

# Report

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| Report to:       | <b>Planning Committee</b>                                      |
| Date of Meeting: | <b>12 March 2024</b>   |
| Report by:       | <b>Executive Director (Community and Enterprise Resources)</b> |

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| <b>Reference no:</b>                | P/23/1532   |
| <b>Proposal:</b>                    | Erection of 10 wind turbines (149.9m to tip height) and associated infrastructure including access tracks, cabling and transformer equipment (Section 42 application to re-site turbine 8 (T8), installation of a meter housing adjacent to turbine 2, and to extend the operational lifetime of the windfarm previously approved under consent P/19/1636 for a further 5 years, to 30 years from the date of final commissioning)  |
| <b>Site Address:</b>                | Broken Cross Wind Farm<br>Tower Road<br>Douglas   |
| <b>Applicant:</b>                   | Broken Cross Wind Farm Limited  |
| <b>Agent:</b>                       |   |
| <b>Ward:</b>                        | 04 – Clydesdale South   |
| <b>Application Type:</b>            | Modification, Variation or Removal of Planning Conditions   |
| <b>Advert Type:</b>                 | Bad Neighbour Development Lanark Gazette 15 December 2023<br>Non-notification of neighbours: Lanark Gazette 15 December 2023  |
| <b>Development Plan Compliance:</b> | Yes   |
| <b>Departures:</b>                  | None  |
| <b>Recommendation:</b>              | Grant subject to conditions and the modification of the existing section 75 agreement   |
| <b>Legal Agreement:</b>             | <p>The Committee should note that the application will not be granted until the following matters are concluded:-</p> <p>The modification of the original Legal Agreement attached to the site securing:-</p> <ul style="list-style-type: none"> <li>• Community contributions per megawatt generated</li> <li>• The setting up of a Habitat Management Group</li> <li>• The repair of any damage to roads and bridges arising from extraordinary wear and tear associated with the development and associated indemnity insurance requirements.</li> </ul> |

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| <b>Direction to<br/>Scottish Ministers</b> | 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 forms part of the wider former Broken Cross Surface mine which has now been restored. A windfarm comprising 10 wind turbines is currently under construction by the applicants on the site. The overall site is approximately 276 hectares in size and is located to the north of Junction 11 of the M74, some 2.4km south of Lesmahagow, 2.7km east of Coalburn and 4.8km north of Douglas.

## 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/19/1636 granted on 21 April 2021, (hereon referred to as the original permission), which granted planning permission for 10 turbines on the site, at a maximum tip height of 149.9 metres. Changes to condition 3 of that consent is proposed which would extend the operational lifetime of the Wind Farm from 25 to 30 years; and to condition 15 to allow changes to the approved layout including the relocation of a turbine (T8) and the installation of a meter housing adjacent to turbine number 2.

- 3.2. Condition 3 of the original permission states:-

That 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. All wind turbines, ancillary equipment and buildings shall be dismantled and removed from the site and the land shall be restored and subject to aftercare, in accordance with the decommissioning, restoration and aftercare plan referred to in Condition 4. The total period for restoration of the Site in accordance with condition 4 shall not exceed three years from the date of Final Commissioning without prior written approval of the Planning Authority.

The applicant has requested that condition 3 be varied to read:-

That the Development will be decommissioned and will cease to generate electricity by no later than the date falling *thirty* years from the date of Final Commissioning. All wind turbines, ancillary equipment and buildings shall be dismantled and removed from the site and the land shall be restored and subject to aftercare, in accordance with the decommissioning, restoration and aftercare plan referred to in Condition 4. The total period for restoration of the Site in accordance with condition 4 shall not exceed three years from the date of Final Commissioning without prior written approval of the Planning Authority.

- 3.3. Condition 15 of the original permission states:-

Each turbine shall be erected in the position indicated. 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 (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. The said provisions relating to variation shall not have the effect such that any variation will:-

- bring a turbine outwith the planning application boundary.
- breach the 50m watercourse buffer zones.

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

Each turbine shall be erected in the position indicated *on figure 2.1 of the SEI report dated November 2023*. 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 (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. The said provisions relating to variation shall not have the effect such that any variation will:-

- bring a turbine outwith the planning application boundary.
- breach the 50m watercourse buffer zones.

- 3.4. Through consultation with National Air Traffic Safety it has become necessary to vary conditions 17 and 18 of the consent in order to accommodate the need to amend the original Primary Radar Mitigation Scheme approved under the original permission and its subsequent implementation.

Condition 17 of the original permission states:-

No part of any turbine shall be erected above ground until a Primary Radar Mitigation Scheme agreed with the Operator has been submitted to and approved in writing by South Lanarkshire Council in order to avoid the impact of the development on the Primary Radars of the Operator located at Lowther Hill and Cumbernauld and associated air traffic management operations.

It is now proposed that this condition be amended as follows:-

No part of *Turbine 8* shall be erected above ground until a Primary Radar Mitigation Scheme agreed with the Operator has been submitted to and approved in writing by South Lanarkshire Council in order to avoid the impact of the development on the Primary Radars of the Operator located at Lowther Hill and Cumbernauld and associated air traffic management operations.

- 3.5. Condition 18 of the original permission states:-

No part of any turbine shall be erected above ground until the approved Primary Radar Mitigation Scheme has been implemented and the development shall thereafter be operated fully in accordance with such approved Scheme as referred to in condition 17.

For the purpose of this condition and condition 17:-

"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 and Cumbernauld primary radars and air traffic management operations of the Operator.

It is now proposed that this condition be amended as follows:-

No part of *Turbine 8* shall be erected above ground until a Primary Radar Mitigation has been implemented and thereafter the development (*comprising all consented turbines*) shall thereafter be operated fully in accordance with such approved Scheme as referred to in conditions 17 and condition 18.

For the purpose of this condition and condition 17:-

"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 organization, 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 and Cumbernauld primary radars and air traffic management operations of the Operator.

- 3.6. 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 (if appropriate) with conditions removed if required. 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: P/19/1636 for the erection of 10 wind turbines (149.9m to tip height) and associated infrastructure including access tracks, cabling and transformer equipment was granted by the Council on 21 April 2021 following the conclusion of a section 75 legal agreement.
- 4.2. The Council was consulted by the Scottish Government on an application under section 36 of the Electricity Act 1989 for the installation of a battery storage facility (Ref P/23/0069). The Planning Committee agreed at its meeting on 8 August 2023 not to object to the application.

#### **5. Supporting Information**

- 5.1. The applicant has submitted a Supplementary Environmental Information report which supplements the Environmental Impact Assessment submitted with the original application.

#### **6. Consultations**

- 6.1. Glasgow Airport – no objections.  
Response: Noted.
- 6.2. Prestwick Airport – no objections.  
Response: Noted.
- 6.3. The Ministry of Defence (MOD) – No objections subject to the reimposition of conditions on the original consent in relation to the specifications for any aviation lighting and the requirement to inform the MoD of the exact location of the turbines once installed.  
Response: Noted.

- 6.4. National Air Traffic Safety - A Primary Radar Mitigation Scheme was concluded between NATS and the developers as part of the original planning permission. NATS have now advised that the proposal to vary the lifetime of the windfarm means the final decommissioning date as now proposed does not accord with the date in the Agreement. Discussion is taking place to amend the Agreement to reflect this but at the time of writing this has not been concluded.

Response: The applicants have suggested a minor change to the wording of conditions 17 and 18 of the original consent as described in section 3.4 and 3.5 above. This is considered acceptable and the relevant conditions in the paper apart have been amended.

## **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. The development plan comprises the adopted National Planning Framework 4 and the adopted South Lanarkshire Local Development Plan 2.

### **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 crisis
- ◆ 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 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 Environment
- ◆ Policy 15 - Travel and Transport
- ◆ Policy 16 - Water Environment and Flooding
- ◆ Policy 18 - Renewable Energy
- ◆ Policy RE1 - Renewable Energy
- ◆ Policy DM1 - New Development Design
- ◆ Policy GBRA2 - Business Proposals within Green Belt and Rural Area
- ◆ SDCC2 - Flood Risk

- ◆ SDCC3 - Sustainable Drainage Systems
- ◆ NHE9 - Protected Species
- ◆ NHE20 - Biodiversity

### Supporting Planning Guidance: Renewable Energy

## **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. In this case the application is made under section 42 of the Act to vary conditions attached to a planning permission for a windfarm on the site of the former Broken Cross opencast site near Douglas. 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 permission that do not form part of the proposed amendments. Therefore, in this instance, the assessment of the proposals relates solely to consideration of any impacts that may arise from an increase in the permitted period of operation from 25 to 30 years and minor changes to the approved layout involving the re-siting of a turbine and the installation of a meter housing. In addition, through the consultation process changes to conditions relating to the conclusion of a Primary Radar Mitigation Scheme and its subsequent implementation are proposed. The main matters for the Council's consideration are, therefore, whether the development would continue to comply with the Development Plan based on the new suite of conditions.

10.3. In determining whether the proposed 5 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 5 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. In terms of the minor changes to the approved layout consideration has been given to whether the proposals comply with the provisions of the Development Plan. Following a detailed assessment of the application against the relevant policies of the NPF4 and the SLLDP2, including against the Assessment Checklist for Renewable Energy Proposals, it is considered that the proposals are acceptable. The detailed assessment has fully considered impacts on international and national designations,

impacts on carbon rich soils, deep peat and priority peatland habitat, community separation for consideration of visual impact, economic benefits, contributions to renewable energy targets, effects on natural heritage and ecology, landscape and visual impacts, cumulative impacts, impacts on residential properties, public access, the historic environment, tourism and recreation, impacts on transmitting or receiving stations, road safety and traffic, hydrology, water environment and flood risk, site decommissioning and restoration, and environmental protection.

10.6. During the processing of the application comments were received from NATS that an amendment to the original Primary Radar Mitigation Scheme is required to reflect the proposed longer lifetime of the windfarm. Discussions on this matter are ongoing and therefore it is considered appropriate to amend the relevant conditions on the original consent to address this outstanding matter.

#### 10.7. Conclusion

In conclusion, it is considered that the proposed development is acceptable, and that planning permission be granted, subject to the conditions detailed below and the modification of the existing legal agreement. The proposals are considered to be in accordance with the relevant policies of the adopted National Planning Framework 4 and the South Lanarkshire Local Development Plan 2 and it is recommended that the Planning Committee grant 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 modification of the original legal agreement to secure the following:-**

- ◆ Community contributions per megawatt generated
- ◆ The setting up of a Habitat Management Group
- ◆ The repair of any damage to 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.

01. That the development is carried out strictly in accordance with the terms of the application and the accompanying Supplementary Environmental Information Report (SEI Report) dated November 2023, 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 compliance with all commitments made in the SEI Report, in the interests of amenity and in order to retain effective planning control.

02. Written confirmation of the date of commissioning of development shall be supplied in writing to the Planning Authority and the date of commencement of the development shall be no later than 5 years from the date of this consent.

Reason: In order to define the terms of the consent.

03. That the Development will be decommissioned and will cease to generate electricity by no later than the date falling thirty years from the date of Final Commissioning. All wind turbines, ancillary equipment and buildings shall be dismantled and removed from the site and the land shall be restored and subject to aftercare, in accordance with the decommissioning, restoration and aftercare plan referred to in Condition 4. The total period for restoration of the Site in accordance with condition 4 shall not exceed three years from the date of decommissioning without prior written approval of the Planning Authority.

Reason: In order to define the terms of the consent.

04. 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 (submitted to discharge the suspensive elements of planning condition 04 attached to planning permission P/19/1636, 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 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 hardstanding, 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 and management of oil and fuel on the site;
- f. soil storage and management;
- g. a surface water and groundwater management and treatment plan, including details of the separation of clean and dirty water drains, and location of settlement lagoons for silt laden water;
- h. sewage disposal and treatment;
- i. temporary site illumination;
- j. the construction of any temporary access into the site and the creation and maintenance of associated visibility splays;
- k. details of watercourse crossings;
- l. a species protection plan based on surveys for protected species (including birds) carried out no longer than 18 months prior to decommissioning.

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 and SEPA. The approved plan shall be implemented and overseen by an Ecological Clerk of Works (ECoW).

Reason: In the interests of effective and suitable restoration.

05. The cumulative day time noise emissions (7am to 11pm) from the wind turbines must not exceed a noise level of 40dB 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 (SEI Table 9.5 - Evaluation Against Noise Limits - Cumulative Operation; predicted cumulative level minus derived noise limit. Daytime period 07.00 - 23.00)

The cumulative 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 (SEI Report Table 9.5 - Evaluation Against Noise Limits - Cumulative Operation; predicted cumulative level minus derived noise limit. Night-time period 23.00 - 07.00)

The cumulative noise emissions (at any time) from the wind turbines must not exceed a noise level of 45dB LA90,10min or background LA90,10min +5dB, whichever is the greater, at the boundary of the curtilage of any financially involved noise sensitive premises at all times at wind speeds of up to 12 metres per second at 10m height as measured within the site.

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.

The definition of audibility for the purposes of this condition shall be as described in ETSU-R-97. The penalty shall only apply at properties where the tonal noise is measured and shall only relate to the wind speeds at which the tonal noise occurs at.

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 turbine or wind farm, the wind turbine operator shall appoint an independent noise consultant, whose appointment shall require to be approved by the Planning Authority, to measure the level of noise emissions 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 turbine 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, is found to be in breach of the noise limits the wind turbine operator 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 wind turbine operator 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. Thereafter the approved mitigation measures require to be implemented within the timescales agreed.

Reason: In the interests of amenity.

06. The applicant shall ensure that all works carried out on site are carried out in accordance with the current BS5228:2009, "Noise control on construction and open sites".

The applicant shall further ensure that audible construction activities shall be limited to, Monday to Friday 8.00am to 7.00pm, Saturday 8.00am to 1.00pm and Sunday - No audible activity. No audible activity shall take place during local and national bank holidays - without the prior written approval of the planning authority.

Reason: In the interests of amenity.

07. The developer shall adhere to and implement the approved Traffic Management Plan (TMP) (submitted to discharge the suspensive elements of planning condition 08 attached to planning permission P/19/1636) within the timescales set out.

Reason: In the interests of road safety.

08. The developer shall notify the Council in writing, as soon as reasonably practical, of any changes in construction and decommissioning related activities where these will have an impact on the approved TMP. The developer will consult with the Council and Police Scotland to agree in writing any changes to the TMP, and thereafter adhere to and implement the agreed changes within the timescale set out.

Reason: In the interests of road safety.

09. The developer shall undertake all work associated with the approved planning consent and any subsequent amendments in accordance with the approved TMP. All specialist wind turbine components shall be delivered to site in accordance with the approved TMP and Abnormal Load Route Assessment. The developer shall notify the Planning Authority in writing should they propose to remove any excess material from site. Any such notification shall include details of proposed traffic routes and phasing of such operations all for the approval of the Council as Roads Authority.

Reason: In the interests of road safety.

10. All the measures described in the approved Construction Environmental Management Plan (CEMP) (submitted to discharge the suspensive elements of planning condition 13 attached to planning permission P/19/1636) shall be implemented.

Reason: To ensure compliance with all commitments made in the Environmental Statement and in order to retain effective planning control.

11. The developer shall adhere to and implement the approved Access Strategy (AS) (submitted to discharge the suspensive elements of planning condition 14 attached to planning permission P/19/1636) within the timescales set out.

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

12. Each turbine shall be erected in the position indicated on Figure 2.1 of the SEI Report dated November 2023. 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 (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. The said provisions relating to variation shall not have the effect such that any variation will:-

- bring a turbine outwith the planning application boundary.
- breach the 50m watercourse buffer zones.

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

13. 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 grid building within the development.

Reason: In order to retain effective planning control.

14. No part of Turbine 8 shall be erected above ground until a Primary Radar Mitigation Scheme agreed with the Operator has been submitted to and approved in writing by South Lanarkshire Council in order to avoid the impact of the development on the Primary Radars of the Operator located at Lowther Hill and Cumbernauld and associated air traffic management operations.

Reason: In the interest of public safety

15. No part of Turbine 8 shall be erected above ground until the approved Primary Radar Mitigation Scheme has been implemented and the development (comprising all consented turbines) shall thereafter be operated fully in accordance with such approved Scheme as referred to in conditions 14 and 15.

For the purpose of this condition and condition 14:-

"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 and Cumbernauld primary radars and air traffic management operations of the Operator.

Reason: In the interest of public safety.

16. That the watercourse crossing required for Turbine 3 be sized to convey the agreed 1:200-year design flow.

Reason: In the interests of flood risk.

17. That the approved compensatory planting plan (submitted to discharge the suspensive elements of planning condition 21 attached to planning permission P/19/1636) shall be carried out as such and maintained for the lifetime of the development hereby approved.

Reason: In the interests of maintaining forestry within the site.

18. In the event of any turbine, or group of turbines, failing or being no longer required for electricity generation, or any other reason, for a continuous period of 12 months, unless otherwise agreed with the Planning Authority, the turbine(s) shall be replaced (in the case of failures), or dismantled and removed. In the case of removal, that part of the site accommodating the turbine, the turbine pad and access roads shall be reinstated within three months of the end of the twelve month period of non-generation in accordance with a scheme agreed with the Council as Planning Authority, all to the satisfaction of the Council.

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

19. The approved aviation lighting scheme (submitted to discharge the suspensive elements of planning condition 24 attached to planning permission P/19/1636), shall be implemented and maintained over the life of the wind farm. For the avoidance of doubt the turbines at 149.9 metres are to be fitted with 25 candela omni-directional red lighting or infrared aviation lighting with an optimised flash pattern of 60 flashes per minute of 200ms to 500ms duration, and cardinal turbines should be fitted with 25 candela red and IR combination lighting at the highest practicable point or as agreed in writing with MoD.

The developer shall provide the MoD with the 'as built' turbine locations within 1 month of installation of turbine erected.

Reason: In the interests of public safety.

20. That outwith the lighting required through condition 19 above, the development site shall not be illuminated by lighting unless:-

- a) the Planning Authority has given prior written approval,
- b) lighting is required during working hours which has been approved by the Planning Authority; or
- c) an emergency requires the provision of lighting.

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

21. Three months prior to the commencement of decommissioning an Ecological Clerk of Works (ECoW) shall be appointed by the Company and approved by the Planning Authority 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, but not be limited to:-

- a) monitoring compliance with the ecological mitigation works that have been approved in this consent, including the mitigation measures identified in the SEI Report dated November 2023;
- 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 as required by condition 10.

Reason: To secure effective monitoring of and compliance with the environmental mitigation and management measures set out in the Environmental Statement and associated plans.

22. All works shall be implemented strictly in accordance with the terms of the approved Habitat Management Plan (HMP) (submitted to discharge the suspensive elements of planning condition 29 attached to planning permission P/19/1636) and within the timescales set out in the approved HMP.

Reason: In the interests of habitat management.

23. The applicant shall ensure that the approved programme of archaeological works (submitted to discharge the suspensive elements of planning condition 30 attached to planning permission P/19/1636) 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 agreement with the West of Scotland Archaeology Service.

Reason: To minimise adverse impacts on archaeology on site and to ensure development conforms to the Environmental Statement.

24. The approved shadow flicker mitigation scheme (submitted to discharge the suspensive elements of planning condition 33 attached to planning permission P/19/1636) shall thereafter be implemented in full and maintained as such for the lifetime of the development hereby approved.

Reason: In the interests of amenity.

25. Only mechanical means of snow clearance shall be used to clear access tracks, and no use of chemicals or salt, 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.

## **12 Reason for Decision**

- 12.1. The proposals to vary conditions to extend the lifespan of the wind farm development, carry out changes to the approved layout and address the impact of the proposals on the primary radar system 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, 16, 18, RE1, DM1, GBRA2, SDCC2, SDCC3, NHE9 and NHE20 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: 1 March 2024**

### **Background Papers**

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

[P/23/1532 | Erection of 10 wind turbines \(149.9m to tip height\) and associated infrastructure including access tracks, cabling and transformer equipment \(Sect 42 application to re-site turbine 8 \(T8\), installation of a meter housing adjacent to turbine 2, and to extend the operational lifetime of the windfarm previously approved under consent P/19/1636 for a further 5 years, to 30 years from the date of final commissioning\) | Broken Cross Wind Farm Tower Road Douglas Lanark ML11 9PB \(southlanarkshire.gov.uk\)](#)

### **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.

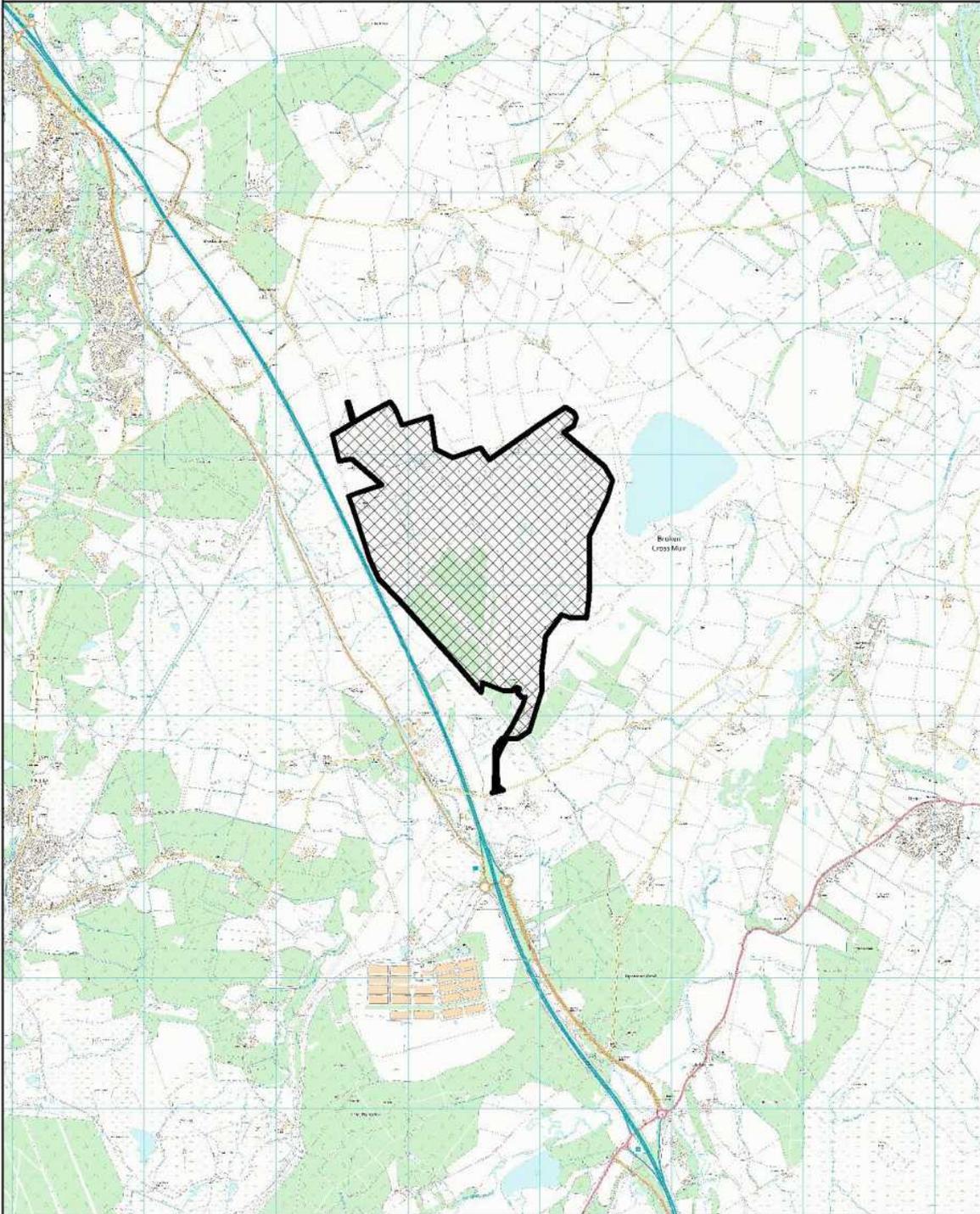
### **Contact for Further Information**

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

Tel: 01698 454867

E-mail: [planning@southlanarkshire.gov.uk](mailto:planning@southlanarkshire.gov.uk)

**P/23/1532, Broken Cross Wind Farm, Tower Road, Douglas  
Erection of 10 wind turbines**



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Date:  
12/02/2024



**South Lanarkshire Council**  
**Community and Enterprise Resources**  
Planning and Regulatory Services