of Black Hill and Drone Hill in Berwickshire, and Glenkerie in Tweeddale. It is acknowledged that implementation, operation and decommissioning of the development would give rise periodically to high employment and investment.

However, the scheme itself would be built in a location which does not lend itself easily to accommodating a wind farm. It is sensitive due to:

- the visual interrelationships between the site and different landscape character areas including designated landscapes
- the proximity of roads, walking routes, residences and settlements to the site from which visibility is high
- the open and ridgeline nature of the site, which is highly visible from many vantage points
- the lack of topographical containment afforded to the site as these are small but prominent hills
- the sensitivity of the landscape from a heritage point of view, in particular because of the presence of a range of scheduled monuments of national importance whose settings it is important to protect

- the relationship of the site with that of the proposed Cloich Wind Farm just to the east, due to the potential coincident landscape and visual impacts that could occur; and
- the relatively wind farm free nature of the locality in general, taking into consideration the presence of only Bowbeat Wind Farm (Moorfoot Hills), previous refusals relating to Spurlens Rig and Auchencorth Wind Farms and the SBC objection to Cloich which has triggered a public inquiry.

Hag Law does not conform to the usual requirements for wind farms in terms of its landscape and visual impacts. The Cloich Hills are small and the turbines would dominate them in terms of scale; containment is poor due to the nature of the landscape meaning that the turbines would be highly visible from many vantage points; the linear nature of the scheme and the placement of turbines on the ridges of distinctive hills is at odds with the subtle and attractive nature of the locality (as described by the LCA – ‘visual harmony’); the proposed access, infrastructure and the turbines would relate poorly to the landscape, would compete with the settings of several monuments and would cause adverse visual impacts in relation to the Scottish National Trail.

The consultation responses of those specialists with an interest in landscape and visual impacts are aligned in that Historic Scotland, SNH, the SBC Landscape Architect, the SBC Access Officer and the SBC Archaeology Officer are all advising that the scheme has adverse effects that are potentially overriding. Four of these specialists object due to the landscape and visual impacts. Cumulative impacts with the Cloich scheme are highly relevant, particularly because the two schemes are a visual mismatch - the designs of each are very different.

Furthermore, there is strong public opinion expressed within the objections that identifies with these concerns.

In terms of the relationship with sensitive receptors (residences, school, public buildings), it is primarily the relationship between the development and the settlements at Romannobridge/Halmyre but to a certain extent the relationship with Mountain Cross and West Linton (reflected in the consultation response of the SBC Landscape Architect) that causes a high level of concern relating to visual impact. Each of these settlements would have a new and strong visual relationship with the development which would appear to march along the ridgeline and create a sense of dominance – the wind farm would not maintain the current relationship between the settlements and the hills but would make a new and powerful visual statement, again due to the placement and layout of the turbines and infrastructure on ground that slopes down from the site to a location close to settled sections of the A701.

The high level of visibility associated with usage of the important A701 Tourist Route from Carlisle to Edinburgh and the A702/A703 routes is a major adverse effect, in particular because the A701 is relatively free from views to wind farms from the north side of Clyde Wind Farm apart from limited and short-lived views of Glenkerie. The introduction of a wind farm with any visibility this close to the A701 in particular would be problematic, but the sheer prominence and dominance of the Hag Law scheme show it to be highly conflicting with its environs when viewed from long stretches of this road.

The visual relationship with the Scottish National Trail is also highly problematic due to the proximity of turbines to the pathways forming part of the national trail.

Again, these issues are aired in many of the letters of objection received which have identified a strong feeling that the relationship would be unacceptable.

In the matter of potential noise impacts on residential amenity, this is again a repeated concern identified in objections and is also highlighted in the consultation response of the one specialist available to SBC. It is possible that the noise output of Hag Law combined with Cloich would not comply with limits endorsed within the ETSU-R-97 guidance and remains an outstanding issue. The developer has not come forward with the additional material required to enable proper judgement to be made in this regard.

Taking into consideration the information surrounding the remainder of topics covered in this report, it is considered that the above matters of landscape and visual impact (including heritage and amenity impacts) and noise are those which override the acceptability of the scheme. All others might be managed via conditions or legal obligations.

It is clear from SPP that development must be appropriate to its receiving environs – ‘the right development in the right place’ and suited to a development in perpetuity. Even if this were a marginal scheme it would be important to take this into consideration. Scotland’s landscapes are an important asset therefore great care must be taken to ensure only the highest quality and most suitable wind energy developments are accepted. Hag Law is not a marginal case. Its design, appearance, impact on landscape character and untenable relationship with residential settlements cause clear and overriding adverse effects that no mitigation would prevent or substantially reduce.

For these reasons, the application is recommended for refusal.

RECOMMENDATION BY SERVICE DIRECTOR (REGULATORY SERVICES):

I recommend the application is refused for the following reasons:

1. The proposed development would be contrary to Policies G1, BE2 and D4 of the Scottish Borders 2011 Local Plan, and Policy 10 of the South-East Scotland Strategic Development Plan (SESplan) and the Council's Supplementary Planning Guidance on Wind Energy in that the development would unacceptably harm the Borders landscape including Historic Landscape due to:

- (i) the prominence of the application site and the ability of the turbines to be seen as highly prominent and poorly contained new components of the landscape from a wide area, as represented by viewpoints and ZTV information within the ES
- (ii) the unacceptable vertical scale of the turbines in relation to the scale of the receiving landscape and absence of good topographical containment, causing the underlying landscape/landform to be overwhelmed
- (iii) the impacts on landscape character arising from a high level of intervisibility between several landscape character areas/types with recognised landscape quality (including the Upper Tweeddale National Scenic Area)
- (iv) the appearance of the development resulting from its placement on a line of hills ridges, linear layout design, its scale in relation to other wind energy development with which it has cumulative landscape effects and the potential visual confusion caused by the proximity of the proposed Cloich Wind Farm to Hag Law, there being no visual coherence between the two windfarms

- (v) the siting and prominence in a Historic Landscape, within which the development would appear as an incongruous and anachronistic new item; and
- (vi) the introduction of a large commercial wind farm in an area which does not have the capacity to absorb it without causing overriding harm, and which is presently wind farm free.

2. The proposed development would be contrary to Policies G1, D4, BE2 and H2 of the Scottish Borders 2011 Local Plan, and Policy 10 of the South-East Scotland Strategic Development Plan (SESplan) and the Council's Supplementary Planning Guidance on Wind Energy in that the development would give rise to unacceptable visual and residential amenity effects due to:

- (i) the high level of visibility of the development and lack of good topographical containment
- (ii) the adverse effects experienced by users of the public path network, in particular the Scottish National Trail, and areas generally used for recreational access (including vehicular access routes to such areas)
- (iii) the potentially unacceptable level of visual impact caused by the design of the development, in particular the dominance of the turbines in proximity to sensitive receptors (residences, school, public buildings), within the settlements at Romannobridge/Halmyre, Mountain Cross and West Linton
- (iv) the lack of certainty relating to the application of noise limitations in relation to certain noise sensitive receptors, in particular because it has not been demonstrated that it is possible to meet recommendations within ETSU-R-97 due to the potential cumulative noise effects from Hag Law and Cloich Wind Farms; and
- (v) the overriding harmful visual impacts relating to settings of a range of scheduled monuments within a culturally rich landscape.

DRAWING NUMBERS

- Figure 2.1 (29.4.14) Site Location Plan
- Figure 2.2 (30.4.14) Site Layout & Application Boundary
- Figure 2.3 (29.4.14) Typical Wind Turbine Detail
- Figure 2.5 (11.4.14) Typical Access Track etc.
- Figure 2.6 (12.5.14) Typical Access Detail
- Figure 2.7 (11.4.14) Typical Substation Building

Approved by

Name	Designation	Signature
Brian Frater	Service Director (Regulatory Services)	

The original version of this report has been signed by the Service Director (Regulatory Services) and the signed copy has been retained by the Council.

Author(s)

Name	Designation
John Hiscox	Planning Officer (Major/Wind Energy Development)

