



## PROPOSED DEVELOPMENT

The application is submitted under Section 42 of the Town and Country Planning (Scotland) Act 1997 as amended to vary Condition 1 of consent 17/00010/FUL to extend the operational life of the wind farm from 25 years to 30 years.

## PLANNING HISTORY

Planning application 17/00010/FUL was granted consent on appeal to the Scottish Government for the development of a wind farm comprising 7 No turbines up to 149.9m high to tip, 5 No turbines up to 130m high to tip and associated infrastructure.

The proposed development was originally refused by the Planning and Building Standards committee on 6<sup>th</sup> November 2017 for the following reasons;

*“1. The proposal is contrary to Policy ED9 of the adopted Scottish Borders Local Development Plan in that it would have unacceptable significant adverse impacts that cannot be mitigated and that are not outweighed by the wider economic, environmental and other benefits that would be derived from its operation. In particular:*

- The scale, form and location of the development would represent a significant and harmful change to the existing landscape character and visual amenity of the immediate locality and the wider area; and*
- The development would give rise to an unacceptable and dominating impact upon the residential properties at Langburnshiels.*

*2. The proposal is contrary to Policies ED9 and EP8 of the adopted Scottish Borders Local Development Plan in that the development would give rise to significant and unacceptable impacts upon the setting and appreciation of known archaeological assets, including the Scheduled Monuments of Penchrise Pen fort and earthwork, as well as to other designated and undesignated sites of archaeological importance in the area. The wind farm would also introduce large-scale industrial structures on the fringes of an historic landscape.”*

The applicant appealed to the Scottish Government against this refusal and a Reporter granted planning permission by Decision Letter dated 17 August 2018, subject to 35 Conditions.

In 2018, an application was submitted under Section 42 of the Act to vary conditions 2 and 4 of consent 17/00010/FUL which sought to increase the tip heights of turbines 1,2,3,5 and 8 to 149.9m and increase Micrositing tolerance to 100m. This application has subsequently been withdrawn.

Since the appeal decision, the applicants have agreed amendments to the consented scheme with the planning authority through a combination of Non Material Variations and under the powers of Condition 4 (Micrositing) of the consent. The revisions which have been agreed are as follows;

1. Removal of Turbine (T) 1
2. Micrositing T2 – T8
3. Increase the height of T3, T5 and T8 from 130m to 145m and reduce the height of T4, T6 and T7 from 149.9 to 130m

These amendments were informed by an Environmental Screening exercise and relevant supporting information which is available on application 17/00010/FUL. These

proposals now represent the consented development, with the layout Figure 1 (dated 27.07.2021) which has accompanied this latest Section 42 application reflecting these changes.

## **REPRESENTATION SUMMARY**

Objections from two households have been received. These objections are available in full on *Public Access*. The grounds of objection are summarised as follows;

- No compelling evidence is provided to outline the benefits associated with a 5 year extension to its operational period.
- The developers would contribute more positively to green energy targets by implementing the existing development instead of seeking to make it more profitable.
- Economic contributions to the local and national economy were not determining factors in the Reporter supporting the wind farm.
- Few jobs are sustained by a wind farm during the operational phase.
- Development of a wind farm in this location remain unsuitable on visual, landscape, density and noise grounds.

## **DEVELOPMENT PLAN POLICIES:**

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

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

### **Local Development Plan 2016:**

PMD1: Sustainability  
PMD2: Quality Standards  
ED9: Renewable Energy Development  
HD3: Protection of Residential Amenity  
EP1: International Nature Conservation Sites and Protected Species  
EP2: National Nature Conservation Sites and Protected Species  
EP3: Local Biodiversity  
EP5: Special Landscape Areas  
EP7: Listed Buildings  
EP8: Archaeology  
EP9: Conservation Areas  
EP10: Gardens and Designed Landscapes  
EP13: Trees, Woodlands and Hedgerows  
EP15: Development Affecting the Water Environment  
IS2: Developer Contributions  
IS5: Protection of Access Routes  
IS8: Flooding

## **OTHER PLANNING CONSIDERATIONS:**

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

- Renewable Energy 2018
- Wind Energy 2011
- Biodiversity 2005

- Local Landscape Designations 2012
- Developer Contributions 2011
- Visibility Mapping for Windfarm Development 2003
- Borders Landscape Assessment 1998 Ash Consulting Group
- Ironside Farrar Study on Wind Energy Consultancy Landscape Capacity and Cumulative Impact 2016

#### **Scottish Government Policy and Guidance:**

- The Climate Change (Scotland) Act 2009
- The Scottish Renewable Action Plan 2009
- 2020 Routemap for Renewable Energy in Scotland – Update 2015
- National Planning Framework for Scotland (3) June 2014
- Scottish Planning Policy (SPP) June 2014
- Scottish Planning Policy and Electricity Generation Policy Statement 2013
- Onshore Wind Turbines – Planning Advice 2014
- COP21 UN 2015 (following Heathrow Runway decision)
- Climate Change Plan 2018
- Onshore Wind Policy Statement 2017
- Scottish Energy Strategy 2017
- Climate Change (Emissions Reductions Targets) (Scotland) Bill 2019
- The Programme for Government 2019
- UN Gap Report 2019
- Committee on Climate Change (CCC) Report 2019 and annual report 2020
- UK Net Zero Target 2019
- Covid-19 Guidance including Chief Planner's letter, CCC advice and Advisory Group on economic recovery

#### **Scottish Government On-line Advice:**

- Circular 3/2011 Environmental Impact Assessment (Scotland) Regulations
- PAN 69 Flood Risk 2015
- PAN 60 Planning for Natural Heritage 2008
- PAN 51 Planning, Environmental Protection and Regulation
- PAN 75 Planning for Transport
- PAN 81 Community Engagement Planning with People
- PAN 1/2011 Planning and Noise
- PAN 2/2011 Planning and Archaeology
- PAN 1/2013 Environmental Impact Assessment
- Scottish Government Good Practice Principles for Shared Ownership of Onshore Renewable Energy Development 2016

#### **Historic Environment Scotland Publications:**

- Historic Environment Scotland Policy Statement June 2016

#### **Nature Scot Publications:**

- Siting and Designing Windfarms in the Landscape Version 3 February 2017
- Visual Representation of Wind Farms Version 2.2 February 2017
- Assessing the Cumulative Impact of Onshore Wind Energy Developments 2012

- Spatial Planning for Onshore Wind Turbines – Natural Heritage Considerations 2015

#### **Other Publications:**

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

#### **CONSULTATION RESPONSES:**

##### **Scottish Borders Council Consultees**

**Archaeology Officer:** No objection. If the benefits of the proposal clearly outweigh impacts on heritage assets, conditions of the previous consent requiring the agreement of a Written Scheme of Investigation (WSI) outlining a programme of archaeological mitigation and cultural heritage enhancement programme are recommended.

**Ecology Officer:** No objection. Satisfied that the development should be carried out in accordance with the proposals which were previously agreed for Condition 27 Ecological Clerk of Works Term of Appointment and Condition 32 Goshawk Mitigation and Monitoring Plan of consent 17/00010/FUL. All other remaining ecological conditions should be reattached.

**Environmental Health:** No objection. The proposal does not impact on the conclusions of the noise assessment submitted in support of existing consent to demonstrate the wind farm would not cause unacceptable noise impacts on local receptors.

**Landscape Architect:** No response received at the time of writing.

**Roads Planning Officer:** No objection. Predict vehicle movements associated with the continued operation of a windfarm are relatively low which is unlikely to negatively impact the surrounding road network.

##### **Statutory Consultees**

**Community Council:** Concerns are raised that the proposal would extend the likely adverse landscape impacts of the windfarm. Community benefits associated with additional operating period is not a material consideration, if consent is granted for this change the developer should make a legal binding commitment to continue the community benefit until operation life of the wind farm ceases.

**Historic Environment Scotland (HES):** No comments. Recommend proposal should be determined in accordance with national and local policy and related guidance covering development affecting the historic environment.

**Ministry of Defence (MoD):** No objection provided conditions attached to the existing consent covering air traffic safety and threat radar remain requirements for this proposal.

**NatureScot:** No objection. Proposal is unlikely to have any significant impacts on the natural heritage assets.

**Scottish Environment Protection Agency (SEPA):** No objection. SEPA should still be consulted on any planning conditions where they are a named consultee.

**Scottish Water:** No objection although advise no Scottish Water infrastructure presently existing in this location to provide a water supply or waste water treatment.

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

- Justification for extension of operational time for a further 5 years
- Any changes in Policy or other material considerations since consent was granted

#### **ASSESSMENT OF APPLICATION:**

##### **Existing consent**

Whilst the Council had refused planning permission for this development for the reasons previously mentioned, the decision was successfully appealed to the Scottish Government and planning consent was issued on 17 August 2018. This is a significant material consideration and, despite some third party representations, outweighs any ability of the Council to justify re-examination of the decision unless Policy or other material considerations have significantly changed. The consent was subject to a twenty-five year operational period, which would commence from the date of Final Commissioning of the wind farm with the developers obliged to confirm the date of commissioning with the Planning Authority so that the operational period is clearly defined. Thereafter the development is required to be decommissioned and cease generating electricity no later than twenty-five years with the site restored in accordance with a Decommissioning, Restoration and Aftercare Plan. This must be agreed with the Planning Authority no later than 3 years prior to decommissioning. These requirements are governed by Condition 34 of consent 17/00010/FUL.

A Section 42 application for variation of condition does not alter the original consent, which remains in place. Should the requested variation of Condition 1 be granted (by imposing a 30 year operational period), then it will be necessary to re-attach all relevant conditions as per the existing consent. This will result in there being two extant versions of the consent, one with a 25-year operational period and a second with a 30-year operational period. On considering relevant conditions of the existing consent, Condition 34 clearly states that the development should cease operation within 25 years which would conflict with a 5 year extension to the duration of this development. If the proposed time extension were judged acceptable, it would be appropriate to vary Condition 34 so that this dovetails with the duration of the development specified by Condition 1.

The application should only be assessed against three key considerations:

- Justification for extension of operational time;
- Changes in Policy;
- Other material considerations since consent was granted

Members will note that the length of permission 17/00010/FUL was 3 years from the date of the decision as specified in Advisory Note 1. Under the Coronavirus (Extension and Expiry) (Scotland) Bill any planning permission which would have expired during the defined 'emergency period' (7 April 2020 to 31 March 2022) is extended to the end of the 'extended period' ending on 30 September 2022. Consent 17/00010/FUL was due to expire on 17 August 2021 but as this fell within the emergency period, this consent now remains implementable up until 30 September 2022.

Members should note that any consent approved under Section 42 would effectively issue a new planning permission, which would benefit from its own 3-year commencement period, which would start on the date when any new permission was granted.

### **Justification for extended operational period**

Further information has been provided by the applicants within correspondence dated 6 September 2021 to outline the need for the consented Pines Burn wind farm to operate for a further 5 years.

A 25 year permission was sought by the applicants when the original application was made in 2017. At the time of determination a 25 year operational period was common place for wind farm development. It is understood that this time period was originally based on the understanding that the wind farm infrastructure would be able to successfully generate electricity over this time period. The applicants now suggest that modern wind turbines can operate successfully longer periods, no technical evidence supports this claim however it is the case that some other wind farm developers are seeking for their development to last for longer periods. For example, an application to extend the operational life of Fallago Rig Wind Farm (ref; 16/00141/S36) for a further 5 years was approved by the Scottish Ministers. Similar to Pines Burn, Fallago Rig also had an original operational period of 25 years. Wind farms at Whitelaw Brae and Dun Law have also had operational life extensions granted by the Ministers and Council respectively. Additionally a recent application for the development of a wind farm at Faw Side requested an operational period of 40 years. Although SBC did object to Faw Side on landscape, visual and archaeological grounds no explicit objection was raised to the requested operational period.

Since the development was consented, subsidies have been removed. The applicants suggest that a longer operational life would aid the viability of the development in a now subsidy free climate. In response to the loss of subsidies other wind farm developments have explored the possibility of increasing the number or height of turbines. Provided that the extension of the operational life of a wind farm poses no significantly adverse environmental impacts it would be expected that this should pose less harm than seeking to extend the number or scale of turbines.

The financial viability of a wind farm is not strictly a material planning matter. Extending the operational life of a wind farm for 5 years would not result in significant further economic benefit to the Scottish Borders as most economic benefit would likely remain at the commencement and decommissioning stages. The development would however provide a further 5 years of contribution to renewable energy generation within the Scottish Borders and to the reduction of greenhouse gas emissions.

In summary, if there are no significantly adverse environmental impacts or new material considerations that conflict with the Councils adopted development plan, a 30-year operational period at this wind farm is not necessarily disproportionate or inconsistent with the duration of development for other wind farms, including some in the Scottish Borders. As with all section 42 applications, should the Committee agree to the request, then all original conditions (subject to any modest modifications to account for pre-commencement matters already agreed by the planning authority) and Informatives would need to be re-imposed. It would also be advisable to attach an additional Applicant Informative to clarify that the development relates precisely to all drawings and submissions granted consent under application reference 17/00010/FUL.

## **Material changes since Decision**

If the justification for the extension to the duration of the development is judged to be acceptable, it is also necessary to consider whether there have been any further changes in Policy or any other material considerations that would be of significance in terms of the acceptability of the development, since the Reporter's consideration and determination in August 2017.

## **Policy**

### National

Scottish Government policy supports renewable energy, including wind farms, provided that there are no unacceptable and significantly adverse environmental impacts. Since the Reporter decision in August 2018, further Policy updates and statements have been released by the Government which do not indicate any change in position that would require re-examination of the decision to consent this wind farm. The Scottish Planning Policy Spatial Framework still positions the site within Group 3 which suggests the remainder of all areas have potential for wind farm development "...where wind farms are likely to be acceptable, subject to detailed consideration against identified policy criteria."

Government Policy documents have recently been supported by the statements in the Onshore Wind Policy Statement 2017, the Ministerial Foreword confirming clear support for wind energy, promoting the economic benefits it offers, helping to substantively decarbonise electricity supplies, heat and transport systems, boosting the economy, and meeting local and national demand. Similarly, the Scottish Energy Strategy is also a material consideration, setting out ambitious new energy targets of 50% of the energy for Scotland's heat, transport and electricity consumption to be from renewable sources by 2030 and an increase of 30% in the productivity of energy use across the Scottish economy. More recent guidance and statements by the Scottish Government, following the impact of Covid-19, simply reinforce the importance of renewable energy.

There is, therefore, no change in Government Policy that would justify any re-examination of the decision to consent the development or to extend its operational period.

### Local Development Plan

The original application was considered by the Council and the Reporter against the Scottish Borders Local Development Plan (LDP) 2016. This remains the Councils adopted LDP. Policy ED9: Renewable Energy Development aims to support renewable energy development in appropriate locations. The Reporter ultimately determined that this location was suitable for a wind farm development. There is, therefore, no change to Local Development Plan Policy that would justify any re-examination of the reporter's decision to consent the development or to extend its operational period.

### Supplementary Guidance (SG)

At the time of the determination and the appeal of 17/00010/FUL the SG on Renewable Energy was at draft stage. This SG has since been adopted by the Council and, subsequently approved by the Scottish Government. During their determination of the appeal, the Reporter did observe that the then draft SG "*continues to recognise some*



*capacity for very large turbines (over 120 metres in height) in the area of the appeal site and therefore does not signal any significant change in approach.”*

Since the appeal determination the recommendations of the SG that the site can accommodate turbines of the consented scale has not been altered. In fact, the subsequent approval of the SG allows these recommendations to carry more weight. Other SGs have been adopted by the Council since consent was issued for Pines Burn Wind Farm but this development would not appear to explicitly conflict with the recommendations or overarching aims of any of these new SGs. There is, therefore, not considered to be any change to Supplementary Guidance that would justify any re-examination of the decision to consent the development or to extend its commencement period.

## **Environmental Impacts**

During the consent process for application 17/00010/FUL an extensive range of environmental topics were thoroughly considered. Extending the operational life of Pines Burn Wind Farm will prolong some of its environmental impacts, these impacts are considered below.

### Landscape and Visual Impacts

Members will recall that SBC did object on landscape and visual grounds. At the time of determination, SBC considered that the turbines would be extremely large in the Scottish Borders context; that certainly would remain to be the case however since the removal of subsidies a lot of new wind farm proposals are seeking consent for taller turbines than would be found at Pines Burn. The main landscape impact was found to be that the proposal would diminish the Maiden Paps and Bonchester Hill as focal points in the landscape, this proposal would continue this impact for a further 5 years. The development will not be any more visible that it would be for the original consented period within the landscape and does not pose any new landscape character impacts.

Visually, the affected receptors were generally found to be localised and this would remain to be the case as a result of this development. By the time the development approaches the end of its current operational life, after 25 years affected receptors will be accustomed to experiencing the wind farm within the landscape. The Councils Landscape Architect did not oppose the original development with the Reporter not finding that the landscape and visual effects of Pines Burn Wind Farm to be sufficiently adverse to justify refusal of the scheme.

Extending the operational period from 25 to 30 years would not appear to be a disproportionate time extension within the life of a wind farm. In the determination of the extension to the operational life of Fallago Rig Wind Farm, Scottish Ministers gave weight to the renewable energy benefits associated with the operational time extension and found that *“the renewable energy that would be produced outweighs the continuation of the landscape and visual effects for a further 5 year period.”* Similar benefits would be provided by energy generation and in light of commensurate extension being granted at Fallago Rig, landscape and visual impacts posed by the retention of Pines Burn for a further 5 years does not tip the balance against the development in landscape and visual terms.

The applicants are confident that the infrastructure can last over the requested time period. Should the infrastructure start to visibly deteriorate, i.e. rust etc. then they could detract from the visual amenity of the host environment. There is however a

requirement in Condition 5 for the equipment to be properly maintained and this obligation would be retained as a requirement of this consent.

### Cumulative Impacts

The Reporter considered the issue of cumulative impacts from existing and proposed development near Pines Burn at the time of the original decision and saw no cumulative reasons to oppose the initial consent at Pines Burn.

Whilst additional schemes have come forward at scoping stage at Cliffhope, Teviot and Fawside, only the latter has now reached the stage of S36 application and could not be used to justify refusal of an extension of operational time, given no decision on that application has yet been taken. In any case, if there were cumulative issues with Fawside, it would be Fawside itself that would either have to resolve those issues or a decision on that proposal influenced by any cumulative impacts. As Members will recall in the Fawside Committee Report, there are no such cumulative issues identified with Pines Burn.

The development of Birneyknowe was identified to pose some cumulative impact with Pines Burn. Since the determination of Pines Burn, Members will note that, Birneyknowe was refused following appeal and Public Local Inquiry.

The potential cumulative impacts have been considered and there are no new cumulative reasons that would justify any re-examination of the decision to consent the development or to extend its operational period.

### Residential Amenity

SBC did not oppose application 17/00010/FUL on grounds that the development would adversely affect the residential amenity of any individual properties. There was found to be visibility from some properties within 2km of the wind farm where the development would appear visually prominent. However, the impacts were not found to be overbearing to an extent that would result in the properties being an unattractive place to live. Similar to landscape and visual impacts this development would result in the development being visible for a longer period of time from the affected properties, but these impacts remain temporary and does not change the significance of the impact from being tolerable to significantly overbearing.

Since consent was granted at appeal, it is considered that that the wind farm will not adversely affect the amenity of any new or extended properties that were not established at the time when the original proposal was determined.

Noise impacts will remain controlled by planning condition so that any noise output from the development should not adversely affect the amenity of residential properties.

### Cultural Heritage

Members will recall that consideration was given to potential effects of the wind farm on the setting and appreciation of known archaeological assets, including Penchrise Pen fort, and earthwork. Concerns were previously expressed around the visibility of the development from the Scheduled Ancient Monument and the introduction of large scale industrial elements towards the fringes of the historic landscape.

Having considered the proposal against the requirements of Policy EP8, the Reporter did agree that Pines Burn wind farm would cause *“moderate adverse effects on the*

*setting of some monuments and lesser effects on the setting of others.*” These adverse impacts were however, offset by the economic benefits of the scheme. The time period extension would prolong the harmful setting impacts, nevertheless, the renewable energy benefits of the wind farm development remain. Despite raising some concerns with the original application Historic Environment Scotland have not raised any concerns about this proposal nor is the application opposed by SBC’s Archaeologist.

On the basis that the development will continue to provide associated benefits, the proposal for an extended operational period is not considered to conflict with Policy EP8. A condition which will seek to agree cultural heritage benefits will be re-imposed along with the requirement that the development is undertaken in accordance with the already agreed Written Scheme of Investigation to ensure any direct impacts are appropriately addressed.

### Other Matters

A range of other topics were considered during the assessment of the existing consent at both planning application and appeal stage. These matters include;

- Forestry
- Shadow flicker
- Impacts on the Historic landscape including Listed Building
- Ecology, Ornithology Habitat and Hydrology Impacts
- Traffic and Road Safety
- Public Access and Footpaths
- Ministry of Defence/Aviation
- Economic and Socio-Economic Benefits including Tourism
- Renewable Energy Benefits

Since the last report to Members in 2017, the physical context of the site has remained unaltered and importantly the LDP against which this proposal was previously considered remains the Councils current development plan.

Members will note from the consultation responses summarised above that no internal or external consultees raised any objections or new concerns in response to any of the above matters. These include recommendations of no objection from SEPA, NatureScot and the MoD.

Extending the operation time of this wind farm from 25 to 30 years is not considered to pose any detrimental impacts on any of the above matters which were not originally considered by the planning authority in the handling of the original application and subsequently the Reporter on granting consent for this development.

Members should note that proposals from the applicants have already been accepted by the Planning Authority in response to Condition’s 13 (TV reception), 24 (Archaeological Written Scheme of Investigation), 27 (Appointment of Ecological Clerk of Works) and 32 (Goshawk Mitigation and Monitoring Plan) of consent 17/00010/FUL. Rather than re-impose these conditions on any new consent that may be granted, given that details from the applicants have already been approved by the planning authority, it is recommended that the revised, and extended development should be carried out in accordance with the previously approved proposals, unless any changes are first agreed with the Planning Authority.

The proposal is otherwise not found to result in causing any other impacts of a significant or adverse nature which would fail to comply the Councils LDP.

## **CONCLUSION**

There is a valid consent for the development of a wind farm at Pines Burn that can lawfully operate for a period of 25 years. Extending the operational period of the wind farm for a further 5 years would allow for a 30-year operation period in total. This is commensurate with the duration of consent for other existing wind farms within the Scottish Borders. Since consent was originally granted for the development of Pines Burn wind farm, there has been no significant shift in policy or other material changes that would require that the original appeal decision to be re-examined. The extension of the operational life of Pines Burn wind farm by five years would be consistent with national energy and national planning policy. It would extend the wind farm's contribution to renewable energy generation and the reduction of greenhouse gas emissions without resulting in any significantly adverse environmental effects or other material considerations which would conflict with the current local development plan.

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

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

### **Commencement and Conformity**

1. The consent is for a period of 30 years from the date of Final Commissioning. Written confirmation of the date of First Commissioning shall be submitted to the Planning Authority no later than one calendar month after that date.  
Reason: To define the duration of the consent.
2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the application, drawings, Environmental Statement and Supplementary Environmental Information (as supplemented or amended by any further or additional environmental information) and other documentation lodged in support of the application and approved by the Planning Authority.  
Reason: To ensure that the development is carried out in accordance with the approved details.
3. Should the consent be assigned, the Company shall notify the Planning Authority in writing of the name of the assignee, the principal named contact and contact details within 14 days of the assignation.  
Reason: To ensure efficient communication over the obligations of the consent if transferred to another company.

### **Micro-Siting**

4. All wind turbines, buildings, masts, areas of hardstanding and tracks shall be constructed in the location shown on Drawing Reference Figure 3.1a. Wind turbines, buildings, masts, areas of hardstanding and tracks may be adjusted by micro-siting within the site. However, unless otherwise approved in advance in writing by the Planning Authority (in consultation with SEPA and Scottish Natural Heritage), micro-siting is subject to the following restrictions:
  - a. No wind turbine foundation shall be positioned higher, when measured in metres Above Ordinance Datum (Newlyn), than the position shown on Figure 3.1a unless a scheme of details, including wirelines showing the alternative

- positioning of the turbine have been submitted to and approved in writing by the Planning Authority (in consultation with Scottish Natural Heritage and SEPA) and thereafter no development shall take place except in strict accordance with the approved details;
- b. No wind turbine, building, mast, access track or hardstanding shall be moved more than 50 metres from the position shown on the approved plan (Figure 3.1a);
  - c. No micro-siting shall take place within areas of peat of greater depth than the original location;
  - d. No micro-siting shall take place within areas hosting Ground Water Dependent Terrestrial Ecosystems;
  - e. No micro-siting shall take turbines closer to watercourses or residential properties not financially involved with the development;
  - f. All micro-siting permissible under this condition must be approved in advance in writing by the planning authority, in consultation with the Environmental Clerk of Works (ECoW). No later than one month after the date of First Commissioning, an updated site plan must be submitted to the Planning Authority showing the final position of all wind turbines, masts, areas of hardstanding, tracks and associated infrastructure forming part of the development. The plan should also specify areas where micro-siting has taken place and, for each instance, be accompanied by copies of the Planning Authority's approval, as applicable.

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

### **Design and Operation of Turbines**

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

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

### **Substation and Ancillary Development**

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

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

## **Signage**

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

## **Turbine Failure/Removal**

8. In the event of any wind turbine failing to produce electricity supplied to the local grid for a continuous period of 12 months, not due to it being under repair or replacement, then it will be deemed to have ceased to be required and, unless otherwise agreed in writing with the Planning Authority, the wind turbine foundation to a depth of 1.2 metres below ground level, the wind turbine and its ancillary equipment shall be dismantled and removed from the site and the site restored to a condition to be agreed by the Planning Authority. The restoration of the land shall be completed within 6 months of the removal of the turbine, or any such longer period agreed by the Planning Authority.  
Reason: To safeguard against the landscape and visual environmental impacts associated with the retention of any turbines that are deemed no longer to be operationally required.

## **Construction Hours**

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

## **Noise**

10. No development shall commence until a Construction Method Statement has been submitted to and approved in writing by the Planning Authority. The development is then to be carried out in accordance with the agreed Statement.  
Reason: To safeguard residential amenity.
11. The rating level of noise emissions from the combined effects of the wind turbines forming part of the development (including the application of any tonal penalty) shall not exceed the values for the relevant integer wind speed set out in, or derived from, the tables attached to this condition at any dwelling which is lawfully existing or has planning permission at the date of this consent. The turbines shall be designed to permit individually controlled operation or shut down at specified wind speeds and directions in order to facilitate compliance with noise criteria and:

- a. The Company shall continuously log power production, wind speed and wind direction. These data shall be retained for a period of not less than 24 months. The Company shall provide this information to the Planning Authority within 14 days of receipt in writing of a request to do so;
- b. There shall be no First Commissioning of the Development until the Company has received written approval from the Planning Authority of a list of proposed independent consultants who may undertake compliance measurements in accordance with this condition. Amendments to the list of approved consultants shall be made only with the prior written approval of the Planning Authority;
- c. Within 21 days from receipt of a written request from the Planning Authority following a complaint to it from an occupant of a dwelling alleging noise disturbance at that dwelling, the Company shall, at its expense, employ a consultant approved by the Planning Authority to assess the level of noise emissions from the wind farm at the complainant's property. The written request from the Planning Authority shall set out at least the date, time and location to which the complaint relates and any identified atmospheric conditions, including wind direction, and include a statement as to whether, in the opinion of the Planning Authority, the noise giving rise to the complaint contains or is likely to contain a tonal component;
- d. The assessment of the rating level of noise emissions shall be undertaken in accordance with an assessment protocol that shall previously have been submitted to and approved in writing by the Planning Authority. The protocol shall include the proposed measurement location(s) where measurements for compliance checking purposes shall be undertaken, whether noise giving rise to the complaint contains or is likely to contain a tonal component, and also the range of meteorological and operational conditions (which shall include the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise emissions. The proposed range of conditions shall be those which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the written request of the Planning Authority under paragraph c above, and such others as the independent consultant considers likely to result in a breach of the noise limits;
- e. Where the property to which a complaint is related is not listed in the tables attached to this condition, the Company shall submit to the Planning Authority for written approval proposed noise limits selected from those listed in the tables to be adopted at the complainant's property for compliance checking purposes. The proposed noise limits are to be those limits selected from the tables specified for a listed location which the independent consultant considers as being likely to experience the most similar background noise environment to that experienced at the complainant's property. The rating level of noise emissions resulting from the combined effects of the wind turbines shall not exceed the noise limits approved in writing by the Planning Authority for the complainant's property;
- f. The Company shall provide to the Planning Authority the independent consultant's assessment of the rating level of noise emissions within 2 months of the date of the written request of the Planning Authority for compliance measurements to be made under paragraph e, unless the time limit is extended in writing by the Planning Authority. Certificates of calibration of the instrumentation used to undertake the measurements shall be submitted to the Planning Authority with the independent consultant's assessment of the rating level of noise emissions;
- g. Where a further assessment of the rating level of noise emissions from the wind farm is required, the Company shall submit a copy of the further assessment within 21 days of submission of the independent consultant's assessment





|                  |        |            |          |          |          |          |          |          |          |          |          |          |
|------------------|--------|------------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|
| Signal Box       | 352550 | 6055<br>52 | 43.<br>0 | 43.<br>0 | 43.<br>0 | 43.<br>0 | 43.<br>0 | 43.<br>0 | 43.<br>0 | 43.<br>5 | 43.<br>5 | 43.<br>5 |
| Shankend Station | 352400 | 6057<br>19 | 43.<br>0 | 43.<br>0 | 43.<br>0 | 43.<br>0 | 43.<br>0 | 43.<br>0 | 43.<br>0 | 43.<br>5 | 43.<br>5 | 43.<br>5 |
| Shankend Farm    | 352323 | 6059<br>63 | 43.<br>0 | 43.<br>0 | 43.<br>0 | 43.<br>0 | 43.<br>0 | 43.<br>0 | 43.<br>0 | 43.<br>5 | 43.<br>5 | 43.<br>5 |

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

### Shadow Flicker

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

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

### Television interference

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

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

### Air Traffic Safety

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

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

Reason: In the interests of aviation safety.

15. Prior to the erection of the first wind turbine a scheme of aviation lighting for the wind farm shall be submitted to and approved in writing by the Planning Authority

in consultation with the Ministry of Defence. This lighting shall be installed at the highest practical point on the perimeter turbines, and shall be infrared warning lighting with an optimised flash pattern of 60 flashes per minute of 200ms to 500ms duration. The turbines shall be erected with the approved lighting installed and the lighting shall remain operational throughout the duration of the consent.

Reason: In the interests of safety for military aviation.

### **Threat Radar**

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

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

### **Road Safety**

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

- g. A detailed engineering drawing of the proposed access and visibility splays from the B6399;
- h. Name and contact details of a nominated person to whom any road safety issues can be referred.

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

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

### **Access Tracks**

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

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

- 19. No development shall commence until details of all watercourse crossings, culverts and alterations to existing crossings (position and design) have been submitted to and approved in writing by the Planning Authority, in consultation with SEPA. These should be designed to convey the 1 in 200 year flow. The development then to be completed in accordance with the approved details.

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

### **Public Access**

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

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

### **Private Water Supplies**

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

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

### **Borrow Pits**

22. No development shall commence until a site specific scheme for the working and restoration of each borrow pit forming part of the development has been submitted to and approved in writing by the Planning Authority in consultation with SEPA. The scheme shall include:
- a. A detailed working method statement based on site survey information and ground investigations;
  - b. Details of the handling of any overburden (including peat, soil and rock);
  - c. Drainage, including measures to prevent surrounding areas of peatland, water dependant sensitive habitats and Ground Water Dependant Terrestrial Ecosystems (GWDTE) from drying out;
  - d. A programme of implementation of the works described in the scheme; and
  - e. Full details of the reinstatement, restoration and aftercare of the borrow pit(s) at the end of the construction period, to include topographic surveys of pre-construction profiles, and details of topographical surveys to be undertaken of the restored borrow pit profiles. The approved scheme shall thereafter be implemented in full.

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

23. Blasting shall only take place on the site between the hours of 10.00 to 16.00 on Monday to Friday inclusive and 10.00 to 12.00 on Saturdays, with no blasting taking place on a Sunday or on national public holidays, unless otherwise approved in advance in writing by the Planning Authority. Ground vibration from blasting shall not exceed a peak particle velocity of 6mm/second at agreed blasting monitoring locations. The measurement shall be the maximum of three mutually perpendicular directions taken at the ground surface.

Reason: To ensure that blasting activity is carried out within defined timescales to control impact on amenity.

### **Archaeology**

24. The development shall be implemented in accordance with the Written Scheme of Investigation (WSI), which was agreed on 22<sup>nd</sup> April 2019 in response to Condition 24 of consent 17/00010/FUL, unless otherwise agreed in writing with the Planning Authority.

Reason: The site is within an area where ground works may interfere with, or result in, the destruction of, archaeological remains and it is therefore desirable mitigate the loss and potential loss of known and unknown archaeological features.

25. No development shall commence until a detailed scheme of cultural heritage enhancement has been submitted to and approved in writing by the Planning Authority. The approved scheme then to be implemented in full before the development hereby approved becomes operational.

Reason: To improve the understanding, appreciation and experience of heritage assets where their settings and historic landscape contexts are affected by the development.

## Ecology

26. No SUDS ponds or settlement lagoons shall be placed on areas deemed to be Ground Water Dependent Terrestrial Ecosystems.

Reasons: To avoid impacts on wetland ecology.

27. The development shall be implemented in accordance with the appointment of the Ecological Clerk of Works (ECoW) which was agreed on 12<sup>th</sup> June 2019 in response to Condition 27 of consent 17/00010/FUL, unless otherwise agreed in writing with the Planning Authority. The Ecological Clerk of Works (ECoW) shall be appointed to carry out pre-construction ecological surveys, to inform a Construction Environmental Management Plan (CEMP) and to oversee compliance with the Construction Environment Management Plan, Species Protection Plan, Ecological Monitoring Plan and Decommissioning, Restoration and Aftercare Plan (“the ECoW works”). The terms of the appointment shall be submitted for the approval in writing by the Planning Authority in consultation with SEPA and SNH. The terms shall include the requirement to:

- a. Impose a duty to monitor compliance with the ecological and hydrological commitments provided in the Environmental Statement and other information lodged in support of the application, the Construction Environmental Management Plan and other plans; and
- b. Require the ECoW to report to the Company’s nominated construction project manager, the Planning Authority and SEPA any incidences of non-compliance with the ECoW works.

Reason: To secure effective monitoring of and compliance with the environmental mitigation and management measures associated with the development.

28. No development shall commence until a Construction Environment Management Plan (CEMP) has been submitted to and approved in writing by the Planning Authority, in consultation with SEPA. The CEMP shall include:

- a. Risk assessment of potentially damaging construction activities;
- b. Identification of “biodiversity protection zones”;
- c. Method Statements to avoid or reduce impacts during construction, to include the location and timing of sensitive works to avoid harm to biodiversity features, the times during construction when specialist ecologists need to be present on site to oversee works, include the use of protective fences, exclusion barriers and warning signs;
- d. A Drainage Management Plan;
- e. A Site Waste Management Plan;
- f. An Accident Management Plan;
- g. Responsible persons and lines of communication;
- h. The role and responsibilities on site of an Ecological Clerk of Works (ECoW).

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

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

29. No development shall commence until a Species Protection Plan, including measures for bats, otters, badgers, red squirrels, breeding birds (including goshawk and crossbill), reptiles and amphibia as appropriate, has been submitted

to and approved in writing by the Planning Authority. This to be informed by pre-commencement surveys carried out no more than 8 months prior to construction works commencing. Any works shall thereafter shall be carried out in accordance with the approved scheme.

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

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

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

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

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

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

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

### **Replanting of Forestry**

33. No development shall commence until a forestry and woodland planting scheme to compensate for the removal of woodland areas and forestry within the site ("the Replanting Scheme") has been submitted to and approved in writing by the Planning Authority, in consultation with Forestry Commission Scotland. The Replanting Scheme must comply with the requirements set out in the UK Forestry Standard (Forestry Commission, 2011. ISBN 978-0-85538-830-0) and the guidelines to which it refers, or such replacement standard as may be in place at the time of submission of the Replanting Scheme for approval. The Replanting Scheme must include:

- a. Details of the location of the area to be planted;
- b. Details of land owners and occupiers of the land to be planted;
- c. The nature, design and specification of the proposed woodland to be planted;
- d. Details of all consents required for delivery of the Replanting Scheme and timescales within which each will be obtained;
- e. The phasing and associated timescales for implementing the Replanting Scheme;

- f. Proposals for the maintenance and establishment of the Replanting Scheme, including annual checks, replacement planting, fencing, ground preparation and drainage; and
- g. Proposals for reporting to the Planning Authority on compliance with timescales for obtaining the necessary consents and thereafter implementation of the Replanting Scheme.

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

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

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

### **Decommissioning and Financial Guarantee**

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

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

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

### Informatives

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

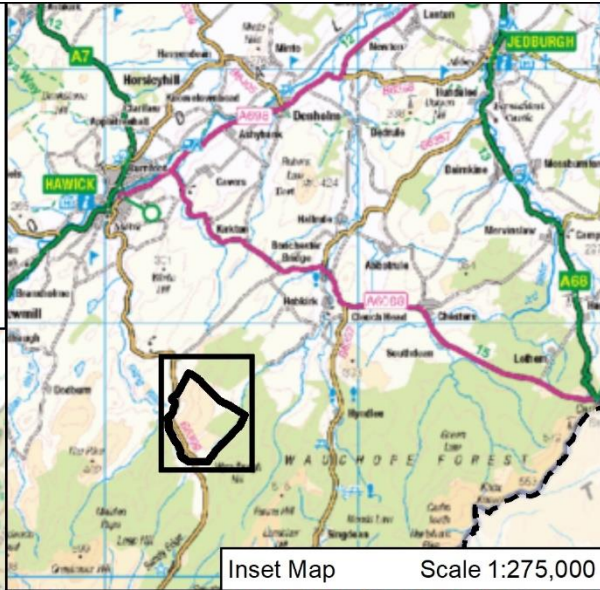






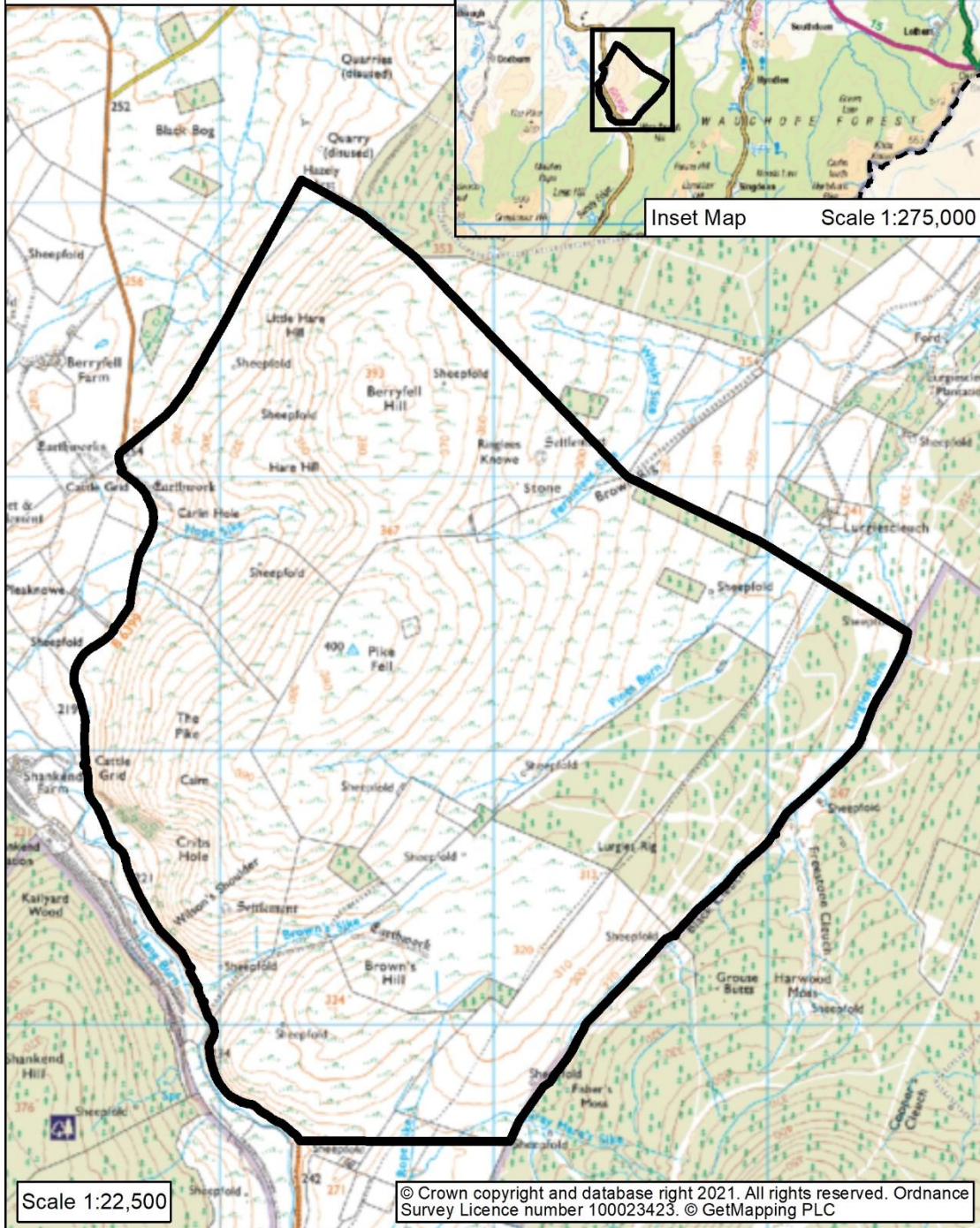
21/01137/FUL

Land South West Of Lurgiescleuch  
(Pines Burn)  
Hawick



Inset Map

Scale 1:275,000



Scale 1:22,500

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