

Report

Report to:	Planning Committee
Date of Meeting:	5 September 2023
Report by:	Executive Director (Community and Enterprise Resources)

Reference no:	P/22/1646
Proposal:	Erection of 7 wind turbines with associated infrastructure, meteorological mast to 105m - Section 42 application to vary condition 12 (operational lifetime), condition 23 (restoration period) and conditions 11, 13, 15, 17 and 19 (vary timing of information submission) of application P/19/1803
Site Address:	Priestgill Wind Farm Little Gill Farm Abington ML12 6RW
Applicant:	Priestgill Wind Farm Ltd
Agent:	Muirhall Energy
Ward:	03 – Clydesdale East
Application Type:	Modification, Variation or Removal of Planning Conditions
Advert Type:	Environmental Impact Assessment (EIA) Report : Lanark Gazette 18 January 2023 EIA Report : Edinburgh Gazette 20 January 2023 Non-notification of neighbours: Lanark Gazette 18 January 2023
Development Plan Compliance:	Yes
Departures:	None
Recommendation:	Grant subject to the conclusion of a Legal Agreement
Legal Agreement:	<p>The Committee should note that the decision notice should not be issued until the following matters are concluded:-</p> <p>A Legal Agreement securing:-</p> <ul style="list-style-type: none"> • Community contributions per megawatt generated • The setting up of a Habitat Management Group • The repair of roads and bridges arising from extraordinary wear and tear associated with the development and associated indemnity insurance requirements

Direction to Scottish Ministers	Not Required
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1. Reason for Report

- 1.1. The application is required to be determined by the Planning Committee under Clause 5.1 of the Decision-Making Process 2015 as it constitutes a major planning application.

2. Site Description

- 2.1. The application site is located within the rural area approximately 2.2km north east of the village of Abington and 3.6km to the north of Crawford and extends to approximately 304 hectares (ha) in area. The most recent use of the application site has been upland grazing.

3. Description of Proposed Development

- 3.1. The application is made under Section 42 of the Town and Country Planning (Scotland) Act 1997 as the applicant wishes to vary a number of conditions attached to a previous application, ref: P/19/1803, (hereon referred to as the original permission), which granted planning permission for 7 turbines on the site, at a maximum tip height of 200 metres. Changes to conditions 11, 12, 13, 15, 17, 19 and 21 of that consent are now proposed and in summary this seeks to extend the operational lifetime of the Wind Farm from 25 to 40 years, to extend the period for decommissioning from 2 to 3 years, and to vary the timetable for the submission of supporting information.
- 3.2 Paragraphs 3.4 to 3.10 below set out in detail the variations that are sought to the wording of conditions and this is marked in italics.
- 3.3 Condition 11 of the original permission states:-

Prior to development commencing on site, details of siting, design and appearance of the monitoring mast, substation and any other site compounds shall be submitted to and approved in writing by the Planning Authority. This will include details of the materials, external finishes and colours of battery storage, substation and for all ancillary elements (including access tracks, transformers, switchgear/metering building, compound, boundary treatment and fencing). If required by the Planning Authority, samples of materials shall be provided and only materials approved by the Planning Authority shall be used. Thereafter, the development shall be carried out in accordance with the approved details.

The applicant has requested that condition 11 be varied to read:-

Prior to construction of the monitoring mast, substation and any other site compounds, the details of siting, designs and appearance of each shall be submitted to and approved in writing by the Planning Authority. This will include details of the materials, external finishes and colours of battery storage, substation and for all ancillary elements (including access tracks, transformers, switchgear/metering building, compound, boundary treatment and fencing). If required by the Planning Authority, samples of materials shall be provided and only materials approved by the Planning Authority shall be used. Thereafter, the development shall be carried out in accordance with the approved details.

- 3.4 Condition 12 of the original permission states:-

Consent is granted for the wind farm and its associated infrastructure for a period from the date of this consent *until 25 years* from the date of final commissioning of the development. Written confirmation of the date of first commissioning shall be provided to the Planning Authority no later than one calendar month after that date.

The applicant has requested that condition 12 be varied to read:-

Consent is granted for the wind farm and its associated infrastructure for a period from the date of this consent *until 40 years* from the date of final commissioning of the development. Written confirmation of the date of final commissioning shall be provided to the Planning Authority no later than one calendar month after that date.

3.5 Condition 13 of the original permission states:-

There shall be no commencement of development until a scheme for the avoidance or mitigation of any shadow flicker experienced by residential and commercial properties situated within 10 rotor diameters of any turbine forming part of the development and which lawfully exist or for which planning permission has been granted at the date of this consent has been submitted to and approved in writing by the Planning Authority. The approved mitigation scheme shall thereafter be implemented in full.

The applicant has requested that condition 13 be varied to read:-

Prior to the installation of any turbines, a scheme for the avoidance or mitigation of any shadow flicker experienced by residential and commercial properties situated within 10 rotor diameters of any turbine forming part of the development and which lawfully exist or for which planning permission has been granted at the date of this consent, shall be submitted to and approved in writing by the Planning Authority. The approved mitigation scheme shall thereafter be implemented in full.

3.6 Condition 15 of the original permission states:-

Within 3 months of commissioning the approved wind farm the applicant shall submit to the Planning Authority an 'as built plan' at an appropriate scale indicating the location of any track, turbine, crane pad and restored borrow pit within the development.

The applicant has requested that condition 15 be varied to read:-

Within 3 months of final commissioning of the approved wind farm the applicant shall submit to the Planning Authority an 'as built plan' at an appropriate scale indicating the location of any track, turbine, crane pad and restored borrow pit within the development.

3.7 Condition 17 of the original permission states:-

That before any work starts on site, details of all turbine aviation lighting shall be submitted for the written approval of the Council, as Planning Authority. Once approved be implemented and maintained as such for the lifetime of the development, hereby approved.

The applicant has requested that condition 17 be varied to read:-

Prior to the erection of any turbines or meteorological mast on the site, details of aviation safety lighting to be installed on any turbine or meteorological mast to be erected shall be submitted for the written approval of the Council, as Planning Authority. Once approved, the details shall be implemented, and maintained as such, for the lifetime of the development hereby approved.

3.8 Condition 19 of the original permission states:-

No development shall commence unless precise details including the type, dimensions, colour, and external finish of the proposed turbines have been submitted to and approved in writing by the Planning Authority. The height of the turbines hereby granted planning permission shall not exceed 200 metres to tip above ground level. Thereafter, the turbines shall be installed in accordance with the details as approved.

The applicant has requested that condition 19 be varied to read:-

Prior to the erection of any turbines, precise details including the type, dimensions, colour, and external finish of the proposed turbines shall be submitted to and approved in writing by the Planning Authority. The height of the turbines hereby granted planning permission shall not exceed 200 metres to tip above ground level. Thereafter, the turbines shall be installed in accordance with the details as approved.

3.9 Condition 23 of the original permission states:-

The decommissioning and restoration of the site shall be completed within 2 years from the date on which the development ceases to generate electricity unless otherwise agreed in writing with the Planning Authority.

The applicant has requested that condition 23 be varied to read:-

The decommissioning and restoration of the site shall be completed within 3 years from the date on which the development ceases to generate electricity unless otherwise agreed in writing with the Planning Authority.

3.10 In essence, this application requests an extension to the operating period of the wind farm from 25 years to 40 years, and a change from 2 years to 3 years to decommission and restore the site, together with varying the timetable to submit further information required to discharge various conditions.

3.11 If successful, the effect of a Section 42 application to modify a planning condition or conditions is to grant a further planning permission for the whole development but with the amended condition or conditions replacing those that were previously issued, or with conditions removed if required.

3.12 All other conditions, if relevant, are also required to be attached to any new planning permission. If the proposed changes to the condition or conditions are deemed unacceptable, then Section 42 of the Act requires the application to be refused. Any refusal of an application under Section 42 of the Act does not have any effect on the original planning permission which remains intact.

4. Relevant Planning History

4.1. Planning application ref: CL/17/0009 for the erection of 7 wind turbines with a maximum tip height of 145m and associated infrastructure including access tracks, substation buildings and battery storage was refused by the Planning Committee on 15 August 2017. Following an appeal against the decision to the Planning and Environmental Appeals Division (DPEA) the appointed Reporter upheld the appeal and granted planning permission.

- 4.2 A subsequent Section 42 application, ref: P/19/1803 was submitted in 2019, seeking to increase the overall height of 5 of the approved turbines to 200 metres (blade tip height), and to increase 2 turbines to 180 metres (blade tip height). This application was granted planning permission at Planning Committee on 1 December 2020. This consent was subject to a section 75 agreement to secure the formation of a Habitat Management Group, ensure the repair of any damage to roads and bridges arising from extraordinary wear and tear associated with the development and community benefit contributions to offset some of the impacts caused by wind farm development.

5. Supporting Information

- 5.1. The applicant has submitted a number of supporting documents with the application, including a Section 42 Supporting Statement setting out the justification for the application, and a number of the original submitted EIA documents and figures.

6. Consultations

- 6.1. **The Ministry of Defence (MOD)** – originally advised that whilst they have no objection to the amended wording of condition 12 to extend the operational lifetime of the wind farm, they do object to the amended wording proposed by the applicant for condition 17: Details of aviation safety lighting to be installed. This was because it only proposed that the lighting details be submitted and approved for the proposed turbines on the site and did not mention or take into account the proposed 105 metre-high meteorological mast also approved on the site. Following a number of discussions between the applicant, the MOD and the Planning Service, the MOD has now confirmed that the further amended wording of condition 17, reflecting their most recent proposed wording, is acceptable, and that they no longer object to the current application.

Response: Noted.

7. Representations

- 7.1. Following the statutory period of neighbour notification and advertisement, no representations have been received.

8. Development Plan

- 8.1. Under Section 25 of the Town and Country Planning (Scotland) Act 1997, all applications must be determined in accordance with the development plan unless material considerations indicate otherwise.

8.2. National Planning Framework 4

National Planning Framework 4 (NPF4) is Scotland's national spatial strategy for Scotland. It sets out spatial principles, regional priorities, national developments and national planning policy. NPF4 supports the planning and delivery of sustainable places, liveable places and productive places.

National Planning Framework 4 Policies

- ◆ Policy 1 - Tackling the climate and nature crises
- ◆ Policy 2 - Climate mitigation and adaptation
- ◆ Policy 3 - Biodiversity
- ◆ Policy 4 - Natural places
- ◆ Policy 5 - Soils
- ◆ Policy 11 - Energy
- ◆ Policy 29 - Rural development

8.3. South Lanarkshire Local Development Plan 2 (2021)

The application site and associated proposals are affected by the following policies contained in the South Lanarkshire Local Development Plan 2 (SLLDP2):-

SLLDP2 Volume 1 Policies

- ◆ Policy 1 - Spatial Strategy
- ◆ Policy 2 - Climate Change
- ◆ Policy 4 - Green Belt and Rural Area
- ◆ Policy 5 - Development Management and Placemaking
- ◆ Policy 14 - Natural and Historic Development
- ◆ Policy 15 - Travel and Transport
- ◆ Policy 18 - Renewable Energy

South Lanarkshire Council (SLC) Supporting Planning Guidance

- ◆ Renewable Energy (January 2021)

9. Guidance

- 9.1. None applicable.

10. Assessment and Discussion

- 10.1. Under the terms of Section 25 of the Town and Country Planning (Scotland) Act 1997, all applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The policies contained within National Planning Framework 4 and the South Lanarkshire Local Development Plan 2 are the main consideration in this case, together with an assessment of any other material planning considerations.
- 10.2. As the proposals involve an amendment to an existing live consent, there is no opportunity for the Planning Authority to revisit the principle of the development, or any facets of the Original Consent that do not form part of the proposed amendments. Therefore, in this instance, the assessment of the proposals relate solely to consideration of any impacts that may arise from an increase in the permitted period of operation from 25 to 40 years; an increase in time for decommissioning/restoration; and the timing of the submission of required information. The main matters for the Council's consideration are therefore whether these alterations to timescales would continue to comply with the Development Plan. No changes to the scale, design or layout of the previously approved scheme are proposed.
- 10.3. In determining whether the proposed 15 year extension to the operation of the wind farm is acceptable, it should be noted that the 25 year time limit on the original permission was not imposed to mitigate any effects of the wind turbines on the surrounding area, but rather reflected the 'industry standard' at the time, in that the operational capacity of turbines was limited by the technology then in place.
- 10.4. However, as technology has advanced and wind farms become an established feature, developers have sought to extend their operational time limits. Overall, there is a general presumption in favour of granting permission in such cases, unless exceptional circumstances suggest otherwise. In this instance, the policy direction on wind farm development is broadly identical to when the original permission was granted, and it is considered that the environmental impact of the proposals remains unchanged. In addition, the application, if successful, would result in an additional 15 years of renewable electricity generation for an already consented/operational wind farm which accords with policy direction at both a national and a local level. This aspect of the application is therefore acceptable.

10.5 Condition 23 currently requires the decommissioning and restoration of the site to be completed within 2 years from the date on which the development ceases to generate electricity. The proposal to extend this period by a further year does not raise concerns.

10.6 Finally, it is considered that the small changes to the wording of conditions 11, 13, 15, 17 and 19 are also acceptable.

10.7 Conclusion

In conclusion, it is considered that subject to the replication and amendment of the various conditions attached to the original 2019 Section 42 permission, the proposals are acceptable. It is, therefore, recommended that the Planning Committee approve the application.

11. Recommendation and Conditions

11.1. The Committee is asked to agree the following recommendation:-

Grant consent subject to the conditions listed below and the conclusion of a legal agreement to secure the following:-

- ◆ Community contributions per megawatt generated
- ◆ The setting up of a Habitat Management Group
- ◆ The repair of roads and bridges arising from extraordinary wear and tear associated with the development and associated indemnity insurance requirements

The applicant will be responsible for meeting the Council's reasonably incurred legal expenses in respect of the legal agreement and restoration guarantee quantum.

In accordance with agreed procedure, should there be no significant progress, on behalf of the applicant, towards the conclusion of the Legal Agreement within 6 months of the date of the Committee, the proposed development may be refused on the basis that, without the planning control/developer contribution which would be secured by the Legal Agreement, the proposed development would be unacceptable.

If, however, this matter is being progressed satisfactorily the applicant will be offered the opportunity to enter into a Processing Agreement, if this is not already in place. This will set an alternative agreed timescale for the conclusion of the Legal Agreement.

If granted the planning permission shall not be released until the Legal Agreement has been concluded.

Conditions

01. The development shall be carried out strictly in accordance with the terms of all volumes of the Document titled Priestgill Wind Farm dated November 2019, including all mitigation and monitoring measures stated in it, subject to any requirements set out in these conditions. Any proposed deviation from the detail provided within these documents, must be submitted to and approved in writing by the Planning Authority before the works described therein are undertaken.

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

02. The applicant shall ensure that all works carried out on site must be carried out in accordance with the current BS5228, 'Noise control on construction and open sites'. The applicant shall further ensure that audible construction activities shall be limited to, Monday to Friday 08.00 to 19:00, Saturday 08.00 to 13.00, and with no audible activity taking place on Sunday, and local and national bank holidays without prior written approval of the Planning Authority. HGV movements to and from the site (excluding abnormal loads) during construction of the wind farm shall be limited to 08.00 to 19.00, Saturday 08.00 to 13.00, with no HGV movements to or from site taking place on a Sunday or on national public holidays. Under exceptional conditions the above time restrictions may be further varied subject to written agreement with the Planning Authority.

Reason: In the interests of controlling construction noise.

03. No fixed or mobile plant used within the site during the construction period shall incorporate bleeping type warning devices that are audible at any noise sensitive receptor. Details of alternative warning devices shall be submitted to and approved in writing by the Planning Authority prior to development starting on site. Efficient silencers shall be fitted to, used and maintained in accordance with manufacturers' instructions on all vehicles, plant and machinery used on the development site.

Reason: In the interests of controlling construction noise.

04. No development shall commence unless a Traffic Management Plan (TMP) has been submitted to and approved by the Planning Authority, in consultation with the Roads Authority and Transport Scotland. The TMP shall include:-

- a) details of the transportation and delivery route(s) for wind turbine and construction traffic;
- b) details of the timings, volumes and types of vehicles;
- c) details of any alteration to the public road network, including all temporary works and relocation of street furniture;
- d) detailed plans and specifications for access arrangements to the A702 and visibility splays associated with them;
- e) arrangements for emergency vehicle access;
- f) details of proposed signage during the construction period;
- g) any necessary mitigation; and
- h) a travel plan.

Thereafter, the development shall be carried out in accordance with the TMP, unless agreed otherwise in writing with the Planning Authority.

Reason: In the interests of road safety.

05. At least 3 months prior to the delivery of abnormal loads the developer will undertake an Abnormal Load Route Assessment (ALRA) which shall include a swept path assessment of the route and proposals for a trial run of abnormal load deliveries, and submit details of their report together with any recommendations for the written approval of the Council as Roads Authority and in consultation with Transport Scotland. The ALRA shall include details of a public relation strategy to inform the relevant communities of the programme of abnormal deliveries and confirmation from Transport Scotland that it is acceptable if their land is encroached by abnormal loads along the approved route. The recommendations shall thereafter be implemented in accordance with a programme to be approved by the Planning Authority and shall be

implemented prior to the delivery of the abnormal loads. Should the abnormal load route include any bridge crossings, prior to the commencement of the development clarification on the Bridge Assessments require to be submitted to and approved by the Planning Authority.

Reason: In the interests of road safety.

06. Prior to commencement of construction works a full Safety Audit for all infrastructure to be constructed and adopted, or altered, on the public road, undertaken in accordance with the Institute of Highways and Transportation Guidelines, shall be submitted to and approved by the Planning Authority.

Reason: In the interests of road safety.

07. No development shall commence unless a Construction and Environment Management Plan (CEMP) including a Construction Method Statement, has been submitted to and approved by the Planning Authority in consultation with the Scottish Environment Protection Agency (SEPA). The Statement/s shall integrate "good practice" methods from the Scottish/UK wind farm industry and incorporate the mitigation measures identified in the Environmental Impact Assessment Report. The CEMP shall include the following matters:-

- a) details of ecological pre-construction surveys of all areas of construction and a suitable buffer that will be undertaken no more than three months prior to commencement of development and, if necessary, the relevant disturbance licenses from Scottish Natural Heritage (SNH) will be applied for prior to construction commencing;
- b) Protected Species Protection Plan covering the monitoring of any known protected species, resting sites and also include details of how any reptiles that may be present on the site during construction will be protected;
- c) water quality monitoring programme which will include monitoring of watercourses and their water quality to be completed on a monthly basis with extractive samples sent for laboratory analysis to ensure construction of the development is not detrimentally effecting water quality;
- d) details of basic ecological constraints training to be provided by the Environmental Clerk of Works to raise awareness to all construction staff of specific ecological issues through the site induction and toolbox talks as part of a wider site induction;
- e) Breeding Bird Protection Plan
- f) a Site Waste Management Plan;
- g) a Pollution Prevention Plan;
- h) details of on-site storage of materials, including fuel and other chemicals;
- i) details of on-site storage and off-site disposal of excavated material where required;
- j) details of the methodology for reuse of the small amounts of peat in the re-turfing of the verges; if greater volumes of peat are encountered, a Peat Management Plan shall be prepared;
- k) a Sustainable Drainage System (SuDS) design concept including run-off and sediment control measures;
- l) a Flood Risk Assessment with recommendations and mitigation measures where required;
- m) details and timetable for phasing of construction works;
- n) details of all internal access tracks, including accesses from the public road and hardstanding areas;
- o) details of borrow pit excavation and restoration including the need to carry out any blasting;

- p) details of proposed temporary site compound for storage of materials, machinery, and designated car parking;
- q) cleaning of site entrance, site tracks and the adjacent public road and the sheeting of all HGVs taking spoil or construction materials to/from the site to prevent spillage or deposit of any materials on the public road;
- r) details and timetable for post construction restoration and/or reinstatement of the working areas and any other temporary works; and
- s) the development site shall not be illuminated by lighting unless the Planning Authority has given prior written approval or lighting is required during working hours which have been approved by the Planning Authority; or an emergency requires the provision of lighting.

Thereafter, the construction of the development shall be carried out in complete accordance with the approved CEMP, unless otherwise agreed in writing with the Planning Authority.

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

08. 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 (ECoW). The terms of the appointment shall include the ECoW to be appointed prior to commencement of development, remaining appointed until the final commissioning of the development. The scope of work of the ECoW shall include:-

- a) monitoring compliance with the ecological mitigation works that have been approved in this consent, including the mitigation measures identified in the Environmental Impact Assessment Report dated November 2019;
- b) advising the developer on adequate protection of nature conservation interests on the site;
- c) directing the micro siting and placement of the turbines, bridges, compounds and tracks; and
- d) monitoring compliance with the Construction Environmental Management Plan of condition 7.

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

09. Prior to the commencement of decommissioning, an Ecological Clerk of Works (ECoW) shall be appointed by the developer and approved by the Planning Authority after consultation with SNH until the completion of aftercare or such earlier date as may be agreed in writing by the Planning Authority. The scope of work of the ECoW shall include those elements identified in condition 8 with the exception of points c) and d) of that condition and will include monitoring compliance with the Decommissioning, Restoration and Aftercare Plan required by condition 23.

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

10. No development shall take place within the development site as outlined in red on the approved site plan until the developer has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted by the applicant, approved by the Planning Authority in consultation with the West of Scotland Archaeology Service. Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the satisfaction of the Planning Authority in consultation with the West of Scotland Archaeology Service.

Reason: In order to safeguard the archaeological heritage of the site and to ensure that the developer provides for an adequate opportunity to investigate, record and rescue archaeological remains on the site, which lies within an area of potential archaeological importance.

11. Prior to construction of the monitoring mast, substation and any other site compounds, the details of siting, designs and appearance of each shall be submitted to and approved in writing by the Planning Authority. This will include details of the materials, external finishes and colours of battery storage, substation and for all ancillary elements (including access tracks, transformers, switchgear/metering building, compound, boundary treatment and fencing). If required by the Planning Authority, samples of materials shall be provided and only materials approved by the Planning Authority shall be used. Thereafter, the development shall be carried out in accordance with the approved details.

Reason: In the interests of the visual amenity of the area.

12. Consent is granted for the wind farm and its associated infrastructure for a period from the date of this consent until 40 years from the date of final commissioning of the development. Written confirmation of the date of final commissioning shall be provided to the Planning Authority no later than one calendar month after that date.

Reason: In order to retain effective planning control.

13. Prior to the installation of any turbines, a scheme for the avoidance or mitigation of any shadow flicker experienced by residential and commercial properties situated within 10 rotor diameters of any turbine forming part of the development and which lawfully exist or for which planning permission has been granted at the date of this consent, shall be submitted to and approved in writing by the Planning Authority. The approved mitigation scheme shall thereafter be implemented in full.

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

14. Each turbine shall be erected in the position indicated in the co-ordinates within the Environmental Impact Assessment Report November 2019. A variation of the indicated position of any turbine or other development infrastructure detailed on the approved drawing shall be notified on the following basis: (a) if the variation is less than 50 metres it shall only be permitted following the approval of the Ecological Clerk of Works (ECoW) in consultation with SEPA and West of Scotland Archaeology Service, (b) if the variation is of between 50 metres and 100 metres it shall only be permitted following written approval of the Planning Authority in consultation with SEPA and West of Scotland Archaeology Service. The said provisions relating to variation shall not have the effect such that any variation will:-

- bring a turbine outwith the planning application boundary, or
- breach the 20m water buffer zones

without the prior written agreement of the Planning Authority.

Reason: In the interests of amenity and in order to retain effective planning control.

15. Within 3 months of final commissioning of the approved wind farm the applicant shall submit to the Planning Authority an 'as built plan' at an appropriate scale, indicating the location of any track, turbine, crane pad and restored borrow pit within the development.

Reason: In order to retain effective planning control.

16. No part of any turbine shall be erected above ground unless:-

- a) a Primary Radar Mitigation Scheme agreed with the Operator has been submitted to and approved in writing by the Planning Authority; and
- b) the approved Primary Radar Mitigation Scheme has been implemented.

The development shall thereafter be operated fully in accordance with such approved Scheme.

For the purpose of the condition above:-

"Operator" means NATS (En Route) plc, incorporated under the Companies Act (4129273) whose registered office is 4000 Parkway, Whiteley, Fareham, Hants PO15 7FL or such other organisation licensed from time to time under sections 5 and 6 of the Transport Act 2000 to provide air traffic services to the relevant managed area (within the meaning of section 40 of that Act). "Primary Radar Mitigation Scheme" or "Scheme" means a detailed scheme agreed with the Operator which sets out the measures to be taken to avoid at all times the impact of the development on the Lowther Hill primary radar and air traffic management operations of the Operator.

Reason: In the interests of aviation safety and in order to avoid the impact of the development on the Primary Radar of the Operator located at Lowther Hill and associated air traffic management operations.

17. Prior to the erection of any turbines or meteorological mast on the site, details of aviation safety lighting to be installed on any turbine or meteorological mast to be erected shall be submitted for the written approval of the Council, as Planning Authority. Once approved, the details shall be implemented, and maintained as such, for the lifetime of the development hereby approved.

Reason: In the interests of aviation safety.

18. The blades on all the turbines hereby approved shall rotate in the same direction.

Reason: In the interests of the visual amenity of the area.

19. Prior to the erection of any turbines, precise details including the type, dimensions, colour, and external finish of the proposed turbines shall be submitted to and approved in writing by the Planning Authority. The height of the turbines hereby granted planning permission shall not exceed 200 metres to tip above ground level. Thereafter, the turbines shall be installed in accordance with the details as approved.

Reason: In the interests of the visual amenity of the area.

20. Only mechanical means of snow clearance shall be used to clear access tracks, unless otherwise agreed in writing by the Planning Authority.

Reason: To minimise the environmental impact of snow clearing operations by avoiding the use of chemicals or salt without explicit approval.

21. 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. 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 provision.

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.

22. 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 strategy, shall be submitted to the Planning Authority for written approval in consultation with SNH and SEPA. The detailed decommissioning, restoration and aftercare plan will provide updated and detailed proposals for removal of above ground elements of the development, the treatment of ground surfaces, the management and timing of the works and environment management provisions. The development shall be decommissioned, site restored, and aftercare thereafter undertaken in accordance with the approved plan, unless otherwise agreed in writing in advance with the Planning Authority.

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.

23. The decommissioning and restoration of the site shall be completed within 3 years from the date on which the development ceases to generate electricity, unless otherwise agreed in writing with the Planning Authority.

Reason: In the interests of safety, amenity and environmental protection.

24. No development shall commence until the developer puts in place a Private Water Supply Protection Plan, covering the period from the Commencement of the Development until 12 months after date of Final Commissioning. The Plan will be submitted to and approved in writing by the Planning Authority. The approved mitigation scheme shall thereafter be implemented in full. The Plan shall include details of monitoring and contingency measures to be delivered to maintain the quality

and continuity of water supplies to properties which are served by private water supplies at the date of this consent and include:-

- a) details of the water quality sampling methodology and locations;
- b) details of site investigation to establish the route of the Wandel private water supply pipe;
- c) measures for protection of the pipe if it is found to pass across the proposed access track, or within the 10 metre up-gradient and down-gradient; and
- d) measures to notify the occupants of properties supplied by the pipe and the provision of an alternative supply should the water supply be disturbed or effected as a consequence of construction activities.

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

25. There shall be no Commencement of Development unless a Wandel Public Right of Way Access Mitigation Plan, covering the period from the Commencement of Development until the date of Final Commissioning, has been submitted to and approved in writing by the Planning Authority. The Plan will relate to the first 200 metres of the Wandel Public Right of Way where the route is shared or parallel to the wind farm access track.

Reason: In the interests of recreational amenity.

26. Prior to starting on site, a Habitat Management Plan (HMP) shall be prepared and finalised in consultation with the Council's Local Biodiversity Officer and RSPB and submitted to the Planning Authority for approval. The HMP shall be approved prior to the commencement on site. The HMP shall include habitat management and enhancement to benefit breeding curlew within the Border Hills Natural Heritage Zone (NHZ) and timing and programme of delivery and monitoring. Thereafter all works shall be implemented strictly in accordance with the terms of the approved HMP within the timescales set out in the approved HMP.

Reason: To safeguard environmental impacts, ecology, species and habitats, to ensure development conforms to the environmental statement and supplementary environmental information and maintain effective planning control.

27. That no work shall start on site prior to the establishment of a Habitat Management Group (HMG) to oversee the preparation of the approved Habitat Management Plan. The HMG shall include a representative of South Lanarkshire Council and RSPB and shall have powers to make reasonable changes to the HMP necessary to deliver its agreed aims.

Reason: To safeguard habitat and to ensure development conforms to Environmental Statement and maintain effective planning control.

28. If any wind turbine(s) fails to produce an electricity supply to the grid for a continuous period of 12 months then, unless otherwise agreed in writing by the Planning Authority, the wind turbine and any associated above ground infrastructure solely required for that turbine(s) shall be dismantled and removed from the site and the area around the turbine restored in accordance with a scheme to be submitted to and approved in writing by the Planning Authority.

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

29. At least one month prior to the commencement of the development, a guarantee to cover all site restoration and aftercare liabilities imposed on the expiry of this consent will be submitted for the written approval of the planning authority. Such guarantee must:-
- i. be granted in favour of the planning authority.
 - ii. be granted by a bank or other institution which is of sound financial standing and capable of fulfilling the obligations under the guarantee.
 - iii. be for an amount which covers the value of all site restoration and aftercare liabilities as determined by the planning authority at the commencement of development.
 - iv. contain provisions so that all the site restoration and aftercare liabilities as determined at the commencement of development shall be increased on each fifth anniversary of the date of this consent.
 - v. come into effect on or before the date of commencement of development and expire no earlier than 24 months after the end of the aftercare period.

No work shall begin at the site with the exception of Phase 1 felling until (1) written approval of the Planning Authority has been given to the terms of such guarantee and (2) thereafter the validly executed guarantee has been delivered to the planning authority.

In the event that the guarantee becomes invalid for any reason, no operations will be carried out on site until a replacement guarantee completed in accordance with the terms of this condition is lodged with the Planning Authority.

Reason: In the interests of amenity and in order to retain effective planning control.

30. The day time noise emissions (7am to 11pm) from the wind turbines must not exceed a noise level of 37dB LA90,10min or background LA90,10min +5dB, whichever is the greater, at the boundary of the curtilage of any noise sensitive premises at all times at wind speeds of up to 12 metres per second at 10m height as measured within the site. This is based on the SLR Environmental Statement - Chapter 10 Noise.

The night time noise emissions (11pm to 7am) from the wind turbines must not exceed a noise level of 43dB LA90,10min or background LA90,10min +5dB, whichever is the greater, at the boundary of the curtilage of any noise sensitive premises at all times at wind speeds of up to 12 metres per second at 10m height as measured within the site. This is based on the SLR Environmental Statement - Chapter 10 Noise.

Wind Turbine - Tonal Contribution

Where the tonal noise emitted by the development exceeds the threshold of audibility by between 2dB and 6.5dB or greater, then the acceptable noise specified in the (relevant) condition shall be reduced by the penalty level identified within section 28 of 'The Assessment and rating of Noise from Wind Farms - ETSU-R-97.

Wind Farm - Investigation of Complaints

At the reasonable request of the Planning Authority and following a complaint to it relating to noise emissions arising from the operation of the wind farm, the wind farm operator shall appoint an independent noise consultant, whose appointment shall require to be approved by the Planning Authority, to measure the level of noise emission from the wind farm at the property to which the complaint related. The measurement and calculation of noise levels shall be undertaken in accordance with ETSU-R-97 having regard to paragraphs 1 to 3 and 5 to 11 inclusive of the schedule

on Pages 95 to 97 inclusive, and Supplementary Guidance Notes to the Planning Obligation pages 99 to 109 of ETSU-R-97. The Planning Authority shall inform the wind farm operator whether the noise giving rise to the complaint contains or is likely to contain a tonal component or an amplitude modulation.

Where an assessment of any noise impact is, in the opinion of the Planning Authority acting reasonably, found to be in breach of the noise limits the developer shall carry out mitigation measures to remediate the breach so caused. Details of any such mitigation measures required are to be submitted to the planning authority for prior approval. In the event of amplitude modulation being established, the developer shall implement suitable mitigation consistent with best available technology to the satisfaction of the Planning Authority. At this time this would be in keeping with the Institute of Acoustics, IOA Noise Working Group (Wind Turbine Noise) Final Report, A Method for Rating Amplitude Modulation in Wind Turbine Noise, 9 August 2016, Version 1 [Reason: to mitigate excessive noise]

Noise mitigation

Pursuant to condition Noise 13 above, where an assessment of any noise impact which, in the opinion of the Council as Planning Authority acting reasonably, is found to be in breach of the noise limits described in condition 5 the developer shall carry out mitigation measures to remediate the breach so caused. Details of any such mitigation measures required are to be submitted to the planning authority for prior approval.

If the tonal noise emitted by the development exceeds the threshold of audibility by 6.5dB or more, then the acceptable noise specified in Condition 5 shall be reduced by 5dB, always providing that the definition of audibility for the purposes of this condition shall be as described in 'The Assessment and Rating of Noise from Wind Farms (ETSU-R-97)'.

Reason: In the interests of residential amenity.

31. That before any work starts on sites, details of the Wandel Roman Camp Archaeological interpretation programme shall be submitted for the written approval of the Planning Authority, in consultation with West of Scotland Archaeology Service (WOSAS). Once agreed, the programme shall be implemented and maintained as such for the lifetime of the development, hereby approved.

Reason: In the interests of archaeological interpretation.

32. That no development shall take place until a Wind Farm Specification/Operation Schedule has first been submitted to and approved in writing by the Council as Local Planning Authority following written consultation with the Ministry of Defence. As a guideline, the Wind Farm Specification/Operation Schedule should, as a minimum, include:-

A detailed wind farm schedule (detailed location, technical and dimensional specifications for each of the wind turbine generators proposed);

A method statement and schedule for a testing protocol to assess the impact of the proposed wind turbine generators as well as establish baseline seismic ground vibration data for the application site;

Proposals for the test and evaluation of the wind turbines for specific time periods; and
A specification for a post implementation Wind Farm Output Report (WFOR) that shows how each wind turbine generator will be in a low impact state/curtailment

position in order to minimise Seismic Ground Vibration output. The WFOR shall define the required low impact state/curtailment position and provide details of the methods of measuring the impact of the wind farm on the Eskdalemuir Seismic Array and, if applicable, a means of mitigating or managing that impact.

Approval will only be provided by the Council where, following consultation with the MOD, it has been demonstrated that the turbines can be operated fully in accordance with the agreed Eskdalemuir budget as allocated by MOD, with any freed-up budget returning to MOD.

Thereafter the development shall be constructed strictly in accordance with the details set out in the approved Wind Farm Specification/Operation Schedule.

Reason: In order to define the terms of the consent in the interests of the Eskdalemuir Seismic Array.

33. Any wind turbine erected as part of this development shall not be permitted at any time to operate in anything but the low impact state/curtailment position as defined and agreed through condition 32 above, other than:-

a. for the purpose of test and evaluation for specific time periods as defined in the approved Wind Farm Specification/Operation Schedule; or

b. following the submission and approval in writing of the completed Wind Farm Output Report (to the specification agreed through the discharge of condition 32 and outlined in the Wind Farm Specification/Operation Schedule) by the Council as Local Planning Authority following written consultation with the Ministry of Defence.

Thereafter, and for the lifetime of the development, the development shall be operated strictly in accordance with the approved Wind Farm Specification/Operation Schedule.

Reason: In order to define the terms of the consent in the interests of the Eskdalemuir Seismic Array.

12. Reason for Decision

- 12.1. The proposals to vary a number of conditions to extend the lifespan of the wind farm development and to extend the period for decommissioning from 2 to 3 years and to vary the timing of information submission to assist with the early stages of the construction programme are considered acceptable, subject to the imposition of the previous suite of applicable environmental conditions accord with policies 1, 2, 3, 4, 5, 11 and 29 of the National Planning Framework 4, and with policies 1, 2, 4, 5, 14, 15, and 18 of the adopted South Lanarkshire Local Development Plan 2 and its supporting planning guidance on Renewable Energy.

David Booth
Executive Director (Community and Enterprise Resources)

Date: 28 August 2023

Background Papers

Further information relating to the application can be found online:-

[P/22/1646 | Erection of 7 wind turbines with associated infrastructure, meteorological mast to 105m \(Section 42 application to vary condition 12 \(operational lifetime\), condition 23 \(restoration period\) and Conditions 11, 13, 15, 17 and 19 \(vary timing of information submission\) of application P/19/1803 | Priestgill Wind Farm Little Gill Farm Abington ML12 6RW](#)

Corporate Considerations

The report raises no impacts or risks in terms of equalities or financial implications. Any implications in terms of climate change, sustainability or the environment will have been considered above in terms of the relevant national and local policies.

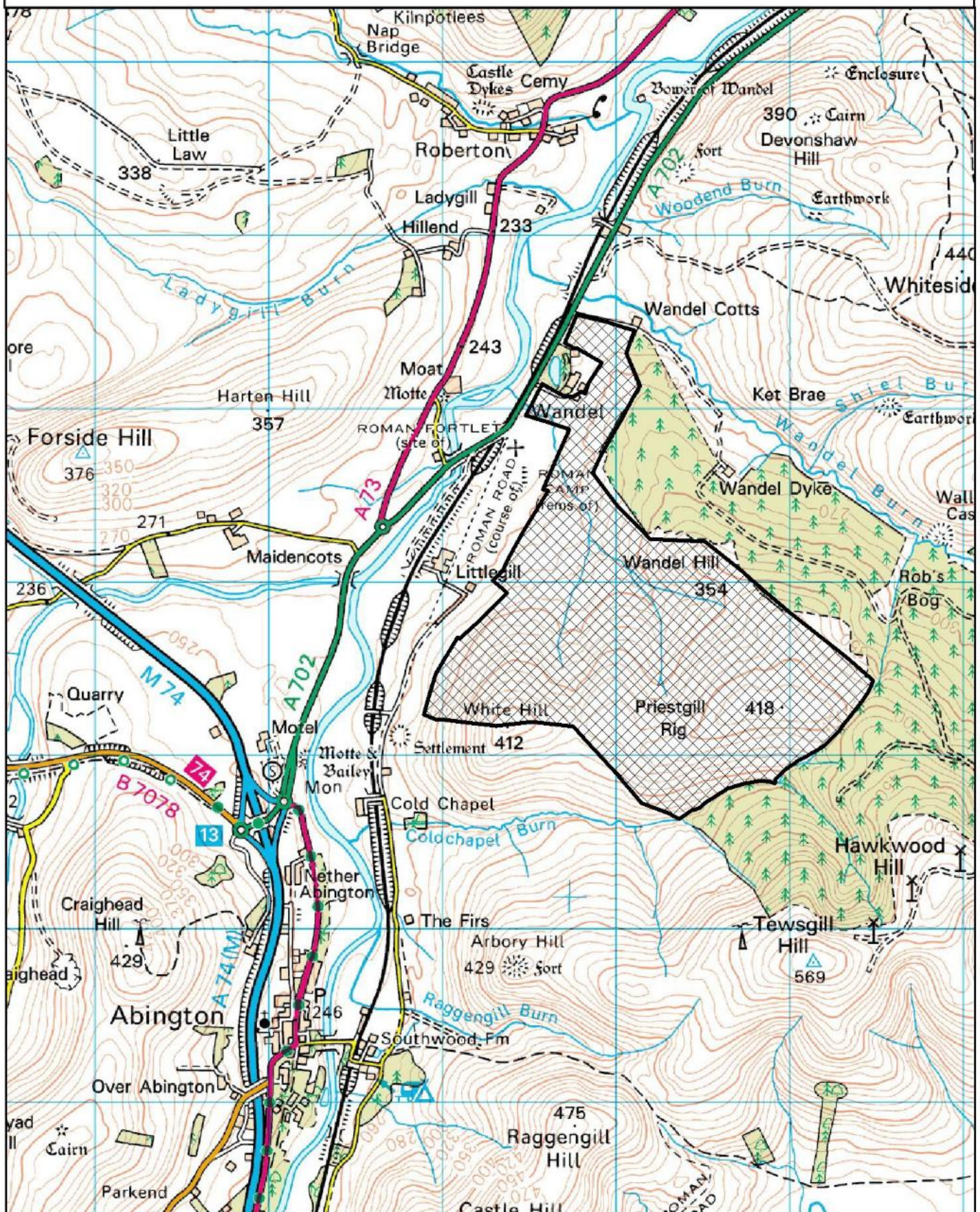
Contact for Further Information

If you would like to inspect the background papers or want further information, please contact:-

Tel: 01698 454867

E-mail: planning@southlanarkshire.gov.uk

P/22/1646 Priestgill Windfarm. Adjacent to Littlegill Farm, A702, Abington



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Scale:
1:30,000
Date:
09/08/2023



South Lanarkshire Council
Community and Enterprise Resources
Planning and Regulatory Services