

SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

24 APRIL 2023

**APPLICATION FOR CONSENT TO CONSTRUCT WIND FARM UNDER SECTION
36 OF THE ELECTRICITY ACT 1989**

ITEM: **SBC REFERENCE NUMBER:** 21/01134/S36
ECU REFERENCE NUMBER: ECU00003288

OFFICER: Mr Scott Shearer
WARD: Tweeddale West
PROPOSAL: Wind farm development comprising of 12 turbines (149.9 metres in height), associated infrastructure and battery energy storage system.

SITE: Cloich Forest Wind Farm
Land West Of Whitelaw Burn
Eddleston

APPLICANT: Cloich Wind Farm Partnership LLP
AGENT: Arcus Consultancy Services

1.0 PLANNING PROCESSING AGREEMENT

1.1 There is a planning processing agreement for the Council to determine its response at the Planning and Building Standards (P&BS) Committee on the 24th April 2023.

2.0 PURPOSE OF REPORT

2.1 To advise the Scottish Government of the response from Scottish Borders Council on an application submitted under section 36 of The Electricity Act 1989 (as amended) to construct 12 wind turbines and associated infrastructure within the Cloich Forest, near Eddleston.

3.0 PROCEDURE

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

3.2 The views of SBC will be provided to the Energy Consents Unit at Scottish Government (ECU), the body responsible for processing onshore Section 36 planning applications. The proposal is required to be determined via Section 36 (S36) of the Electricity Act 2017 because it comprises a wind farm with a generating capacity which exceeds 50MW. The ECU advertises the application and carries out consultation with other interested bodies. There is, therefore, no need for Scottish Borders Council to undertake a tandem process although consultation has taken place with relevant specialists within the Council. Any S36 approval granted by the Scottish Minister would benefit from deemed planning permission under Section 57(2) of the Town and Country Planning (Scotland) Act 1997.

- 3.3 Given the nature of the application, an Environmental Impact Assessment (EIA) was undertaken with further Supplementary Environmental Information (SEI) submitted.
- 3.4 It should be noted that if permission is granted, the Council (rather than the ECU) would become the relevant enforcement authority responsible for monitoring compliance with the terms of an approval including discharging any suspensive conditions attached to any consent.

4.0 SITE DESCRIPTION

- 4.1 The application site is located within Cloich Forest, a commercial coniferous plantation in the Cloich Hills north-west of Peebles. Peebles is just over 5km south-east of the site; Penicuik is approximately 8km to the north; West Linton is 6km to the west and Eddleston village is around 3km to the east. The administrative boundary with Midlothian lies approximately 3km to the north and 4 kilometres to the east of the site. South Lanarkshire is within 7km to the west.
- 4.2 The site lies in between a triangle of A class roads which consist of the A703 to the east, A701 to the west and A72 to the south.
- 4.3 Close to the centre of the site is a property (Courhope) not owned or controlled in full by the applicant. This is essentially a private property within an associated landholding.

Landscape Character

- 4.4 In terms of the 1998 Scottish Borders Landscape Character Assessment (1998), the entire site lies within the 'Plateau Outliers' Landscape Character Type (LCT). This LCT is described as an upland plateau landscape characterised by hill and ridges covered by mosaic coarse grassland, heather and forestry which is separated from adjoining landscape types by river valleys. Figure 5.1.4a of the ES shows the character type and surrounding types, which include 'Upland Fringe Grassland' to the north-east, 'Pastoral Upland Valley' and 'Dissected Plateau Moorland' to the east, 'Rolling Farmland' to the north-west, 'Upland Valley With Woodland' to the south and 'Upland Valley With Pastoral Floor' to the south-east and south-west.
- 4.5 The site is not located within any designated landscape areas. The Upper Tweeddale National Scenic Area (NSA) lies approx. 2.5km to the south. The locally designated Tweed Valley Special Landscape Area (SLA) lies closer to the site at approx. 1.2km to the. The Upper Tweedsmuir SLA is situated between 3 - 4km south-west of the site.

Historic Environment Designations

- 4.6 On the opposite side of the A703 lies the Portmore House and Gardens Historic Gardens and Designed Landscape (HGDL). Portmore House is a Category A Listed Building. Other Listed Building are located close to the site at Barony Castle. The village of Eddleston has a Conservation Area. Four Scheduled Monuments are located within the application site.

Designated Nature Conservation Sites

- 4.7 The Eddleston Water lies to the east of the development adjacent to the A703, this water course forms part of the River Tweed SAC. The existing public road which provides access to the development has a bridge crossing over the water course.

Public Access and Paths

- 4.8 The site is crossed by the Cross Borders Drove Road, an important walking route that starts at Newark Castle near Selkirk and ends where it meets the boundary of Borders/West Lothian in the Pentland Hills. The site is visible from sections of the John Buchan Way, a recreational route that starts in Peebles and ends in Broughton. This route is situated in places between 5 and 7km from the site. Within the site is a further promoted public path more than 4km in length, which links from the Drove Road to Shiplaw (on route of proposed access) via Cloich Farm/House. This latter path and the Drove Road are utilised as horse riding routes.

5.0 PROPOSED DEVELOPMENT

- 5.1 The proposed development represents a re-design of the consented Cloich Forest Wind Farm (12/01283/S36). The proposed development would comprise of a wind powered generating station with the following components;
- 12 wind turbines with a maximum tip height of 149.9m with a generating capacity of up to 57MW and associated infrastructure
 - Substation compound and buildings
 - Battery Energy Storage System (BESS) facility with a 20MW storage capacity
 - Public road widening works including modification of vehicular access with A703 public road and formation of secondary access
 - 2 Borrow pits for use during development, to be reinstated post-construction
 - Temporary construction compound
 - Forestry felling and compensatory planting
- 5.2 The applicant is seeking consent for an operational period of 30 years. At the end of this period, unless 're-powered' or unless a new planning permission is granted that would extend the wind farm's life, it would be decommissioned and the site restored in agreement with a decommissioning method statement.
- 5.3 Through the course of the application Turbine 8 has been relocated to address cultural heritage impacts.

6.0 PLANNING HISTORY

- 6.1 Consent was granted under S36 of the Electricity Act from the Cloich Forest Wind Farm at this site, (12/01283/S36). The candidate turbines were reduced from 132m to 115m to tip. The Council objected to the proposed development primarily on grounds of landscape character and visual amenity impacts but consent was granted on appeal following Public Local Inquiry (PLI).
- 6.2 This consent was granted on 8th July 2016. Condition 2 of that permission required the development to be commenced within 5 year of the consent being

granted. COVID 19 regulations extended the period of commencement until 30th September 2022. However, the development was not commenced before this date and the original permission has now lapsed.

7.0 REPRESENTATION SUMMARY

- 7.1 Third party representations are submitted to the ECU and it is for that authority to take these in to consideration when assessing the proposed developments on behalf of the Scottish Ministers. Third party representations are available via the ECU's public portal here; [Public Representations](#)

8.0 APPLICANTS' SUPPORTING INFORMATION

- 8.1 The application has been supported by a full Environmental Impact Assessment (EIA), split across four Volumes of text, figures, visualisations and a Non-Technical Summary. In addition to the EIA the application has been supported by;

- A Planning Statement
- Pre-Application Consultation Report
- Project Comparison Report

- 8.2 Supplementary Environmental Information (SEI) was submitted to SBC on 1st December 2022 which re-siting T8 and provided additional information relating to hydrology, heritage and forestry impacts.

- 8.3 An updated Planning Statement was also provided in response to Scottish Ministers approved version of NPF4. Further correspondence on Private Water Supply impacts has been provided by the applicants in response to the EHOs observations.

9.0 CONSULTATION RESPONSES:

- 9.1 The following consultation responses have been received by specialist officers within SBC.

- 9.2 **Access Ranger:** No objection. Recommended that the Cross Borders Drove Road core path and rights of way within the site should remain open and free from obstruction in accordance with the Land Reform (Scotland) Act 2003 and NatureScot's 'Good practice during Wind Farm Construction Guidance. Proximity of T1, 2, 3, 4, 5 and 7 do not provide separate distances for routes used for equestrian activity which is advocated by the British Horse Society.

- 9.3 **Archaeology Officer:** The proposed scheme continues to adversely affect the historic environment. The proposal adversely affects the setting of the White Meldon Scheduled Monument (SM) 2441 and Whaup Law Cairn SM 2755, with T8 also having potentially direct impacts on SM2755. Recognise consent was previously granted for a wind farm and mitigation by condition may be envisaged however, limited information on any mitigation or archaeological enhancements are detailed. Without this information, consider the proposals to fail to comply with Historic Environment Policy 3 and 4 and LDP Policy EP8a.

- 9.4 **Environmental Health (Noise):** No objection. Noise prediction methodology is consistent with ETSU-R-97. Predicted noise emissions are within the derived limits at all receptor locations. No cumulative assessment is necessary.

Recommend that maximum noise limits should be set by a planning condition and the Council should seek to confirm sound power levels for turbines that are to be erected.

9.5 **Environmental Health (Private Water Supply):** A detailed assessment has been undertaken raising the following concerns;

1. Impact on T3 on the Stewarton PWS
2. Whether all PWS systems within the PWS zones have been given due consideration

There is still uncertainty that the development as proposed will not adversely affect PWS, in particular the Stewarton PWS.

9.6 **Flooding and Coastal Management:** No objection. Accept measures proposed in the EIA to minimise flood risk and pollution of the water course in addition to further observations seeking to; ensure SuDS drainage keep to greenfield run-off rates; released water does not cause soil erosion or vegetation loss; construction drainage ditches down slope are not dug in a straight line; and any silt traps, matting and heck dames are retained after construction until surrounding soil is vegetated.

9.7 **Landscape Architect:** No objection. Taller turbines increase the visual effect of the development including its impact on the NSA but in comparison with the consented scheme this change does not justify an objection. T12 relates poorly to the landscape from VPs 7, 12 and 13. Recommend it be removed or relocated. No adverse residential amenity impacts are caused when applying best practice guidance.

9.8 **Roads Planning:** No objection subject to a condition seeking an agreement of a Traffic Management Plan to finalise delivery route, number of HGV movements as well as agreement of any ancillary works required to the public road to facilitate required to provide safe vehicle movements

10.0 Other Consultation Responses Submitted to the ECU

10.1 As members are aware, the Council is a consultee in the Section 36 application process and does not undertake any outside consultation itself. Consultation responses provided by other bodies are returned to the ECU and are available via the ECU's public portal here; [Consultation Responses](#)

11.0 LEGAL FRAMEWORK

- The Electricity Act 1989
- The Town and Country Planning (Scotland) Act 1997
- The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (as amended)
- The Climate Change (Emissions Reduction Targets) (Scotland) Act 2019

12.0 DEVELOPMENT PLAN POLICIES:

12.1 National Planning Framework 4

- Policy 1: Tackling the Climate and Nature Crises
- Policy 3: Biodiversity
- Policy 4: Natural Places
- Policy 5: Soils
- Policy 6: Forestry, Woodland and Trees
- Policy 7 Historic Assets and Places
- Policy 11: Energy

12.2 Local Development Plan 2016 (LDP):

- PMD1 Sustainability
- PMD2 Quality Standards
- ED9 Renewable Energy
- HD3 Protection of Residential Amenity
- EP1 International Nature Conservation Sites
- EP2 National Nature Conservation Sites and Protection Species
- EP3 Local Biodiversity
- EP4 National Scenic Areas
- EP5 Special Landscape Areas
- EP7 Listed Buildings
- EP8 Archaeology
- EP9 Conservation Areas
- EP10 Gardens and Designated Landscapes
- EP13 Trees, Woodlands and Hedgerows
- EP15 Development Affecting the Water Environment
- IS4 Transport Development and Infrastructure
- IS5 Protection of Access Routes
- IS8 Flooding
- IS9 Waste Water Treatment Standards and Sustainable Urban Drainage

13.0 OTHER PLANNING CONSIDERATIONS:

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

- Renewable Energy 2018 including Update of Wind Energy Landscape Capacity and Cumulative Impact Study 2016
- Visibility Mapping for Windfarm Development 2003
- Local Landscape Designations 2012
- Sustainable Urban Drainage Systems 2020
- Developer Contributions 2010
- Trees and Development 2008
- Biodiversity 2005

13.2 Scottish Government Advice and Guidance;

- Onshore Wind Turbines: Planning Advice [Online]
- Circular 3/2011 Environmental Impact Assessment (S) Regulations 2011
- PAN 60 Planning for Natural Heritage 2008

- PAN 51 Planning, Environmental Protection and Regulation
- PAN 3/2010: Community Engagement (2010)
- PAN 1/2011 Planning and Noise
- PAN 2/2011 Planning and Archaeology
- PAN 1/2013 Environmental Impact Assessment
- PAN 61: Planning and Sustainable Urban Drainage Systems
- PAN 69 Flood Risk 2015
- PAN 73: Rural Diversification
- PAN 75 Planning for Transport
- PAN 81 Community Engagement Planning with People
- Scottish Government Good Practice Principles for Shared Ownership of Onshore Renewable Energy Development 2016

13.3 **Historic Scotland Publications:**

- Scottish Historic Environment Policy (2011)

13.4 **NatureScot 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
- Good Practice during Wind Farm Construction 2019

13.5 **Other Publications:**

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

14.0 **ENERGY POLICY**

- Onshore Wind Policy Statement (OWPS) 2022
- Draft Energy Strategy and Just Transition Plan 2023
- The Climate Change Act 2008 (2050 Target Amendment Order 2019)
- United Nations Climate Change - The Paris Agreement 2015
- Climate Change Committee - The Sixth Carbon Budget: The UK's path to Net Zero (2020)
- Scottish Government (2020) Securing a green recovery on a path to net zero: climate change plan 2018-2032
- Climate Change (Scotland) Act 2009
- Climate Change (Emissions Reduction Targets) (Scotland) Act 2019

15.0 **KEY PLANNING ISSUES:**

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

- whether the site remains a suitable location for a wind farm
- magnitude of change between previous consented scheme and proposed scheme
- economic and energy benefits

- cultural heritage impacts
- impacts on residential amenity, including noise impacts
- impacts on private water supplies
- ecological and biodiversity impacts
- impacts on public access
- impact on road safety and road network

16.0 ASSESSMENT OF APPLICATION:

The Electricity Act 1989

- 16.1 This proposal is required to be assessed under section 36 of the Electricity Act 1989. The Electricity Act requires that in formulating proposals to generate electricity, regard shall be had to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural or historic interest and to mitigating the impact any proposals may have on these: and that Scottish Ministers shall have regard to these matters in considering an application under Section 36. The Development Plan is a material consideration in the determination of a Section 36 application.

Planning Policy

- 16.2 Since the determination of the original application by the Reporter in 2016, the planning policy framework has changed significantly. This revised proposal must be assessed against current national and local planning policy provision.

National Planning Framework 4

- 16.3 NPF4 sets out the Scottish Governments long-term spatial principles until 2045 and by applying these the national spatial strategy will support the planning and delivery of: sustainable places, liveable places and productive places. Central to the spatial strategy is the need to reduce greenhouse gas emissions and adapt to future implications of climate change. NPF4 acknowledges that meeting net zero climate ambitions will require rapid transformation across all sectors of our economy and society and every decision on future development must contribute to making Scotland a more sustainable place. Unlike its predecessors, NPF4 has elevated status as it forms part of the statutory development plan. Therefore it must be afforded considerable weight as part of the decision making process for all planning decisions.
- 16.4 NPF4 recognises that large scale electricity generation from renewable sources is essential to meet net zero emissions targets. The framework designates 18 National Developments to support the delivery of the spatial strategy. Any on or off shore wind farm that generates in excess of 50 megawatts of electricity is designated a national development. The volume of electricity generated by the current proposal would exceed this threshold. This proposal represents a National Development, which would help to deliver the spatial strategy.
- 16.5 Part 2 of NPF4 sets out the national planning policy framework to meet policy aspirations under the three themes of; sustainable places, liveable places and productive places. A range of Policies are relevant to this proposed development and NPF4 must be applied as a whole. However, when

considering the principle of this development proposal Policy 1: Tacking the Climate and Nature Crisis and Policy 11: Energy are relevant.

- 16.6 Policy 1 seeks to promote development that addresses the global climate emergency and nature crises. This development would generate electricity from a renewable source and would provide battery storage capacity that also plays an important role in meeting net zero emissions targets. This development draws clear support from this policy.
- 16.7 Energy policy principles are set out in Policy 11, which encourages, promotes and facilitates all forms of renewable energy development, including onshore wind farms and battery storage. The policy does not permit wind farm development to take place within National Parks or National Scenic Areas. The site is close to the Upper Tweeddale NSA, but its location out with either of these designations confirm that the proposal is effectively in an area which may be suitable for wind farm development. The policy also seeks for proposals to maximise net economic impacts, this matter will be discussed later in the report.
- 16.8 The energy policy sets out matters that are addressed in the design and mitigation of a development. These include impacts (including cumulative) on communities and individual dwellings; significant landscape and visual impacts; historic environment; biodiversity; trees and woodlands; public access; aviation and defence interests; telecommunications and broadcasting; road traffic; water environment; decommissioning of developments and site restoration. The policy now requires that in considering these 11 impacts, significant weight will be given to the contribution of the proposal to renewable energy generation targets and on greenhouse gas emissions reduction targets.

Onshore Wind Policy Statement (OWPS)

- 16.9 Published on 25th December 2022, the OWPS reaffirms that the deployment of onshore wind is critical for meeting Scotland's energy targets. The statement renews the commitment to onshore wind technology and sets ambition for a minimum installed capacity of 20GW of onshore wind in Scotland by 2030. It recognises at paragraph 3.6.1 that; "*Meeting the ambition of a minimum installed capacity of 20 GW of onshore wind in Scotland by 2030 will require taller and more efficient turbines. This will change the landscape.*" (Original emphasis).
- 16.10 Despite the acceptance that more wind energy deployment is necessary, this is still not development at any cost with the Vision Statement for OWPS (see Annex 5) confirming that a balanced approach is still necessary in particular to ensure developments still respect biodiversity, natural heritage and landscape.

Scottish Borders Local Development Plan (LDP) 2016

- 16.11 The previous consent at this site was primarily determined against the Consolidated Local Plan 2011. In 2016 the Councils LDP replaced the 2011 Local Plan. Policy ED9 is the principal LDP Policy dealing with renewable energy development and supports commercial wind farms where they can be accommodated without unacceptable significant adverse impacts or effects, giving due regard to relevant environmental, community and cumulative impact considerations. If there are judged to be significant adverse impacts or effects which cannot be satisfactorily mitigated, the development will only be approved

if the Council is satisfied that the wider economic, environmental and other benefits of the proposal outweigh the potential damage arising from it.

- 16.12 The applicants consider that ED9 is now inconsistent with NPF4 as it does not make explicit reference to significant weight being placed on a development's contribution to renewable energy generation targets. Despite this, Policy ED9 does still permit the decision maker to attribute weight to environmental and other benefits arising from the development as they see fit. This would allow them to place greater weight on its contribution to energy targets, therefore it is not considered to be incompatible with NPF4.
- 16.13 The current LDP was under examination and at an advanced stage when the original application was at appeal. The Reporter did consider the previous scheme against Policy ED9 and at paragraph 7.53 of his decision, determined that; "*The proposed Cloich Forest Wind Farm development would be consistent with Policy ED9 as modified by the reporter. Whilst there are some significant adverse impacts they are acceptable, and the wider economic, environmental and other benefits that would arise would outweigh the planning harm arising from those effects.*" Although the 2012 scheme differs from this current proposal, the Reporter's decision to approve the development of a wind farm in this location, finding that it complied with current LDP policy provision, is a material consideration in the determination of this current proposal.
- 16.14 Policy ED9 also embodies the Council's Renewable Energy Supplementary Guidance (SG) 2018, which has been approved by the Scottish Government. Figure 6: Spatial Framework of the SG acknowledges that the development is located within an area that was identified to have potential for wind farm development.
- 16.15 The SG includes the Wind Energy Landscape Capacity and Cumulative Impact Study produced by Ironside Farrar. This was updated in 2016. The Council's Wind Energy Landscape Capacity and Cumulative Impact Study is still part of the Council's development plan and contains advice that is relevant to the consideration of this application. The site is within the Eddleston/Lyne Interfluvium of LCT 3. Plateau Outliers where the area was assessed to have medium/high landscape sensitivity and landscape value. The Study does recognise that the Cloich Forest Wind Farm was approved within this area and this latest proposal occupies the same location as the previously consented scheme.

Planning Policy Conclusion

- 16.16 The determination of the Scottish Ministers to grant consent for a commercial wind farm in this location is a material consideration. At the time of this determination, paragraph 170 of SPP required that areas identified for wind farms should be suitable for use in perpetuity. SPP has been superseded by NPF4 but it is reasonable to accept that appeal decision to approve the Cloich Forrest Wind Farm goes a long way to establish that the principle of a wind farm is acceptable in this location. Cognisance has to be taken that this is the starting point when assessing the merits of this latest proposal.
- 16.17 This current application is for a different scheme with fewer but taller turbines. It is required to be assessed against current development plan policies which

now includes NPF4. Current Development plan policies raise the significance of the climate emergency and continue to promote the use of onshore wind to meet net zero emissions.

- 16.18 In principle, NPF4, OWPS and the Councils LDP are supportive of renewable energy development in this location however, the benefits of energy production are still required to be weighed against any disbenefits arising from the proposed development as part of the planning balance. When this careful balancing exercise is being carried out NPF4 explicitly requires decision makers to give significant weight to the contribution a development will make towards renewable energy targets as part of their consideration. This requirement shifts the balance in favour of renewable energy developments nationally, but should not be considered as a blanket acceptance of wind energy development on land outside a national park or NSA. It is the act of the planning balance, which will still determine the suitability of a wind farm against prevailing development plan policies. The Reporters decision to approve a wind farm in this location carries significant weight in the planning balance. Members should, in their consideration of the current application, account for the magnitude of change between the impacts of the previous consent and the current proposal. The applicants have provided a Project Comparison Report, which assists with this consideration.

Climate Change and Renewable Targets

- 16.19 The Climate Change (Emissions Reduction Targets) (Scotland) Act 2019, introduced a target of net zero greenhouse gas emissions by 2045 at the latest. To reach net zero, national target have been set to reduce emissions by at least 75% by 2030 and 90% by 2040. Scotland's Climate Change Plan 2018-2032 sets out the road map for achieving those targets and has set the goal of 50% of Scotland's energy need to be met by renewable energy by 2030. The deployment of further renewable energy developments are necessary to meet national energy targets and assist with the delivery of a green economic recovery.
- 16.20 The Scottish Governments OWPS states that in order to meet net zero emissions targets, a minimum installed capacity of 20GW of onshore wind will be required in Scotland by 2030. The OWPS calculated that 8.7GW of energy is being generated by existing wind farms as of June 2022. There was also found to be 11.3GW of onshore wind 'pipeline' projects which are spread across the following stages;

Status	GW
In Planning/Consenting	5.53
Awaiting Construction	4.56
Under Construction	1.17

(Source: OWPS paragraph 1.1.5)

- 16.21 Although the pipeline projects bring the energy generated close to the 20GW target, the following factors need to be considered;
- Not all projects currently in the planning/consenting process will obtain permission

- There is duplication in the figures where some projects have consent and are also seeking consent for changes, i.e. tip height increases (such as Cloich) so they feature in both the 'awaiting construction' and 'in planning' categories. Only one of these possible consents can be built.
- Some existing wind farms contributing towards the existing installed capacity will have reached the end of its operational life by 2030 and it is not known if these schemes will be repowered.

16.22 The OWPS is clear that further onshore wind development will be necessary to meet renewable energy targets. The previous wind farm consent at this site had a predicted installed capacity of 54MW. This revised scheme would increase its contribution to 57MW with six fewer turbines. The EIA predicts that across its 30 year operational life the revised scheme would provide a carbon saving of over 1.8million tonnes. The applicants have also advised that the development has an agreed grid connection for April 2028 therefore if consented it would be operational in time to contribute towards the 20GW installed onshore wind target for 2030.

16.23 The revised scheme also includes a BESS facility that can import power from the national grid or wind turbines at the site and export this electricity to cope with supply and demand pressures. The BESS has a capacity for the storage of 20MW, which is recognised to form part of the energy mix required to meet national energy targets.

16.24 It is clear that this development would make an important contribution to meeting renewable energy targets and as stated previously NPF4 requires that this contribution now carries more weight in the 'planning balance'.

Economic and Socio-Economic Benefits

16.25 Wind energy developments can make an important contribution to the UK economy. Net economic impact is a material planning consideration and local and community socio-economic benefits include employment, associated business and supply chain opportunities.

16.26 The ES outlines the socio-economic benefits of the development and these include:

- Creation of up to 75 jobs during construction period
- Capital expenditure is predicted to be £75.2million across the developments operational life. Of that, £27m is expected to be spend nationally with £9m predicted to be spent locally.
- The development will contribute £5k annually per MW of installed capacity towards community benefit funds
- The development will provided the opportunity for shared community ownership of up to 25% of the completed development

16.27 It is accepted that jobs would be created during construction and should the developer use local firms and businesses there is potential for employees to use local facilities and services, such as accommodation and shops. Following the construction phase the development would sustain a low number of jobs although this would increase during decommissioning. The developers proposed contribution to community benefit funds does align with the £5,000 level prescribed by the *Good Practice Principles (GPPs) for Community*

Benefits from Onshore Renewable Energy Developments, however this is not a material consideration for the Councils determination of this application.

- 16.28 The overall net economic benefits are estimations of the effects of the proposed development. NPF4 Policy 11, criteria c) requires wind farms development to maximise net economic and socio-economic impacts. At this stage no guidance available to corroborate if these effects are indeed being maximised. Nevertheless it is accepted that the proposed Development has the potential to provide positive net economic benefits both for the local community the Scottish Borders and Scotland.

Landscape and Visual Impacts

- 16.29 Policy 11 of NPF4 and LDP Policy ED9 requires consideration of the landscape and visual impacts, including cumulative impacts. Account must be taken of the position adopted by NPF4. Policy 11 acknowledges that significant landscape and visual impacts are to be expected from some forms of renewable energy development. Where these impacts are localised and/or appropriate design mitigation has been applied, NPF4 deems that these landscape and visual effects are acceptable. The acceptance of some level of landscape and visual impact arising from developments such as wind farms is a clear shift from the policy position of Scottish Planning Policy which was in place at the time of determination of the original position.
- 16.30 Account should also be taken of the Renewable Energy SG and relevant guidance within the Ironside Farrar Landscape Capacity and Cumulative Impact Study.
- 16.31 The site is close to the Tweeddale NSA and the locally designated Tweed Valley SLA and Tweedsmuir SLA. NSA impacts require consideration against NPF4 Policy 4 criteria c) and LDP Policy EP4. SLA impacts require consideration against NPF4 Policy 4 criteria d) and LDP Policy EP5. The thrust of these policy considerations seeks to protect the integrity of each specific landscape designations and where any significant adverse effects arise, development should only take place there these impacts are outweighed by social, environmental or economic benefits.

Theoretical Visibility

- 16.32 The Zone of Theoretical Visibility (ZTV) illustrates the potential visibility of the turbines to hub and tip. Figure A1 Blade Tip Comparative ZTV illustrates in green shading areas where this development would introduce new visibility. Yellow shading is areas already affected by the previously Consented Scheme and would remain affected by the proposed development. Some new visibility is suggested directly to the west of the site in the valley containing the A701 from Lamancha towards Blyth Bridge. There are limited new locations within the Scottish Borders where there will be new visibility of a wind farm as a result of the proposed tip height increase.
- 16.33 The proposed development will unquestionably result in a visibility of taller turbines from affected locations. Impacts arising from this will be discussed below. Nevertheless, assessment of the Theoretical Visibility ZTV suggest that the increase in turbine height does not result in a significant increase in visibility of the wind farm from locations that were not previously affected by the earlier scheme.

Landscape Impact

- 16.34 Landscape impacts occur when looking towards, from and through the site. The proposed wind farm retains its central siting within an upland landscape, maintaining its physical separation to more intimate neighbouring landscapes. The Ironside Farrar report notes that this plateau landscape provides topographical containment and recognised that consent was previously granted for a wind farm within this centre of the LCT.
- 16.35 The LVIA predicts that the increase in the height of the turbines changes the effects on the landscape character of six LCTs from 'Not Significant' to 'Significant'. Since the original scheme was assessed practices for assessing LVIA have changed which includes some of the descriptions of the residual effects of a development. It is to be expected that by increasing the height of the turbines, they will appear larger within the host LCT and appear more prominent when they are visible from neighbouring LCTs.
- 16.36 A significant consideration for this proposal is its impact on the NSA. A range of viewpoints are selected to discuss these impacts;

Viewpoint (VP) 4 – Black Meldon

- 16.37 This VP lies on the northern edge of the NSA viewing across the Tweed Valley SLA towards the development. The PCR wireline confirms there is a slight reduction in the spread of turbines with less stacking however, the proposed turbines do appear noticeably larger. From this VP there is already existing visibility to the NE, out of the NSA towards the Bowbeat windfarm in the Moorfoot Hills. It is considered that the scale of proposed turbines are not well contained by the receiving landscape, which results in the taller turbines appearing more prominent. The Landscape Architect considers that this view north out of the NSA does provide a view of an attractive landscape, nevertheless it is a view of a landscape which lacks the qualities which define the NSA or the Tweed Valley SLA for that matter.

Viewpoint 14 – B712 / Stobo Road

- 16.38 This VP is located within the NSA. Against the earlier scheme, noticeably fewer turbines are visible but become more in focus, particularly T2. The rising landform at both sides provides containment.

Viewpoint 16 – Haswelsykes

- 16.39 This VP is on the John Buchan Way from the NSA looking towards the Meldon Hills. These are distinctive hill features within the Tweeddale landscape and are located within the Tweed Valley SLA.
- 16.40 The proposed development will increase the lateral spread of turbines slightly, with the blade of T12 marginally extending the wind farm to the west of the Black Meldon. The larger turbines appear more prominent on the skyline. The windfarm does still appear behind the Black Meldon where its peak offers containment but the increase tip height results in the development appearing more dominating in this landscape.

Viewpoint 19 – Cademuir Hill Fort

- 16.41 This VP is channelled towards the Meldon Hills and the Pentland Hills beyond from the eastern side of the NSA. From this VP it is clear that the Meldons are not particularly large hills but their conical shape is distinctive. This VP is from higher land where the Meldon Hills are less imposing but the increased height of turbines will reduce the dominance of the Meldon Hills within their landscape setting.

Viewpoint 23 – Stobs Law

- 16.42 This VP offers an important panorama from an elevated location within the NSA with distinctions between different landscape character types. From this location there is visibility of Bowbeat across the skyline to the NE with the large town of Peebles also evident on the valley floor. The proposed development appears to sit below the skyline. The intervening distance towards the development helps to minimise the magnitude of change between the consented and proposed scheme.
- 16.43 Considering impacts on the the Tweed Valley SLA and Tweedsmuir SLA impacts, these are both local designations. The Tweed Valley SLA is focused on the valley landscapes along the River Tweed. The SLA includes the Meldon Hills. Harmful impacts will occur from outward views from more elevated locations within the SLA, which includes those discussed above at VP4. Other than that, similar to the consented scheme the ZTV confirms that there is generally limited impact from the valley floor.
- 16.44 As previously noted by the Reporter, impacts on the Tweedsmuir SLA will be similar to those experienced from the NSA. There are no areas of significantly new visibility of the development from this SLA.
- 16.45 Overall, the proposal does result in some detrimental landscape impacts, particularly from hilltops. On comparing the landscape impacts of the consented development against the proposed scheme the Landscape Architect accepts that this latest proposal generally increases the effects of the development on landscape character however these effects are not considered to be significant enough to warrant an objection. The proposed development increases the significance of the wind farm from three VPs within the NSA nevertheless it remains separate from the NSA and also the affected SLAs. While the development may have greater impacts on the setting of both the national and locally designated landscape areas, the proposals do not pose any significantly adverse effects on the scenic or landscape qualities of the designated areas.

Visual Impact – roads and paths

- 16.46 The development site is surrounded by a number of roads and paths which are important visual receptors in the area. Key viewpoints are discussed below;

Viewpoint 6 – Core Path 154 Near Eddleston

- 16.47 This VP is from rising land to the east of Eddleston looking across a rolling rural landscape which features large areas of forestry. The PCR wireline for this VP shows that despite the reduction in the number of turbines, the development occupies a similar length of the Cloich Hills skyline. The larger turbines are

more prominent and their scale does jar to a certain extent with the scale of the receiving landscape. Intervening woodland planting will still provide a sense of separation to the revised scheme and it is noted that in the medium to longer term the replanting of forestry will provide an element of screening in front of some of the turbines, albeit only their lower level.

Viewpoint 11 and 13 – A703

- 16.48 These VPs are from the A-class road connecting Peebles and Penicuik. VP7 shows visibility of the wind farm to the north of Peebles. This is a well-used road where visibility of the development could affect the greatest number of receptors. From these VP's the reduction in the number of turbines can be appreciated. The revised layout introduces a gap between T6 and T9, which is unfortunate and increasing the scale height of turbines to 149.9m does make them more obvious. However, their scale is still readily contained from the rising land to the SW of T2. The increase in tip height does not result in any harmful visual effects from this important VP.
- 16.49 VP13 depicts a southward view of the development from the A703 at Leadburn. The turbines do appear tall but this is mitigated to a certain extent by the receptor being able to appreciate that the development is located within a much larger landscape where eye may be drawn to the more dramatic landforms beyond to the south. In the foreground, there is a rolling ridge which offers some containment and also the larger farm buildings which follow the rising gradient of the landscape. The height difference between T11 and T12 on the edge of the development means that T12 does sit up on the outer edge of the layout.

Viewpoint 7 – Minor Road near Spylaw and Wester Deans

- 16.50 This is a minor road also with a southward view towards the development. The PCR illustrates that the revised scheme extends the spread of turbines across the skyline. The proposed 149.9m turbines are less well contained by the ridge of the Cloich Hills. Woodland planting in the foreground provides some screening. The revised scheme poses unfortunate visual impact for local road users and residents at this VP. In particular the Landscape Architect notes location of T12 appears prominent.

Viewpoint 12 and 18 – A702

- 16.51 These VPs are from the well-travelled A-class road to the north western part of the Scottish Borders providing access to West Linton and Carlops as well as South Lanarkshire to the SW and Midlothian to the NE. VP12 is on the approach descending down into West Linton. The southern part of the revised layout remains well contained by the skyline. T8 – T12 are more dominant with T12 again appearing the most prominent where it sits above other turbines on the edge of the array, which it appears a prominent outlier.
- 16.52 VP18 is from just outwith the Scottish Borders Local Authority Area however given its proximity it will affect receptors frequently travelling this part of the A702. The tops of turbines are still visible across the skyline with the increased scale of turbine meaning more of the upper area is visible, however this change is not deemed to be significant.

Viewpoint 10 - A701 and Viewpoint 8 - B7059 between Boghouse and Kaimehouse

- 16.53 These VPs are from major and minor roads within 5km to the west of the development experience similar impacts. From these VPs only a small number of turbines are visible but T12 is most apparent as it is the only turbine where its tower hubs and blades are visible.

Cross Borders Drove Road (east and west)

- 16.54 This is an important recreational and walking route. VP1 is located to the west of the development and VP2 to the east. These VPs are between 1.4 and 2.4km to the nearest turbine so users of this road will be in close proximity to the development. Users of the route will be impacted with views of larger turbines, especially from VP2 (west) where the height of turbines will appear prominent. This is an undesirable effect of this development but the previously consented scheme also posed 'significant' effects for the Drove Road. The tip height increased does result in greater visual impacts for users of this route.
- 16.55 Overall, increasing the height of the turbines does result in turbines appearing more prominent from various viewpoints within the surrounding road and path network. While the number of turbines have been reduced, the spread of the turbines across the skyline is similar to that of the consented development. In particular T12 often appears as an outlier which sits higher than other turbines drawing further attention to the proposed development.

Visual Impact – Residential Amenity

- 16.56 Visual impacts on residential amenity, whether from settlements or individual properties, use a type of methodology that has become known as the "Lavender Test". The "Test" is an assessment approach that has been taken in a number of appeal cases to assess impacts, even though it is not universally applied nor is there any agreement or Scottish Government guidance recommending its usage. The "Lavender Test" not only refers to the impact on houses but also their gardens. It sets quite a severe threshold of whether a wind farm would be so overbearing and dominant on a property that it would make it an unattractive place to live. Much would contribute to that assessment including proximity, elevation, main outlook from windows, interruption by screening or buildings, location of garden ground, approach roads and tracks etc. These matters are considered and advised in the Renewable Energy SG.
- 16.57 Whilst all matters must be considered in the overall assessment, the greatest weight simply has to be given to direct and unavoidable impacts from inside dwellinghouses and, in particular, main habitable room windows. There is also evidence that decisions are taken on the number and proportion of properties within an area that may experience such impacts. The fewer the properties impacted, the less weight that would hold in the overall planning balance.
- 16.58 The Reporter identified that the consented scheme would pose the most significant impacts on the following residential properties; the Stewarton Group, the Harehope group, Cloich Farmhouse, Observatory (also known as Earlyburn) and Boreland. A Residential Visual Amenity Assessment (RVAA) has been carried out for the revised proposal. The RVAA identifies that these groups and properties (excluding Boreland) would remain the residential receptors which will have the greatest impact on their amenity.

- 16.59 The revised proposal does not result in moving any turbines significantly closer to any of the affected residential properties. The Reporter considered the implications of the consented scheme would have on the amenity of the identified properties in paragraphs 2.107 – 2.117 of their Report to the Scottish Ministers. This thoroughly examined where the turbines may be visible from for these residential receptors. These areas of visibility remain relevant for this revised scheme.
- 16.60 The proposed tip height increase does result in turbines becoming more visually dominating for these receptors. Intervening woodland and forestry planting will not screen the revised proposals to the same extent than the consented scheme. Undeniably, the increase in turbine height does increase the effects the development would have on residential visual amenity. When these effects are compared against the effects of the consented development, increasing the tip height of turbines to 149.9m is not judged to result in the development being so overbearing that it would render the overall living conditions to be an unattractive place to live and breach the threshold for residential visual amenity impacts. To reflect the requirements of the micro-siting condition of the consented scheme it is also recommended that the turbines in the SE corner (T2 –T5) should not be microsited closer to the Stewarton or Harehope group.
- 16.61 The RVAA has excluded assessing the impact on properties outside of the 2km Study Area. This has removed an assessment of Boreland which was previously identified to have significant impacts. Given its impacts were assessed previously it would have been advantageous to include this property as part of a detailed RVAA assessment. It would be anticipated that the impacts on this property will increase, similar to those assessed above however at approximately 4.5km distance from the development the increased turbine height are unlikely to result in the change failing to meet the Lavender test thresholds. This also applied for other affected residential properties within the surrounding area.

Cumulative Landscape and Visual Impacts

- 16.62 At the determination of the original Cloich Forrest Wind Farm, the Reporter raised concerns that the design of an adjacent wind farm to the west known as Hag Law would not be compatible with one another. Concerns were also raised with the relationship between the Cloich Forrest Wind Farm and Kilrubie WF directly to the east. Since Cloich was approved by the Scottish Ministers, Hag Law was refused by the Council with this decision being upheld at appeal and Kilrubie has since been withdrawn. Since these decisions, there has been no further developments on either of these schemes.
- 16.63 Currently there are no wind farm proposals within 20km of the application site that are at application stage. The development will have cumulative impacts with Bowbeat, however these impacts are not visually significant within the landscape. Overall, the development does not pose any significant cumulative landscape and visual impacts with other existing or proposed wind farms.

Landscape and visual impact of associated infrastructure

- 16.64 The proposed associated infrastructure includes, roads, borrow pits, control compound and BESS facility. These are not considered to give rise to any significantly adverse and unacceptable landscape and visual impacts. Final details of all new structures, surfaces and enclosures can be agreed by condition.

Landscape and Visual Impact Conclusions

- 16.65 The proposed development will result in landscape and visual impacts where the scale of the turbines are not readily contained by the receiving landscape. Also, from selected viewpoints, turbines can appear prominent on the skyline. Despite the increase in turbine height, the proposed development is not found to have introduced large areas of new visibility from the surrounding environment at locations that would not have been impacted by the consented scheme. Clearly when the development will be visible, the taller turbines will appear more prominent. This poses some unfortunate landscape and visual effects. In particular, they appear dominant alongside the Meldon Hills from southern viewpoints where these hills form part of the landscape setting of the Upper Tweeddale NSA and nearby roads, paths and residential properties experience increased visual effects.
- 16.66 The decision to grant approval for the consented scheme has affectively set a baseline for landscape and visual impacts that the Reporter judged to be acceptable within this environment. Informed by the assessment of the Landscape Architect, when the landscape and visual effects of this revised proposal are compared against the effects of the consented scheme, the resultant increase in landscape and visual effects have been found to be marginal although concerns are raised about the prominence of T12 from VPs 7, 12 and 13. The development has not been judged to pose any significantly adverse effects on the scenic or landscape qualities of the adjacent NSA or SLAs.
- 16.67 Since the approval of the consented scheme, the planning policy context for considering a wind farms landscape and visual effects has changed significantly with NPF4 now accepting that these developments may result in significant landscape and visual impacts. The acceptability of a windfarm in this location has already been established. Increasing the height of the turbines will result in the turbines being more perceptible from the affected locations however this change does not necessarily give rise to significantly harmful landscape and visual effects when compared against the effects of the consented scheme and the more permissive position adopted by NPF4. Overall, the resulting effects of this proposal are not found to conflict with prevailing development plan requirements for landscape and visual impacts, including NSA and SLA implications, subject to seeking to address the detrimental visual impacts of Turbine 12 by reposting the turbine to a lower elevation within the site.

Residential Amenity

- 16.68 Policy ED9 of the LDP and Policy 11 of NPF4 requires the impacts on communities and individual dwellings (including visual impact, residential amenity, noise and shadow flicker) to be considered. LDP Policy HD3 states that development that is judged to have an adverse impact on the amenity of residential areas will not be permitted. Members will note that visual impacts have been considered earlier in the report.

- 16.69 A noise assessment has been provided with an updated noise assessment undertaken as part of the SEI. This has been assessed by an acoustic consultant on behalf of SBC. The predicted noise levels are confirmed to be within the relevant limits at all receptor locations with no cumulative assessment found to be required owing to its distance to other wind farms.
- 16.70 It is recommended that there are no noise-related reasons to consider that the scheme could not be in compliance with development plan policies and Supplementary Guidance. If Members were minded to support this application, planning conditions could be recommended to the ECU to set appropriate noise levels and confirm the sound power level of the turbine which is to be installed at the site. In event of any noise complaints, the Council as 'relevant enforcement authority' could seek suitable investigation and resolution of any noise nuisance caused by the development.

Traffic Management, Road Safety and Access

- 16.71 Policy ED9 of the LDP and Policy 11 of NPF4 requires impacts of the construction of wind farms on public and trunk roads to be considered. The approved Renewable Energy SG also requires full consideration of the impacts including the structural and physical ability of the network to accommodate the traffic and impacts on local communities.
- 16.72 Access to the site for abnormal loads within Scottish Borders road network is from the Leadburn Junction on the A703 to the site entrance. This is the same route which was identified to serve the 2012 consent. RPS have not objected to the route identified by the applicants but it is considered that further analysis of the route is required to confirm the extent of the works required to the road to ensure the developments abnormal loads can access the site safely. A pre-development condition survey of all construction routes is required to be carried out, and once works commence, regular inspections should take place with any damage caused by construction traffic being remediated.
- 16.73 It is recommended that further agreement of the access route as well as its suitability to accommodate abnormal loads and any upgrades and remedial works thereafter can be addressed by a condition seeking the agreement of a detailed Traffic Management Plan (TMP).

Cultural Heritage

- 16.74 Against Policy 11 of NPF4 impacts arising from an energy development on the historic environment are required to be addressed by the project design and mitigation. Policy 7 is directly concerned with historic assets and takes a stronger line whereby a development should protect and enhance historic environment assets.
- 16.75 Locally, the LDP requires the application to be assessed against Policy ED9 in respect of impacts on the historic environment and Policies EP7 and EP8 seek to protect the appearance, fabric or setting of Listed Buildings and Scheduled Monuments or other national, regional or local assets are relevant. Development proposals that adversely affect such assets would only be permitted if it can be demonstrated that the benefits of the proposal clearly outweigh the heritage value of the asset and there are no reasonable alternative means of meeting the development need. The supporting text of

Policy EP8 establishes the aim of the policy is to give Scheduled Ancient Monuments and any other archaeological or historic asset or landscapes strong protection from any potentially damaging development.

- 16.76 The Council's Renewable Energy SG contains advice on assessing the impacts of wind energy developments on the historic environment, both direct and indirect impacts. It augments the aforementioned Policies and also provides information on how setting of historic structures and places are assessed, including the use of guidance from Historic Environment Scotland – Managing Change in the Historic Environment: Setting. The SEI has sought to address the impacts of T8 on this historic environment. The impact of the development on both direct and indirect archaeological impacts are considered below.

Direct Archaeological Impacts

- 16.79 There are three Scheduled Monuments (SM) located within the application site. In assessing the original layout, the Archaeology Officer noted that T8 and its related infrastructure was close to Whaup Law Cairn (SM 2755) that it could be a direct impact. The repositioning of T8 has moved the development further from the SM which alleviates this concern. No other significant direct impacts have been identified. Any other direct archaeological impacts can be addressed by a suitably worded planning condition to agree a programme of archaeological mitigation.

Indirect Impacts

- 16.80 In response to the 2012 application, the Council considered that the proposal would pose major significant impacts to the settings of individual scheduled monuments close to the site as well as others within 10km of the site. The Council felt that proposal would cause significant major impacts on a well-preserved historic/ cultural landscape which is primarily appreciated from hills to the south and west of the development, including the Meldons and Cademuir Hill.
- 16.81 In assessing the implications of the current proposal, the Archaeology Officer considers the development will adversely affect the historic environment. Attention is drawn to Viewpoint 19: Cademuir Hill Fort looking towards the White Meldon SM where it would be overtopped by turbines. Similar impacts are experienced from Viewpoint CH3: Easter Dawyck Hill Fort and Settlement. Despite the concerns about proposal, when comparing the impact of the proposal against the consented scheme it is conceded that there is little noticeable difference between the two from the majority of the cultural heritage receptors, including hillfort locations on the Meldons and Portmore House and Estate.
- 16.82 The Archaeology Officer has identified that there are some noticeable differences between the two schemes caused by impacts of T10 and T8 on the setting of Whaup Law Cairn SM. The applicants have sought to address the impacts caused by T8 by relocating the turbine to a lower elevation as advised by the Archaeology Officer.
- 16.83 In conclusion, the development of a wind farm in this location still gives rise to some negative impacts on the setting of individual scheduled monuments and the experience of the historic landscape to the south and west of the

development. Although this proposal would increase the height of turbines within the site when compared against the consented scheme it has not been found to cause any additional significant impacts on cultural heritage assets. Since the original development was approved it is also relevant to note that we must now attribute greater weight to the renewable energy benefits brought by this development. It is acknowledged that this proposal has not addressed the Council's cultural heritage concerns that were expressed in the determination of the original scheme however the Scottish Ministers decision to approve a wind farm in this location represents a significant material consideration. In the absence of this development giving rise to any additional adverse impacts on historic environment assets, it is considered that the proposal will comply with prevailing planning policies.

Other Cultural Heritage Impacts

- 16.84 The development does not detrimentally affect the setting of any listed buildings or Conservation Areas which are located within the Scottish Borders when compared against the effects of the original development.

Natural Heritage

Ecology, Habitats, Protected Species and Ornithology

- 16.85 The proposal has to be assessed against policies EP1, EP2 and EP3, which seek to protect international and national nature conservation sites, protected species and habitats from development. Policy ED9 requires consideration of the impacts on natural heritage, hydrology and the water environment, augmented by the Renewable Energy SG. Policy 3 of NPF4 seeks for national developments to conserve, restore and enhance biodiversity.
- 16.86 The access to the development crosses the Eddleston Water which forms part of the River Tweed SSSI and SAC. The development will utilise the existing bridge crossing and poses no direct impacts on the SSSI/SAC.
- 16.87 The Council did not oppose a wind farm at this site on any natural heritage grounds. This proposal has been accompanied by a range of new ecological, protected species and ornithological surveys. Other than the need for a breeding bird protection plan, the results of the updated surveys have not predicted that this revised scheme would cause any new or significantly adverse impacts on any ecological interests. The impacts of the development on natural heritage interests can be mitigated by seeking to re-attach the ecological conditions from the previous consent which can recommend the agreement of;
- Employment of an Ecological Clerk of Works
 - A Habitat Management and Enhancement Plan
 - A Construction Method Statement
 - A Biodiversity Monitoring and Management
- 16.88 An additional condition covering a Breeding Bird Protection Plan is recommended.
- 16.89 Against Policy 3 of NPF4, as a national development this proposal is sought to 'enhance biodiversity'. No guidance has been issued to determine how such enhancements are to be measured however it is understood that the Scottish

Government have commissioned research to explore this. At this stage is it not clear how enhancements are to be measured, nevertheless the agreement of a Habitat Management and Enhancement Plan by condition can seek to ensure that a suitable level of positive biodiversity improvements are provided by the developer.

Carbon Rich Soils, Deep Peat and Priority Peatland Habitat

- 16.90 Policy ED9, ED10 and the Renewable Energy SG require consideration of the impact of the development on carbon rich soils. Policy 5 of NPF4 protect carbon rich soils, restore peatlands and minimise soil disturbance. The policy does however permit renewable energy development to be acceptable in principle on peatlands.
- 16.91 The previously consented development did not raise any significant concerns on any sensitive soil conditions. The development will not impact on any areas of deep peat. It is noted that the revisited position of T8 and additional construction compound have marginally greater impacts on peat than the original layout, however these impacts are not significant. It is recommended that impacts of development on areas of peat can be addressed by suitably worded conditions including peat management plan.

Hydrology

- 16.92 ED9 of the LDP and Renewable Energy SPG seeks to avoid proposals for wind farms being located within an area that is likely to be affected by flooding. The developments should avoid polluting any water courses should be designed to ensure that the proposal causes no risk to any private water supplies. Policy 11 of NPF4 requires the project design and mitigation to address these impacts.
- 16.93 In terms of flood risk the Councils flooding engineers are satisfied that the development will not result in any flood risk. The additional mitigation measures which they are seeking can be captured within a construction environmental management plan as part of a drainage management strategy.
- 16.94 Turning to private water supply, this matter was thoroughly investigated as part of the Public Local Inquiry for the consented scheme where it was concluded that the impacts on private water supplies could be addressed by conditions seeking further investigation and the submission of a Groundwater Monitoring Plan.
- 16.95 The Council does not have an 'in house' hydrologist to provide specific detailed advice in response to hydrology aspects of private water considerations, however Environmental Health colleagues assist with assessment on private water supplies. Members will be aware that third parties have maintained their concerns about applicant's assessment of the impacts that the development would have upon private water supplies and in particular the impact it would have on the Stewarton group of buildings. Supplementary Environmental Information was provided to seek to address third party and SEPA objections which included the impact of the construction and operation of T3 on the groundwater flow of the water supply believed to serve the Stewarton group.
- 16.96 The SEI has not provided an assurance that the development will not impact on any private water supplies, however, SEPA has removed their holding

objection provided further monitoring is put in place of the previous unsuitable borehole investigation to further assess the impacts of T3.

- 16.97 Members will be aware that the properties which rely on a private supply do not have access to public water therefore it is imperative that their supplies are not affected by the development. On comparing the layout of the consented and proposed schemes they would appear to have similar impacts on private water supplies including potential impacts on the Stewarton group. Since the determination of the consented scheme, further private water supply investigations have been carried out although there still appears to be areas of uncertainty. Having discussed the matters further with our EHO it is officers opinion that their concerns can be addressed by suitably worded planning conditions which seek to agree;
1. A private water supply method statement to detail all avoidance/and or mitigation measure to secure the quality, quantity and continuity of water supplies.
 2. An emergency response plan to address any of the avoidance/mitigation measures failing
 3. Restriction on the construction of T3 and its associated infrastructure until further information is provided to confirm that the development will not adversely affect the Stewarton private water supply or the micro-siting of T3 to a location which would not affect this supply.
- 16.98 Subject to suitably worded conditions covering the above matters it is recommended that the development can take place in a manner which would not detrimentally affect private water supplies.

Other Matters

- 16.99 The revised scheme has not raised any new significantly adverse effects on any other matters listed in Policy ED9, including shadow flicker, impact aviation and defence and telecommunications, that requires further consideration of the Council.

17.0 CONCLUSION

- 17.1 The adoption of NPF4 has made it clear that the renewable energy deployment remains a key priority for the Scottish Government. NPF4 and the OWPS 2022 confirm that more onshore wind farms will be required to meet legally binding net zero emissions targets. It is clear that planning decisions have a key role to play to tackle the climate emergency. However, similar to planning and energy policies which were in place at the time of determination of the original application, a careful balancing exercise is required to be undertaken against prevailing development plan policies where the benefits of energy production, and the disbenefits of environmental impact are weighed carefully against one another as part of the planning balance.
- 17.2 NPF4 now explicitly requires that decision makers must give significant weight to the contribution a development would make toward renewable energy and climate change targets. Compared against the consented scheme, this revised proposal will provide an additional electrical output. The level of its additional contribution may not be vast but it would generate more electricity with fewer turbines within a timescale to meet Scottish Governments targets to generate 20GW of on shore wind by 2030. The proposal also provides battery storage

capacity and that has an important role to play in the transition to net zero in addition to the developments wider net economic benefits.

- 17.3 The proposed development would result in some significant landscape and visual impacts. Increasing the height of the turbines means they are more perceptible from affected locations. The position of T12 does appear visually prominent from a number of viewpoints but relocating this turbine to a lower ground level could address this specific concern.
- 17.4 The landscape and visual impacts posed by this development are not discounted but it must be recognised that NPF4 is more accommodating of resulting landscape and visual effects arising from wind farm development. This development would take place at a location, which was previously determined to be appropriate for wind farm development by the Scottish Ministers. Importantly when the landscape and visual effects of the consented scheme are compared against the effects of the consented scheme, the resulting impacts are not judged to be significantly harmful. Although the development may only provide a modest contribution to renewable targets this is still a valuable contribution and greater weight has to be placed on the environmental benefits of generating renewable energy at this site. Under this specific context, it is considered that on balance, the benefits outweigh the negatives – provided T12 is relocated. This can be covered by condition.
- 17.5 For the reasons set out above, that the proposed development accords with the relevant provisions of the development plan and that there are no material considerations which would outweigh this finding.

18.0 RECOMMENDATION BY CHIEF PLANNING & HOUSING OFFICER

- 18.1 It is recommended that Scottish Borders Council do not object to the proposed Cloich Forest Wind Farm, provided Turbine 12 is relocated to a lower position within the site so that it does not appear as visually prominent within the landscape. It is also recommended that the following conditions are attached to any consent that may be granted:

1. Duration of Consent

The consent is for a period of 40 years from the date of Final Commissioning. Written confirmation of the date of First Commissioning shall be provided to the Planning Authority and Scottish Ministers no later than one calendar month after that date.

Reason: To define the duration of the consent

2. Commencement of Development

Commencement of Development shall be no later than five years from the date of this consent, or in substitution such other period as the Scottish Ministers may hereafter direct in writing. Written confirmation of the intended date of Commencement of Development shall be provided

to the Scottish Ministers and the Planning Authorities no later than one calendar month before that date.

Reason: To avoid uncertainty and ensure that consent is implemented within a reasonable period, and to allow the Scottish Ministers and the Planning Authorities to monitor compliance with obligations attached to this consent and deemed planning permission as appropriate.

3. Non Assignment

The company shall not be permitted to assign this consent without the prior written authorisation of the Scottish Ministers. The Scottish Ministers may assign the consent (with or without conditions) or refuse assignation as they may, in their own discretion, see fit. The consent shall not be capable of being assigned, alienated or transferred otherwise than in accordance with the foregoing procedure. The company shall notify the local planning authority in writing of the name of the assignee, principal named contact and contact details within 14 days of written confirmation from the Scottish Ministers of an assignation having been granted.

Reason: to safeguard the obligations of the consent if it is assigned to another company

4. Serious Incident Reporting

In the event of any breach of health and safety or environmental obligations relating to the development during the period of this consent, the company will provide written notification of the nature and timing of the incident to the Scottish Ministers, including confirmation of remedial measures taken and/ or to be taken to rectify the breach, within 24 hours of such an incident occurring.

Reason: to keep the Scottish Ministers informed of any such incidents which may be in the public interest.

5. Implementation in accordance with approved plans and requirements

Except as otherwise required by the terms of this section 36 consent and deemed planning permission, the Development shall be undertaken in accordance with the Application (including the EIAR as amended or supplemented by the AEI).

Reason: To ensure that the Development is carried out in accordance with the approved details.

6. Design and operation of turbines

a. There shall be no Commencement of Development unless full details of the proposed wind turbines (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), any anemometry masts and all associated apparatus have been submitted to and approved in writing by the planning authority.

b. The turbines shall be consistent with the candidate turbine or range assessed in the environmental statement, and the tip height thereof shall not exceed 149.9 metres above ground level.

c. The development shall 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.

d. All wind turbine blades shall rotate in the same direction.

e. None of the wind turbines, anemometers, power performance masts, switching stations or transformer buildings/enclosures, ancillary buildings or above ground fixed plant shall display any name, logo, sign or other advertisement (other than health and safety signage) unless otherwise approved in advance in writing by the planning authority.

Reason: To ensure that the environmental impacts of the turbines forming part of the development conform to the impacts of the candidate turbine assessed in the environmental statement and in the interests of the visual amenity of the area

7. Design of sub-station and ancillary development

There shall be no Commencement of Development unless final details of the external appearance, dimensions, and surface materials of the substation building, associated compounds, any construction compound boundary fencing, external lighting and Battery Energy Storage System (BESS) facility and parking areas have been submitted to and approved in writing by the planning authority. The substation building, associated compounds, fencing, external lighting and BESS facility 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

8. Micro-siting

(1) Subject to paragraph (2), all wind turbines, buildings, masts, areas of hard standing and tracks shall be constructed in the location shown on Figure 2.1 of the Supplementary Environmental Information submitted on 1 December 2022

(2) Wind turbines, buildings, masts, areas of hard-standing and tracks may be

adjusted by micro-siting within the site, but micrositing is subject to the following restrictions, unless otherwise approved in advance in writing by the Planning Authority (in consultation with SEPA and SNH)—

(a) no wind turbine foundation shall be positioned higher, when measured in metres Above Ordinance Datum (Newlyn), than the position shown on Figure 4.1;

(b) no building, mast, access track or hard-standing shall be moved more than 50 metres from the position shown on the original approved plans;

(c) no wind turbine shall be moved more than 50 metres from the position shown on the original approved plans and no turbines (T2, T3, T4 and T5) shall be moved closer than the location specified in figure 2.1 of the Supplementary Environmental Information submitted on 1 December 2022 to any of the dwellings at Upper Stewarton, the Stewarton group (Nether Stewarton Farmhouse, Stewarton House, Stewarton Toll, Stewarton Lodge) and the Harehope group (Harehope Cottage, Harehope Steading, Old Harehope, Harehope Farmhouse);

(d) all micro-siting permissible under this condition must be approved in advance in writing by the Ecological Clerk of Works.

(2) 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 hard-standing, 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 Ecological Clerk of Works or Planning Authority's approval, as applicable.

Reason: to control environmental impacts while taking account of local ground conditions, and specifically to limit changes to positioning of turbines where they are closest to residential property and where their relocation would have the potential to change the level of impact on residential amenity and hydrology to that hereby consented.

9. Borrow Pits

There shall be no Commencement of Development unless a scheme for the working 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;
- b. Details of the handling of any overburden (including peat, soil and rock);
- c. Drainage, including measures to prevent surround areas of peatland 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. 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.

10. Planning Monitoring Officer

There shall be no commencement of development unless the planning authority has first approved the terms of appointment by the company of an independent and suitably qualified environmental consultant to assist the council in the monitoring of compliance with conditions attached to this deemed planning permission during the period from commencement of development to the date of Final Commissioning and thereafter throughout the period of operation of the wind farm.

Reason: to enable the development to be suitably monitored during the construction phase to ensure compliance with the consent issued

11. Ecological Clerk of Works

There shall be no commencement of development unless the planning authority has approved in writing the terms of appointment by the company of an independent Ecological Clerk of Works (in consultation with NatureScot and SEPA). The terms of appointment shall:

- 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 and Environmental Management Plan and other plans approved in terms of the Construction Method Statement and Habitat Management and Enhancement Plan (conditions 12 and 15); and
- b. Require the Ecological Clerk of Works to report to the company's nominated construction project manager any incidences of non-compliance with the works for which the Ecological Clerk of Works is responsible for monitoring at the earliest practical opportunity.

The Ecological Clerk of Works shall be appointed on the approved terms from commencement of development, throughout any period of construction activity and during any period of post construction restoration works approved in terms of condition 12.

No later than 18 months prior to decommissioning of the development or the expiration of this consent (whichever is the earlier), the company shall submit details of the terms of appointment by the company of an independent Ecological Clerk of Works throughout the decommissioning, restoration and aftercare phases of the development to the planning authority for approval in consultation with Scottish Natural Heritage and SEPA. The Ecological Clerk of Works shall be appointed on the approved terms throughout the decommissioning, restoration and aftercare phases of the development.

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

12. Construction Method Statement

There shall be no commencement of development unless a Construction Method Statement outlining site specific details of all on-site construction works, post-construction reinstatement, drainage and mitigation, together with details of their timetabling, has been submitted to and approved in writing by the planning authority in consultation with Scottish Natural Heritage and SEPA.

The Construction Method Statement shall include (but shall not be limited to):

- a. a Construction Environmental Management Plan outlining the procedures, mechanisms and responsibilities for implementing the environmental controls outlined in the Construction Method Statement and the separate management plans listed below;
- b. site waste management plan (dealing with all aspects of waste produced during the construction period other than peat), including details of contingency planning in the event of accidental release of materials which could cause harm to the environment;
- c. details of the formation of the construction compound, welfare facilities, any areas of hard-standing, turning areas, internal access tracks, car parking, material stockpiles, oil storage, lighting columns, and any construction compound boundary fencing;
- d. details of borrow pit excavation and restoration;
- e. a dust management plan;

- f. details of measures to be taken to prevent loose or deleterious material being deposited on the local road network including wheel cleaning and lorry sheeting facilities, and measures to clean the site entrances and the adjacent local road network;
- g. a pollution prevention and control method statement, including arrangements for the storage of oil and fuel on the site;
- h. soil storage and management;
- i. a peat management plan;
- j. a drainage management strategy, demonstrating how all surface and waste water arising during and after development will be managed and prevented from polluting any watercourses or sources
- k. sewage disposal and treatment;
- l. temporary site illumination;
- m. the construction of the access into the site and the creation and maintenance of associated visibility splays;
- n. the method of construction of the crane pads;
- o. the method of construction of the turbine foundations;
- p. the method of working cable trenches;
- q. the method of construction and erection of the wind turbines and meteorological masts;
- r. details of watercourse crossings;
- s. post-construction restoration/ reinstatement of the working areas not required during the operation of the development, including construction access tracks, borrow pits, construction compound and other construction areas. Wherever possible, reinstatement is to be achieved by the careful use of turfs removed prior to construction works. Details should include all seed mixes to be used for the reinstatement of vegetation;
- t. a wetland ecosystems survey and mitigation plan, where appropriate; and
- u. a felling and forestry wastes management plan, where appropriate;
- v. a strategy for monitoring, control and mitigation in respect of construction noise, and a methodology to be applied in instances where complaints are received in relation to construction noise.

The development shall be implemented thereafter in accordance with the approved Construction Method Statement unless otherwise approved in advance in writing by the planning authority in consultation with NatureScot and SEPA.

Reason: to ensure that all construction operations are carried out in a manner that minimises their 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.

13. Construction Hours

Construction work which is audible from any noise-sensitive receptor shall only take place on the site between the hours of 07.00 to 19.00 on Monday to Friday inclusive and 07.00 to 16.00 on Saturdays, with no construction work taking place on a Sunday or on Bank Holidays or Public Holidays . Outwith these specified hours, development which is audible from any noise sensitive property shall be limited to turbine foundation construction, turbine installation, maintenance, emergency works, dust suppression, and the testing of plant and equipment, unless

otherwise approved in advance in writing by the relevant Planning Authority.

Reason: In the interests of local amenity.

14. Traffic Management Plan

There shall be no commencement of development 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 all proposed access routes carried out prior to the development commencing and details of any upgrading works 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. Any emergency repairs identified during the construction period to be rectified within one week, unless otherwise agreed;
- 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. Name and contact details of a nominated person to whom any road safety issues can be referred.
- h. A trial run to be undertaken on the finalised abnormal load route, with representatives from the Council present.

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.

15. Habitat Management and Enhancement Plan

There shall be no commencement of development unless a Habitat Management and Enhancement Plan has been submitted to and approved in writing by the planning authority in consultation with RSPB Scotland, Forestry Commission Scotland and SEPA. The Habitat Management and Enhancement Plan shall set out proposed long term

management and enhancement of the wind farm site and shall provide for the maintenance, monitoring and reporting of habitat on site in relation to bats, schedule 1 raptors, breeding birds, reptiles, amphibia, woodland, wetland, grassland and heathland management.

The approved Habitat Management and Enhancement Plan will be updated to reflect ground condition surveys undertaken following construction and prior to the date of Final Commissioning and submitted to the planning authority for written approval in consultation with RSPB Scotland, Forestry Commission Scotland and SEPA.

Unless otherwise agreed in advance in writing with the planning authority, the approved Habitat Management and Enhancement Plan shall be implemented in full.

Reason: in the interests of good land management and the protection and enhancement of habitats

16. Biodiversity Monitoring and Management

Prior to the commencement of the development and, in the case of items (b) and (c) prior to the commencement of any on-site works or development, the following plans, programmes and/or survey results shall have been submitted to, and approved by the Planning Authority:

(a) a programme of monitoring of Schedule 1 raptor species and protected mammals including bats and badgers, agreed with the Planning Authority and in consultation with Scottish Natural Heritage and RSPB Scotland;

(b) supplementary surveys for protected species (including otter, bat, badger, red squirrel, breeding birds), carried out by a suitably qualified person or persons in a manner appropriate to the phasing of the development, to inform a Species Mitigation and Management Plan;

(c) a Species Mitigation and Management Plan relating to the species identified in clause (b);

(d) an Integrated Water Quality and Fisheries Management Plan agreed with Marine Scotland-Freshwater Laboratory and River Tweed Commissioners (at least 12 months before construction starts), with a programme of pre-construction water quality and fisheries surveys to establish a baseline, plus during and after construction water quality monitoring (in addition to visual checks required under the Construction and Environmental Monitoring Plan).

In the case of (a), the programme shall be undertaken pre-construction, during construction, and for years 1, 2, 3, 5, 10 and 15 once the wind farm becomes operational.

In the case of (b), the results of these surveys should be used to inform construction activities and any required mitigation proposals for protected species on the site, and shall be strictly adhered to in the course of development.

In the case of (c) and (d), all on-site works and development shall thereafter be carried out in accordance with the approved plan(s).

Reason: To ensure that reasonable protection is given to biodiversity on and utilising the site; species protected by law are not harmed as a result

of the development taking place; the protected species are afforded due protection (and to enable greater understanding of the impacts of development of this nature); and proposed mitigation measures are effective in protecting fisheries within and downstream of the proposed development.

17. Breeding Birds

There shall be no commencement of development unless a Breeding Bird Protection Plan (BBPP) has been submitted to and approved in writing by the planning authority in consultation with RSPB Scotland and thereafter shall be implemented in accordance with the agreed details. The BBPP shall set out mitigation to limit the disturbance of the development on goshawk and crossbill.

Reason: To ensure suitable protection is given to breeding birds and ensure they are not harmed as a result of any effects of the development.

18. Archaeological Clerk of Works

There shall be no commencement of development unless the planning authority, in consultation with Historic Environment Scotland, has approved the terms of appointment by the company of an independent Archaeological Clerk of Works, and the company has secured the implementation of a written scheme of investigation outlining a programme of archaeological mitigation. The scope of the Archaeological Clerk of Works's appointment shall include:

- a. Monitoring implementation and compliance with a programme of archaeological mitigation works approved by the planning authority in a written scheme of investigation which shall specify:
 - i. An archaeological watching brief on relevant excavations where unknown archaeological deposits or features may exist;
 - ii. A paleo-environmental sampling and dissemination strategy in areas where deep peat will be impacted by development;
 - iii. A post-excavation research and dissemination strategy in the event of significant discoveries determined as such by the Archaeological Clerk of Works and planning authority. All post-excavation research and dissemination shall be completed within 3 years of the completion of on-site investigations;
 - iv. The erection of suitable fencing around known archaeological assets, to be determined by the Archaeological Clerk of Works and planning authority, where there is potential damage during development;
 - v. A strategy of LiDAR survey of the impacted historic landscape to be agreed between the company and the planning authority and to include community engagement, interpretation and dissemination;
- b. Advising the company on adequate protection of archaeological interests on the site;
- c. Checking for new records of archaeological interests for which additional mitigation may be required;
- d. Directing the micro-siting and placement of turbines and tracks away from known assets and discovered assets of archaeological significance where in situ preservation is warranted;
- e. Monitoring the compliance with mitigation, reinstatement and restoration measures approved in this consent; and
- f. Reporting any breaches of the mitigation, reinstatement and restoration measures approved in this consent to the planning authority in writing.

The Archaeological Clerk of Works shall be appointed on the approved terms throughout the period from commencement of development, throughout any period of construction activity and during any period of post construction restoration works approved in terms of condition 12. No later than 18 months prior to decommissioning of the development or the expiration of this consent (whichever is the earlier), the company shall submit details of the terms of appointment by the company of an independent Archaeological Clerk of Works throughout the decommissioning, restoration and aftercare phases of the development to the planning authority for approval, in consultation with Historic Environment Scotland. The Archaeological Clerk of Works shall be appointed on the approved terms throughout the decommissioning, restoration and aftercare phases of the development.
Reason: To ensure the protection or recording of archaeological features impacted by development.

19. Replanting of Forestry

There shall be no commencement of the development unless a woodland planting scheme to compensate for the removal of existing woodland (“the Replanting Scheme”) has been submitted for the written approval of the planning authority in consultation with Forestry Commission Scotland Conservator.

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 company 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 Conservator.

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

20. Noise

The rating level of noise immissions 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 immissions 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 immissions 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 condition 19 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 immissions 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 immissions 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 immissions.

g. Where a further assessment of the rating level of noise immissions from the wind farm is required, the company shall submit a copy of the further assessment within 21 days of submission of the independent consultant's assessment pursuant to condition 19 paragraph d above unless the time limit has been extended in writing by the planning authority.

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

Location including co-ordinates	Standardised wind speed at 10 metre height (m/s) within the site averaged over 10 minute periods												
	1	2	3	4	5	6	7	8	9	10	11	12	
Nether Stewarton Properties*	37	37	37	37	37	37	37	37	37	38	40	41	42
Ruddenleys Properties**	35	35	35	35	35	35	35	35	36	39	41	43	44
Cloich Farm	35	35	35	35	35	35	35	35	36	38	41	44	48
Harehope Properties***	35	35	35	35	35	35	35	35	39	42	45	47	49
Upper Stewarton	39	39	39	39	39	39	39	39	39	39	40	41	42

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

Location including co-ordinates	Standardised wind speed at 10 metre height (m/s) within the site averaged over 10 minute periods												
	1	2	3	4	5	6	7	8	9	10	11	12	
Nether Stewarton Properties*	43	43	43	43	43	43	43	43	43	43	43	43	45
Ruddenleys Properties**	43	43	43	43	43	43	43	43	43	43	43	43	43
Cloich Farm	43	43	43	43	43	43	43	43	43	43	43	43	43
Harehope Properties***	43	43	43	43	43	43	43	43	43	43	43	46	49
Upper Stewarton	43	43	43	43	43	43	43	43	43	43	43	43	45

* Nether Stewarton Farm, Stewarton House, Stewarton Lodge, Stewarton Toll

** White Heather Cottage Ruddenleys, The Carriage House Ruddenleys, Ruddenleys Cottage, Ruddenleys House

***Harehope Cottage, The Steading Harehope, Old Harehope, Harehope Farmhouse

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

21. Private Water Supplies

There shall be no commencement of development unless the following private water supply matters have been submitted to and agreed in writing with the Planning Authority:

a. a method statement (private water supply plan) has been submitted to and approved in writing by the planning authority, detailing all avoidance and/or 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. In particular, the method statement shall include a water quality and quantity (yield) monitoring plan for every private water supply which may be affected by the development during the construction, operational and decommissioning phases of the development.

b. a site-specific emergency response plan has been submitted to and approved in writing by the planning authority, detailing all additional (emergency) measures to be delivered in the event of the avoidance and/or mitigation measures (identified as part a.) unpredictably failing to secure a sufficient supply of wholesome water to properties which are served by private water supplies at the date of this consent and which

may be affected by the development. In particular, the plan shall identify all measures necessary to secure a sufficient and continuous supply of wholesome water to the properties until such time as the pre-development water supply conditions (quality, quantity and continuity) are reinstated, along with the criteria necessary for liability for the unpredicted event(s) to be attributed to the development and the duration of this liability, as far as reasonably practicable. Finally, in the event that the pre-development water supply conditions cannot be reinstated or the additional measures include new infrastructure (e.g. source, pipework, tank, treatment, etc.), the plan must include consideration of any long-term additional operation and maintenance tasks, including running costs, and confirmation of where liability for and/or responsibility thereof is to be attributed to the development/applicant.

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

22. Private water supply – Turbine 3

There shall be no commencement of development in relation to the construction of Turbine 3 (T3) or any of its associated infrastructure (including the new access track between T3 and T4/T5) until a scheme of details has first been submitted to and approved in writing by the planning authority, informing on the groundwater table and/or groundwater flow direction to demonstrate that the development will not impact the Nether Stewarton (“Stewarton”) private water supply system in terms of quality, quantity and continuity of water supply. In the event that any assessment or site investigation concludes that the location of T3 or its infrastructure could adversely impact the Stewarton or any other private water supply system(s), a scheme of details to mitigate the impact(s) on the private water supply system(s) should be submitted to and approved in writing. Alternatively, it may be appropriate for T3 and its infrastructure be re-sited to another location under Condition 8, providing no adverse impacts to any private water supply systems as a consequence of the re-siting are able to be confirmed in writing and approved by the planning authority

Reason: Further information is required to determine the impact of the Turbine 3 (T3) development site on private water supplies and seek to maintain a secure and adequate supply to all properties with private water supplies which may be affected by the development.

23. Water and Flood Risk Management

There shall be no commencement of development unless the following matters have been submitted to and approved in writing by the planning authority and thereafter the development shall be carried out in accordance with the approved details:

- a. design details of new crossings or alterations to previous crossings to ensure that there is no decrease in flow conveyance and subsequently increased flood risk caused by the crossings;
- b. details of regular maintenance relating to new water crossings and drains, to mitigate by reducing surface water runoff impact;
- c. details of levels of discharges from SUDS or other drainage, confirming how it will be kept to existing Greenfield run-off rates;
- d. written explanation of how it is proposed to manage the minimisation of sediment entering the surrounding water courses.

Reason: to minimise impact on the water environment and to ensure that flood risk is ameliorated.

24. Redundant turbines

If one or more turbine fails to generate electricity for a continuous period of 12 months, then unless otherwise agreed in writing by the planning authority, the Company shall:

- a. by no later than the date of expiration of the 12 month period, submit a scheme to the planning authority setting out how the relevant turbine(s) and associated infrastructure will be removed from the site and the ground restored; and
- b. implement the approved scheme within six months of the date of its approval, all to the satisfaction of the planning authority.

Reason: To ensure that any redundant wind turbine is removed from Site, in the interests of safety, amenity and environmental protection

25. Aviation Safety

There shall be no commencement of development until the company has provided the planning authority, Ministry of Defence, Defence Geographic Centre and NATS with the following information, and has provided evidence to the planning authority of having done so:

- a. the date of the expected commencement of each stage of construction;
- b. the height above ground level of the tallest structure forming part of the development;
- c. the maximum extension height of any construction equipment; and
- d. the position of the turbines and masts in latitude and longitude.

Reason: in the interests of aviation safety

26. Aviation Lighting

Prior to the erection of the first wind turbine, the company shall submit a scheme for aviation lighting for the wind farm to the planning authority for written approval. The scheme shall include details of infra-red aviation lighting to be applied. No lighting other than that described in the scheme may be applied at the site, other than as required for health and safety, unless otherwise agreed in advance and in writing by the planning authority. No turbines shall be erected on site until the scheme has been approved in writing. The development shall thereafter be operated fully in accordance with the approved scheme.

Reason: in the interests of aviation safety

27. Site Decommissioning, Restoration and Aftercare

The development will be decommissioned and will cease to generate electricity by no later than the date falling twenty five 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 Commissioning without prior written approval of the Scottish Ministers in consultation with the Planning Authority.

There shall be no commencement of development unless a decommissioning, restoration and aftercare strategy has been submitted to and approved in writing by the planning authority in consultation with NatureScot and SEPA. The scheme shall detail measures for the decommissioning of the development, restoration and aftercare of the site and will include, without limitation, 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 or the expiration of this consent (whichever is the earlier) a detailed decommissioning, restoration and aftercare plan, based upon the principles of the approved decommissioning, restoration and aftercare method statement, shall be submitted to the planning authority for written approval in consultation with NatureScot and SEPA. The detailed 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 which shall include:

- a. a site waste management plan (dealing with all aspects of waste produced during the decommissioning, restoration and aftercare phases);
- b. details of the formation of the construction compound, welfare facilities, any areas of hard-standing, turning areas, internal access tracks, car parking, material stockpiles, oil storage, lighting columns, and any construction compound boundary fencing;
- c. a dust management plan;
- d. details of measures to be taken to prevent loose or deleterious material being deposited on the local road network including wheel cleaning and lorry sheeting facilities, and measures to clean the site entrances and the adjacent local road network;
- e. a pollution prevention and control method statement, including arrangements for the storage of oil and fuel on the site;
- f. soil storage and management;
- g. sewage disposal and treatment;
- h. temporary site illumination;
- i. the construction of any temporary access into the site and the creation and maintenance of associated visibility splays;
- j. details of watercourse crossings;
- k. a species protection plan based on surveys for protected species (including birds) carried out no longer than 18 months prior to submission of the plan.

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 NatureScot SEPA.

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.

28. Financial Guarantee

There shall be no commencement of development unless the company 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 25 to the planning authority. 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 25. 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 Company.

29. Public Path/Access Protection, Enhancement and Management

There shall be no commencement of development until a Public Path and Access Management Plan has been submitted to and approved in writing by the planning authority, in consultation with the Forestry Commission Scotland Ranger. The plan shall include (but not be limited to) the following:

- a. timings of any intended diversion, closure or obstruction of any public right of way (note that these are likely to need a separate consent);
- b. measures for ensuring that paths kept open during development are safe and can be traversed without undue harm to the amenity of users;
- c. measures to ensure that users of the path network and accessible areas more generally are able to navigate through and adjacent to the site, including mapping and signage;
- d. any temporary installations such as gates, stiles and bridges and the duration of their installation;
- e. proposals to restore original paths to an acceptable condition between construction and decommissioning and once full decommissioning has taken place; and
- f. proposals to enhance public access within and adjacent to the site during the lifetime of the development.

Reason: the development would interact with a range of public paths and accessible areas, with development effects causing changes that require careful management to ensure that the experience of users is not harmed unacceptably or, where it will be harmed, that the level and nature of harm is limited and controlled to minimise development effects.

18.2 Informatives

1. In relation to Condition 22, the potential re-siting or micro-siting of any turbines and associated infrastructure has the potential to impact private water supply systems, particularly if the sources have not been fully risk assessed (i.e. the true source locations have not been determined) and the aquifers (origin of the water) or distribution networks (pipework, tanks,

etc.) serving said sources are undetermined and inadvertently impacted by the re-sited infrastructure. As such, as far as reasonably practicable, it must be ensured that all private water supply systems have been suitably risk assessed, and so it is recommended that the following information request be attached to the planning consent for this purpose:

(a) An ArcGIS overlay (plate/map/figure) should be provided of the PWS Search Zone (i.e. including the site boundary of the wind farm, the area within 3 km of the site boundary and source catchments) showing every PWS source point (i.e. the point where water is collected/sourced) risk assessed as per Section 5 and Table 10.1 of Technical Appendix A10.2 (PWSRA) of the EIA Report. Each source point should be labelled with the Source Reference Number as detailed in Table 10.1 and, if any source point depicted is not the true location of the source (“true source location”) but it is simply the first point (e.g. a chamber) through which the water is being channelled or collected, then this should also be identified – e.g. through appropriate colouring, symbol shape, etc.

(b) An ArcGIS overlay should be provided of the PWS Search Zone showing every PWS source point screened-out of the risk assessment as per Table 10.2 of Technical Appendix A10.2 (PWSRA) of the EIA Report. Each source point should be labelled with the Source Reference Number as detailed in Table 10.2 and, if any source point is not the true source location, then this should also be identified – e.g. through appropriate colouring, symbol shape, etc.

(c) An ArcGIS overlay should be provided of the PWS Search Zone showing every property which has an undetermined water supply/source point, as per Table 10.3 of PWSRA V2. Each property (or collection of properties in close proximity to one another) should be labelled with the Source Reference Number as detailed in Table 10.3 of Technical Appendix A10.2 (PWSRA) of the EIA Report.

19.0 DRAWING NUMBERS

SEI Figure 2.1	Site Layout
SEI Figure 3.2	Indicative Scottish Power Transmission Temporary Construction Compound
SEI Figure 3.3	Indicative Substation and BESS Compound
SEI Figure 3.4	Indicative Control Building and BESS Elevation
Figure 3.2	Indicative Turbine Elevation
Figure 3.3	Indicative Foundation Design
Figure 3.4	Indicative Crane Hardstanding
Figure 3.5	Indicative Trench Detail

Approved by

Name	Designation	Signature
Ian Aikman	Chief Planning Officer	

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.

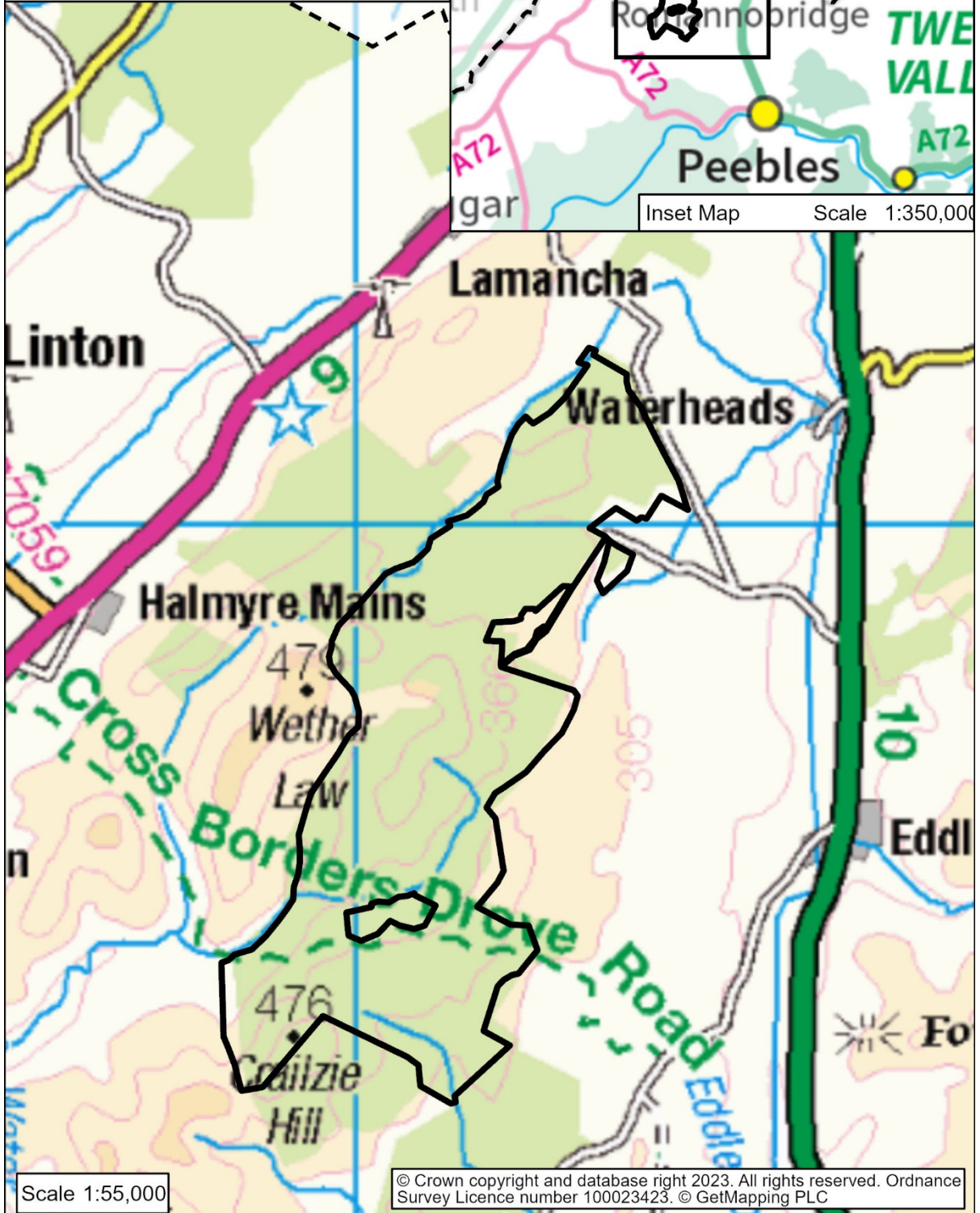
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Cloich Wind Farm



Scale 1:55,000