

# Report

Report to:	<b>Planning Committee</b>
Date of Meeting:	<b>13 February 2024</b>
Report by:	<b>Executive Director (Community and Enterprise Resources)</b>

<b>Reference no:</b>	P/22/1139
<b>Proposal:</b>	Erection of 3 No. wind turbines with a maximum height to tip of 149.9m and associated infrastructure including access track, crane pad, electrical housing and cabling
<b>Site Address:</b>	Land 750M Southeast of Dungavel House Immigration Removal Centre (IRC) Muirkirk Road Strathaven
<b>Applicant:</b>	Clean Earth Energy
<b>Agent:</b>	N/A
<b>Ward:</b>	05 – Avondale and Stonehouse
<b>Application Type:</b>	Full Planning Permission
<b>Advert Type:</b>	Non-notification of neighbours: Hamilton Advertiser 6 May 2021
<b>Development Plan Compliance:</b>	Yes
<b>Departures:</b>	Not applicable
<b>Recommendation:</b>	Grant subject to conditions
<b>Legal Agreement:</b>	<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"> <li>◆ Community contributions per megawatt generated</li> <li>◆ A section 96 agreement addressing the repair of roads and bridges arising from extraordinary wear and tear associated with the development and associated indemnity insurance requirements</li> </ul>
<b>Direction to Scottish Ministers</b>	No

## **1. Reason for Report**

- 1.1. This application is being presented to the Planning Committee for determination as it has received more than 5 objections, as detailed in paragraph 3.5 (b) of the Decision Making Process April 2015.

## **2. Site Description**

- 2.1. The application site is an area of approximately 8.76 hectares of open moorland located to the east of the B743 Muirkirk Road, approximately 8km southwest of the settlement of Strathaven. The moorland site is enclosed by mature commercial forestry to the north and south. It is located within an area where there are currently several operational wind farms (including Dungavel, Kype Muir and the Kype Muir Extension), and lies immediately to the west of the operational Dungavel wind farm. The closest residential properties to the nearest part of the application site are located approximately 550 metres to the northwest, on Hamilton Drive. In addition, the site is located approximately 350 metres to the east of the operational Dungavel Immigration Removal Centre (IRC), a category C listed building, originally constructed as a hunting lodge and summer retreat for the Duke of Hamilton.
- 2.2. The site is located on land designated as Rural Area within the adopted South Lanarkshire Local Development Plan 2 (2021). It is located within a landscape designated within NatureScot's Landscape Character Assessment (2019) as Plateau Moorlands – Glasgow and Clyde Valley Landscape Character Type (LCT) and within Rolling Moorland and Forestry LCT within the South Lanarkshire Landscape Character Assessment 2010 (LCA).

## **3. Description of Proposed Development**

- 3.1. Planning permission is sought for the erection of 3 No. wind turbines and associated infrastructure, including access track, crane pad, an electrical housing and cabling. The proposed vehicular access track is to be taken directly from the B743 Muirkirk Road.
- 3.2. The turbines are proposed to be a maximum of 149.9 metres to blade tip height and the applicant requests that they have a generating lifespan of 35 years.

## **4. Relevant Planning History**

- 4.1. Detailed planning permission was given in July 2016 for the erection of a single wind turbine with a blade tip height of 100 metres, a hub height of 60 metres and three blades on the site, with a generating capacity of 2 MW (Planning Ref: EK/15/0375). This application was then subject to a further application to renew the original consent (Planning Ref: P/19/1059), which was granted consent in November 2019. A further application to renew the 2019 consent was submitted in October 2022 but it remains undetermined pending the outcome of this current application (Planning Ref: P/22/1259).

## **5. Supporting Information**

- 5.1. A number of supporting documents have been submitted with the application, including a Planning Statement, Heritage Impact Assessment (HIA) report, Landscape and Visual Impact Assessment (LVIA) report and associated photomontages, Noise Assessment, Peat Survey Assessment, Aviation Assessment, Shadow Flicker Report, Ecology report, Hydrology, Hydrogeology and Geology Report, Construction Traffic Management Plan (CTMP), Road Safety Audit and a Public Consultation Report.

## 6. Consultations

- 6.1. Roads Development Management Team – no objections to the proposals subject to conditions relating to the formation of the site access, drainage details, visibility splays, formation of a site compound area, a turning facility within the site, further approval of an Abnormal Load Route Assessment (ALRA) and a Traffic Management Plan (TMP), and the subsequent implementation of the approved TMP, and a Travel Plan for the site workers. A legal agreement under Section 96 of the Roads (Scotland) Act covering unreasonable damage to the public road and any associated bridges/infrastructure is also required.

**Response:** Noted. Appropriate conditions can be attached to any consent issued. A legal agreement forms part of the recommendation of approval.

- 6.2. Environmental Services – no objections to the application, subject to the attachment of a number of conditions covering noise, investigation of complaints, borrow pits and blasting and a condition requiring a shadow flicker mitigation scheme.

**Response:** Noted. Appropriate conditions form part of the recommendation of approval.

- 6.3. Countryside and Greenspace – no adverse comments or objections to the application.

**Response:** Noted.

- 6.4. NatureScot – advise that the nearby Muirkirk and North Lowther Uplands Special Protection Area will not be affected by the proposal. Initially sought the submission of additional information from the applicant on peatland habitats. Following the submission of this additional information, they recommend that the applicant submits a detailed habitat management plan, clearly stating what type of habitat they are seeking to achieve at the site.

**Response:** Noted. Appropriate conditions in relation to the employment of an Ecological Clerk of Works (ECoW) and the further approval of the Habitat Management Plan and the requirement of a Construction Environmental Management Plan (CEMP) form part of the recommendation of approval.

- 6.5. West of Scotland Archaeology Service (WOSAS) – no objection and advise that a condition should be attached to any approval, requiring the applicant to secure the implementation of an archaeological watching brief, and the submission of an associated method statement.

**Response:** Noted. Appropriate conditions form part of the recommendation for approval.

- 6.6. Ministry of Defence – no objection subject to conditions requiring aviation lighting and aviation charting / safety management.

**Response:** Noted and the conditions relating to aviation lighting and aviation charting form part of the recommendation of approval.

- 6.7. Prestwick Airport – originally submitted a holding objection to the proposals on the grounds of aviation safety and radar. Following discussions with the applicant and a review of the submitted Instrument Flight Procedure (IFP) assessment, they now confirm that they have no remaining objection to the proposals.

**Response:** Noted.

- 6.8. National Air Traffic Services Limited (NATS) – originally objected to the proposals on the grounds of aviation safety and radar. Following further discussions with the applicant, an identified and defined radar mitigation scheme has now been agreed. As a result of this, they have now confirmed they have no remaining objection to the proposals.

**Response:** Noted.

- 6.9. BAA Glasgow Airport – have no objection to the application as the proposals do not conflict with their safeguarding criteria.

**Response:** Noted.

## **7. Representations**

- 7.1. Following the statutory period of neighbour notification and advertisement in the local paper, a total of 13 representations (objections), 4 from the same party, have been received. The issues raised are summarised as follows:-

- ◆ Lack of public consultation and misrepresentation of consultation results
- ◆ Proximity of turbines to residential properties and the Dungavel Centre
- ◆ Shadow flicker, noise and vibration
- ◆ Cumulative wind farms effects
- ◆ Overlooking and overshadowing/loss of light
- ◆ Impact on quality of life and mental health
- ◆ Impacts on local character and recreational activities
- ◆ Road safety and road closures for deliveries of turbines
- ◆ Impact on property values
- ◆ Adverse impacts on local wildlife and ecology
- ◆ Deforestation
- ◆ Impact on the historic listed Dungavel House and the Duke of Hamilton's grave
- ◆ Impacts on television reception and internet connectivity
- ◆ Misleading postal address
- ◆ Incorrect carbon capture savings
- ◆ Impacts of amplitude modulation
- ◆ Negative visual impacts
- ◆ Unacceptable siting and scale of turbines
- ◆ Contradictions in the applicants supporting documents

The above issues will be considered in the assessment below and full copies are available to view on the planning portal.

## **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 4 - Natural Places
- ◆ Policy 11 - Energy

### 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. Detailed planning consent is sought for the erection of 3 No. wind turbines and associated infrastructure including access track, crane pad, an electrical housing and cabling. The policies contained within National Planning Framework 4 and the adopted 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 terms of the adopted National Planning Framework 4, Policies 1 and 2 seek to encourage, promote, and facilitate development that addresses the global climate emergency and nature crisis, and which minimises emissions and adapts to the current and future impacts of climate change. Policy 2 'Climate Change' of the SLLDP2 states that proposals for new development must, where possible, seek to minimise and mitigate against the effects of climate change. The proposals are for a renewable energy development and, therefore, intrinsically support minimising the effects of climate change through greener energy generation. It is, therefore, considered that the principle of the development accords with Policies 1 and 2 of NPF4 and SLLDP Policy 2. Policy 4 of NPF4 seeks to protect, restore and enhance natural assets, making best use of nature based solutions, and promotes that natural assets are managed in a sustainable way. Following a detailed assessment of the application, it is considered that the submitted proposals are in accordance with this policy intent.
- 10.3. In strategic terms, NPF4 Policy 11: Energy supports all forms of renewable energy but not within National Parks or National Scenic Areas. The application site is in neither. In terms of the adopted South Lanarkshire Local Development Plan 2, Policy 1 'Spatial Strategy' of the SLLDP2 states that the Plan will encourage sustainable economic growth and regeneration, protect and enhance the built and natural environment and move towards a low carbon economy and that this will be achieved, inter alia, by

supporting 'development that accords with and supports the policies and proposals in the development plan and supplementary guidance. As the site is located within land designated as within the Rural Area, the application, therefore, requires to be assessed under the Policy 4 'Green belt and rural area'. This states that support will not be given for development proposals within the Countryside, unless they relate to uses which must have a countryside location. Policy 4 recognises that there are specific circumstances where proposals may require to be located within a rural area if it can be demonstrated that there is an established need for the proposed development. SLLDP2 Volume 2 Policy GBRA2 Business Proposals within Green Belt and Rural Area lists renewable energy as an appropriate use in the Rural Area subject to it conforming to SLLDP2 Policy 18: Renewable Energy.

- 10.4. Policy 18: Renewable Energy of the SLLDP2 states applications for renewable energy infrastructure developments will be supported subject to a detailed assessment. It further states that all renewable energy proposals shall be assessed against the relevant criteria and requirements set out in the Assessment Checklist for Renewable Energy Proposals (hereon referred to as the Checklist) contained within SLLDP2 Volume 2. SLLDP2 Volume 2 Policy RE1 Renewable Energy supports Policy 18 and states that as well as the Checklist, renewable energy proposals should also take into account the considerations, criteria and guidance contained within the Supporting Planning Guidance on Renewable Energy, Landscape Capacity Study for Wind Energy (2019 as amended) and other relevant policies in SLLDP2. Part of the Checklist includes an assessment of the criteria also referenced in NPF4 Policy 11, as well as SLLDP Policies 5 and 14 and their associated SLLDP2 Volume 2 Policies as referenced above.
- 10.5. 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, subject to the attachment of a number of suspensive planning conditions requiring the provision of mitigation measures. 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, aviation and defence, 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. A number of letters of objection to the application have been submitted, raising a number of issues. These relate to impacts on residential amenity (noise, shadow flicker, vibration, overlooking and overshadowing/loss of light), impacts on mental health, landscape and visual amenity, lack of public consultation, cumulative impacts, road safety and traffic restrictions, impacts on property values, on local wildlife and ecology, impacts on historic properties and the submission of inaccurate supporting information. The issues raised have all been fully considered in the assessment of the application, however, none are considered to warrant refusal of the application.
- 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 conclusion of a legal agreement to ensure the matters on the front page of the report are addressed. 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 legal agreement to secure the following:-**

- ◆ Community contributions per megawatt generated
- ◆ 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. That consent is granted for a period of 35 years from the date of initial commissioning of the development as submitted in writing to the Council, as Planning Authority.

Reason: To comply with section 58 of the Town and Country Planning (Scotland) Act 1997, as amended.

02. That the development is carried out strictly in accordance with the terms of the application, the plans hereby approved and the accompanying Planning Environmental Statement dated July 2022, including all mitigation and monitoring measures stated in it, subject to any requirements set out in these conditions. Any proposed deviation from the details provided within these documents, must be submitted to and approved in writing by the Planning Authority before the works described therein are undertaken.

Reason: For the avoidance of doubt and to specify the documents upon which the decision was made.

03. At least 2 months prior to commencement on site a Construction Environmental Management Plan (CEMP) and Construction Method Statement (CMS) including Site Waste Management Plan (SWPM) shall be submitted to and approved by the Planning Authority. The CEMP shall incorporate "good practice" methods from the Scottish UK wind farm industry to ensure that environmental impacts are reduced and incorporate all the mitigation measures identified in the Planning Environmental Statement July

2022 supporting the application. Thereafter, all the measures described in the approved CEMP shall be implemented within the timescales set out. The method statement shall include the following:-

- a) A plan of the construction operations at an appropriate scale.
- b) A plan to an appropriate scale showing the location of any contractor's site compound and laydown areas required temporarily in connection with the construction of the development.
- c) Method of defining track route and location (track corridors should be pegged out 500 - 1000m in advance of operations).
- d) Track design approach.
- e) Maps of tracks indicating double and single tracks and position of passing places.
- f) The full extent of anticipated track 'footprint(s)' including extent of supporting 'geogrid' below roadstone and cabling at the edges of the track.
- g) Track construction: Floating track construction over peat >1m deep and gradients of 1:10 or less. Track construction for peat <1m deep, or on gradients of >1:10, cross slopes or other ground unsuitable for floating roads.
- h) Procedures to be followed when, during track construction, it becomes apparent that the chosen route is more unstable or sensitive than was previously concluded, including ceasing work until a solution is identified, informed with reference to advice from ECoW.
- i) Details of peat/soil stripping, storage and re-use. All soils stored on site shall be in accordance with BS3882 and Nature and SEPA guidance.
- j) Specifying the means by which material to be used for the development is brought on site unless it has certification from a suitably UKAS accredited laboratory to confirm that the material is not contaminated.
- k) Drainage Plan shall be submitted to and approved by the Planning Authority in consultation with SEPA. Refer to Planning advice on Sustainable Drainage Systems (SUDS). Compliance with the Council's SUDS design criteria guidance and inclusive sign off by the relevant parties carrying out the elements of work associated with the design criteria appendices 1 to 5.
- l) A coloured plan showing the sustainable drainage apparatus serving the application site together with the contact name and emergency telephone number of the party responsible for its future maintenance. Details of the future maintenance regime in accordance with the latest Construction Design and Management (CDM) Regulations is to be provided on this drawing.
- m) A description of and measures to mitigate impact on surface water courses, hydrology, and private water supplies.
- n) Watercourse crossings should be kept to a minimum to ensure they do not adversely impact on natural flow pathways. These crossings shall be appropriately sized and overland flow routes shall be provided in the event of culvert blockage.
- o) Pollution prevention plan shall be prepared and mitigation measures for all construction elements. Measures to be taken to ensure that the work does not cause mud, silt, or concrete to be washed away either during the construction stage or as a result of subsequent erosion. Where possible construction works shall avoid road construction during periods of high rainfall.
- p) Timing and extent of any necessary re-instatement.
- q) Details of the site security gate, wheel wash facility and site entrance hard standing for the written approval of the Planning Authority. All work associated with construction of the access gate, access bell mouth (with associated abnormal load over run area) and wheel wash facility, vehicle parking on site for staff, visitors and deliveries to ensure that all vehicles can



manoeuvre within the site and exit in forward gear shall be implemented on site prior to commencement of any internal site works. Details for wheel wash facility to maintain the public road network clear of any mineral/soils throughout the construction period.

- r) Surface Water Monitoring Plan shall be submitted to and approved by the Planning Authority in consultation with SEPA. All works require to be carried out by component qualified professional. The methodology of such monitoring including locations frequency, gathering of information of baseline levels, etc shall be submitted to the Planning Authority for approval prior to the commencement of works on site. Thereafter, the plan shall be implemented within the timescales set out to the satisfaction of the Planning Authority and the results of such monitoring shall be submitted to the Planning Authority on a 6 monthly basis, or on request.
- s) A monitoring plan shall be submitted to the planning authority setting out the steps that shall be taken to monitor and mitigate the environmental effects of the development, including the effects on noise and dust, during the construction phase and the operational phase. The methodology of such monitoring including locations, type of monitoring equipment to be used, frequency, gathering of information on background levels, and keeping of records shall be submitted to the Planning Authority for approval prior to the commencement of works on site. Thereafter, the plan shall be implemented to the satisfaction of the Planning Authority and the results of such monitoring shall be submitted to the Planning Authority on request.
- t) Maintain the functionality of wetlands. Maintain the hydrological connectivity downslope and promote diffuse movement of water.
- u) Construction Method Statements.

Reason: In the interests of environmental management.

04. The developer shall secure the implementation of an archaeological watching brief, to be carried out by an archaeological organisation acceptable to the Council as Planning Authority, during all ground disturbance. The retained archaeological organisation shall be afforded access at all reasonable times and allowed to record and recover items of interest and finds. A method statement for the watching brief will be submitted by the applicant, agreed by the West of Scotland Archaeology Service and approved by the Council as Planning Authority prior to commencement of the watching brief. The name of the archaeological organisation retained by the developer shall be given to the Council as Planning Authority and to the West of Scotland Archaeology Service in writing not less than 14 days before development commences.

Reason: In order to safeguard any archaeological items of interest or finds.

05. Before any work starts on site, a Peat Management Plan (PMP) shall be submitted to and approved by the Planning Authority. The PMP shall be prepared to accord with SEPA's requirements.

The PMP shall provide information on:-

- ◆ Measures for protecting the carbon content of carbon rich soils
- ◆ Peat restoration / reinstatement depths and profiles
- ◆ Peat reuse strategy
- ◆ Outline how the peat will be used in habitat creation or restoration
- ◆ Details of how any placed peat will be tied in with the surrounding habitat and supporting hydrology

Thereafter all work will be carried out strictly in accordance with the approved PMP within the timescales set out.

Reason: To minimise environmental impact.

06. No later than 5 years prior to the end of the period of this planning permission, or by such date later as may be agreed by the Planning Authority, the applicant shall submit a Restoration and Aftercare Plan including a method statement for the decommissioning of the wind turbines and the restoration of the application site for the approval of the Planning Authority. Decommissioning in accordance with the approved method statement shall be completed within 24 months of the end of the period of this planning permission or any alternative timescale agreed with the Planning Authority in writing and shall include the dismantling and removal from the site of all turbines, buildings and ancillary development.

Reason: To ensure control of the restoration of the site.

07. 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 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.

08. Prior to delivery of turbines details of the confirmed turbine colour, height and manufacture, including illustrations as well as details of size, shall be submitted to, and approved in writing by, the Planning Authority. Only the approved type shall be installed.

Reason: In order to retain effective planning control.

09. No development shall commence unless and until the terms of appointment of an independent Environmental Clerk of Works ("ECoW") by the Company have been submitted to and approved in writing by the Planning Authority in consultation. The terms of appointment shall:-

- (a) impose a duty to monitor compliance with the ecological and hydrological commitments and mitigations measures provided in the Planning Statement, Ecological Surveys, the Hydrology, Hydrogeology and Geology Report and other information lodged in support of the application as well as that required by the Construction and Environmental Management Plan, as approved;
- (b) require the ECoW to report to the nominated construction project manager any incidences of non-compliance with the ECoW works at the earliest practical opportunity;
- (c) require the ECoW to submit a monthly report to the Planning Authority summarising works undertaken on site;
- (d) require the ECoW to report to the Planning Authority any incidences of non-compliance with the ECoW works at the earliest practical opportunity;
- (e) Advising the Company on adequate protection of nature conservation interests on the site; and
- (f) Directing the micro-siting and placement of the turbines and infrastructure.

The ECoW shall be appointed on the approved terms throughout the period from Commencement of Development to completion of post construction restoration works.

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

10. No later than eighteen months prior to decommissioning of the Development or the expiry of this planning permission (whichever is the earlier), details of the terms of appointment of an ECoW by the Company throughout the decommissioning, restoration and aftercare phases of the Development shall be submitted for the written approval of the Planning Authority.

The ECoW shall be appointed on the approved terms throughout the decommissioning, restoration and aftercare phases of the Development.

Reason: To secure effective monitoring of and compliance with the environmental mitigation and management measures associated with the Development during the decommissioning, restoration and aftercare phases.

11. 1.0 Operational Noise from Wind Farm ETSU-R-97

In keeping with the data submitted within the Clean Earth Energy, Hallsburn Windfarm, Operational Noise Impact Assessment, April 2022 (Ref NT15312- Report 0001-V1 Final) hereafter referred to as the supporting noise impact Assessment, the following noise emissions shall be adhered to:-

#### 1.1 Cumulative Day Time Noise Limits

The cumulative day time noise (7am to 11pm) from the wind turbines must not exceed a noise level of 40dB LA90 (10 min) or background LA90 (10 min) +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 cumulative projections contained within the supporting noise impact Assessment - Chapter 5, Table 9: Cumulative Compliance Table - Quiet Daytime. The approved turbines at Hallsburn Wind Farm shall operate in low noise mode at wind speeds from 6 metres per second to 8 metres per second at 10m height as measured within the site.

### 1.2 Cumulative Night Time Noise Limits

The cumulative night time noise (11pm to 7am) from the wind turbines must not exceed a noise level of 43dB LA90 (10 min) or background LA90 (10 min) +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 cumulative projections contained within the supporting noise impact Assessment - Appendix B (Suggested Apportioned Noise Limits for ESR 1 to ESR 10) and Appendix C (Cumulative ETSU-R-97 Noise Impact Assessment Figures). The development shall not contribute to the emissions for ESR 1, ESR 2 and ESR 3. The approved turbines at Hallsburn Wind Farm shall operate in low noise mode at wind speeds from 6 metres per second to 8 metres per second at 10m height as measured within the site.

### 2.0 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 condition 1.0 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.

### 3.0 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. Within 21 days of a written request by the Local Planning Authority, following a complaint to it from a resident alleging noise disturbance at the dwelling at which they reside and where Excess Amplitude Modulation is considered by the Local Planning Authority to be present in the noise emissions at the complainant's property, the wind farm operator shall submit a scheme, for the approval of the local planning authority, providing for the further investigation and, as necessary, control of Excess AM. The scheme shall be based on best available techniques and shall be implemented as approved.

Reason: In the interests of amenity.

12. The utilisation of either borrow pits or blasting shall be agreed with the Planning Authority prior to their implementation. This will require the appropriate method statements and will be subject to the approval of the Planning Authority.

Reason: In the interest of amenity.

13. Prior to the commissioning of the turbines hereby approved, a shadow flicker mitigation programme shall be installed into the turbines. This shall ensure that all impacts are eliminated in the presence of conditions that would cause shadow flicker. This shall include the installation of light meters on the wind turbines and programming of the turbines to switch off during potential shadow flicker occurrences that have been predetermined - this programme shall be capable of being initiated at any time during the operational life of the proposed wind turbines.

Details of the said mitigation and intrinsic light meter installation shall be confirmed and approved in writing by the Planning Authority at the point of selection and installation.

This shall take cognisance of the shadow flicker assessment conclusion that there are 24 properties within the study area that could theoretically receive shadow flicker in excess of the 30 hours per year threshold, and 23 properties experiencing over 30 minutes on any day.

At the reasonable request of the Planning Authority and following notification of alleged shadow flicker, the operator shall engage the services of a competent consultant to review the mitigation programme. Where shadow flicker has occurred, the operator shall make any reasonable adjustment to prevent further occurrence.

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

14. Prior to commencing construction of any wind turbine generators, or deploying any construction equipment or temporal structure(s) 50 metres or more in height (above ground level) the undertaker must submit an aviation lighting scheme for the approval of South Lanarkshire Council in conjunction with the Ministry of Defence defining how the development will be lit throughout its life to maintain civil and military aviation safety requirements as determined necessary for aviation safety by the Ministry of Defence.

This should set out:-

- a) details of any construction equipment and temporal structures with a total height of 50 metres or greater (above ground level) that will be deployed during the construction of wind turbine generators and details of any aviation warning lighting that they will be fitted with; and
- b) the locations and heights of all wind turbine generators and any anemometry mast featured in the development identifying those that will be fitted with aviation warning lighting identifying the position of the lights on the wind turbine generators; the type(s) of lights that will be fitted and the performance specification(s) of the lighting type(s) to be used.

Thereafter, the undertaker must exhibit such lights as detailed in the approved aviation lighting scheme. The lighting installed will remain operational for the lifetime of the development.

Reason: In the interests of aviation safety.

15. The undertaker must notify the Ministry of Defence, at least 14 days prior to the commencement of the works, in writing of the following information:-

- a) the date of the commencement of the erection of wind turbine generators;
- b) the maximum height of any construction equipment to be used in the erection of the wind turbines;
- c) the date any wind turbine generators are brought into use;
- d) the latitude and longitude and maximum heights of each wind turbine generator, and any anemometer mast(s).

The Ministry of Defence must be notified of any changes to the information supplied in accordance with these requirements and of the completion of the construction of the development.

Reason: In the interests of aviation safety.

16. That prior to any works commencing on the turbine foundations, the proposed Muirkirk Road site access shall be formed generally in accordance with drawing PR3547-IFP-ENTP1:1250-C with a 11.6metre wide bound surface provided for a distance not less than 15.0m from the public road and shall be constructed in accordance with the specification of the Council as Planning and Roads Authority. Site access gates shall be positioned not less than 15.0m from the public road and shall open inwards to site. All works and specifications shall be agreed in advance in writing with the Council as Planning and Roads Authority prior to the applicant applying for Section 56 Agreement under the Roads (Scotland) Act 1984.

Reason: In the interests of road safety.

17. That prior to works commencing on site that applicant shall submit details of a suitable system of site drainage to prevent any surface water or deleterious material from running onto or entering the public road and once approved in writing shall be formed and maintained all to the satisfaction of the Council as Planning and Roads Authority.

Reason: In the interests of road safety.

18. That prior to the new Muirkirk Road site access being brought into use, a 4.5metres by 215metres visibility splay shall be provided onto Muirkirk Road in both directions, measured from the access centreline and that everything exceeding 0.9metres in height above the road channel level shall be removed from the visibility splay thereafter nothing exceeding 0.9metres in height shall be planted, placed, erected, or allowed to grow within these sight lines. The visibility splays shall be maintained by the applicant for the life of the windfarm.

That prior to any works commencing on site the applicant shall submit a copy of their third party legal agreement(s) to demonstrate that they have legal rights for the implementation and future maintenance of all visibility splays, all to the satisfaction of the Council as Planning and Roads Authority in consultation with the Council's Legal Service.

Reason: In the interests of road safety.

19. That prior to any works commencing on the turbine foundations, the site compound area adjacent to the Muirkirk Road as identified on drawing PR3547-IFP-ENTP-1:1250-C shall be formed to include a turning area within the site to enable vehicles to always enter and exit the application site in a forward gear.

Reason: In the interests of road safety.

20. That a minimum of 3-months prior to delivery of abnormal loads to site, an Abnormal Load Route Assessment (ALRA) for the proposed delivery route from the M74 motorway to the site entrance shall be submitted for the written agreement of the Council as Planning and Roads Authority. For the avoidance of doubt, the ALRA shall include details of works and modifications to the Council's local road network associated with the assessment. Once approved, the ALRA shall be implemented in accordance with the agreement.

Reason: In the interests of road safety.

21. That before any works commence on site, a construction phase Traffic Management Plan (TMP) shall be submitted for the written approval of the Council, as Planning and Roads Authority. The plan shall include, but not be limited to, the following details:-
- (i) Routing of all construction traffic in accordance with the Agreed Route Plan referred to on drawing PR3547-IFP-ROUTETOSITE-B Revision 01.
  - (ii) Measures to ensure that the specified routes are adhered to by all operatives and suppliers, including monitoring procedures.
  - (iii) A construction programme with HGV/LGV/Car movements by month and type of work.
  - (iv) Details of all temporary construction direction signage.
  - (v) Provisions for emergency vehicle access.
  - (vi) Measures to prevent mud and detritus being deposited on the public road.
  - (vii) Details of construction compound, site parking, laydown space and turning area.
  - (viii) Identification of a nominated person to whom any road safety issues can be referred.
  - (ix) Any alteration to the public road network including temporary works for relocation of street furniture including signs, guardrails, bollards, and all temporary measures.

Once approved, the TMP shall be implemented as such and fully maintained for the lifetime of the construction period for the development, hereby approved.

Reason: In the interests of road safety.

22. That no construction and/or delivery vehicles shall be parked on any part of Muirkirk Road at any time.

Reason: In the interests of road safety.

23. The developer will submit a Travel Plan to encourage a reduction in reliance on individual private car trips to site for those personnel involved in construction activities on a routine basis and those attending through the course of site inspections and site meetings and all vehicle movements shall subsequently accord with the terms of the approved Plan.

Reason: In the interests of road safety.

24. A Habitat Management Plan (HMP) should be submitted to, and approved by, the Planning Authority, in consultation with relevant stakeholders, prior to development commencing. The HMP must detail where, how and when an appropriate amount of peatland restoration/enhancement (in excess of that impacted by the development) will be delivered. The delivery of the approved HMP should subsequently be overseen by a Habitat Management Group (HMG). The approved plan must be implemented in full unless, in light of the results of monitoring, it is amended by the HMG, in which case the amended HMP must be implemented in full. The HMP must

operate until the decommissioning and restoration of the site, subject to any changes approved by the Planning Authority in consultation with the HMG.

Reason: In the interests of good land management and the protection of habitats.

25. A Habitat Management Group (HMG) shall be established to oversee the preparation and delivery of the HMP and to review and assess the results from ongoing monitoring. The HMG shall include a representative of South Lanarkshire Council and shall have powers to propose reasonable changes to the HMP necessary to deliver its agreed aims, and notwithstanding the above,
- (a) Site clearance activities and where possible, construction, will take place outwith the bird breeding season (March to July inclusive). If site clearance activities commence during this period ECoW supervision is required.
  - (b) The HMP will operate for the full lifespan of the wind farm, including decommissioning.
  - (c) The agreed proposals identified in the HMP will be fully implemented.
  - (d) Surveillance and monitoring results of species and habitat will be carried out in accordance with the approved plan and be submitted to the HMG in accordance with the timescales set out.

Reason: To safeguard environmental impacts, ecology, species and habitats and maintain effective planning control.

26. A protected species survey should be carried out immediately prior to any construction works commencing on site. The results of the protected species survey shall be submitted, together with any required species protection plans, for the written approval of the Council as planning authority, in consultation with NatureScot. Thereafter any approved species protection plan(s) shall be fully implemented, all to the satisfaction of the Council as planning authority.

Reason: To ensure the protection of any protected species identified at the site.

## **12. Reason for Decision**

- 12.1. The proposals are considered to be acceptable and would not be detrimental to the environment subject to the attached conditions. It complies with policies 1, 2, 4 and 11 of NPF4 and Policies 1, 2, 4, 5, 14, 15 18, DM1, RE1, SDCC2, SDCC3, NHE9, NHE18 and NHE20 of the South Lanarkshire Local Development Plan 2 and Supporting Planning Guidance on Renewable Energy.

**David Booth**

**Executive Director (Community and Enterprise Resources)**

**Date: 5 February 2024**

## **Background Papers**

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

[P/22/1139 | Erection of 3 No. wind turbines with a maximum height to tip of 149.9m and associated infrastructure including access track, crane pad, electrical housing and cabling | Land 750M Southeast Of Dungavel House IRC Muirkirk Road Strathaven \(southlanarkshire.gov.uk\)](#)

## **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.



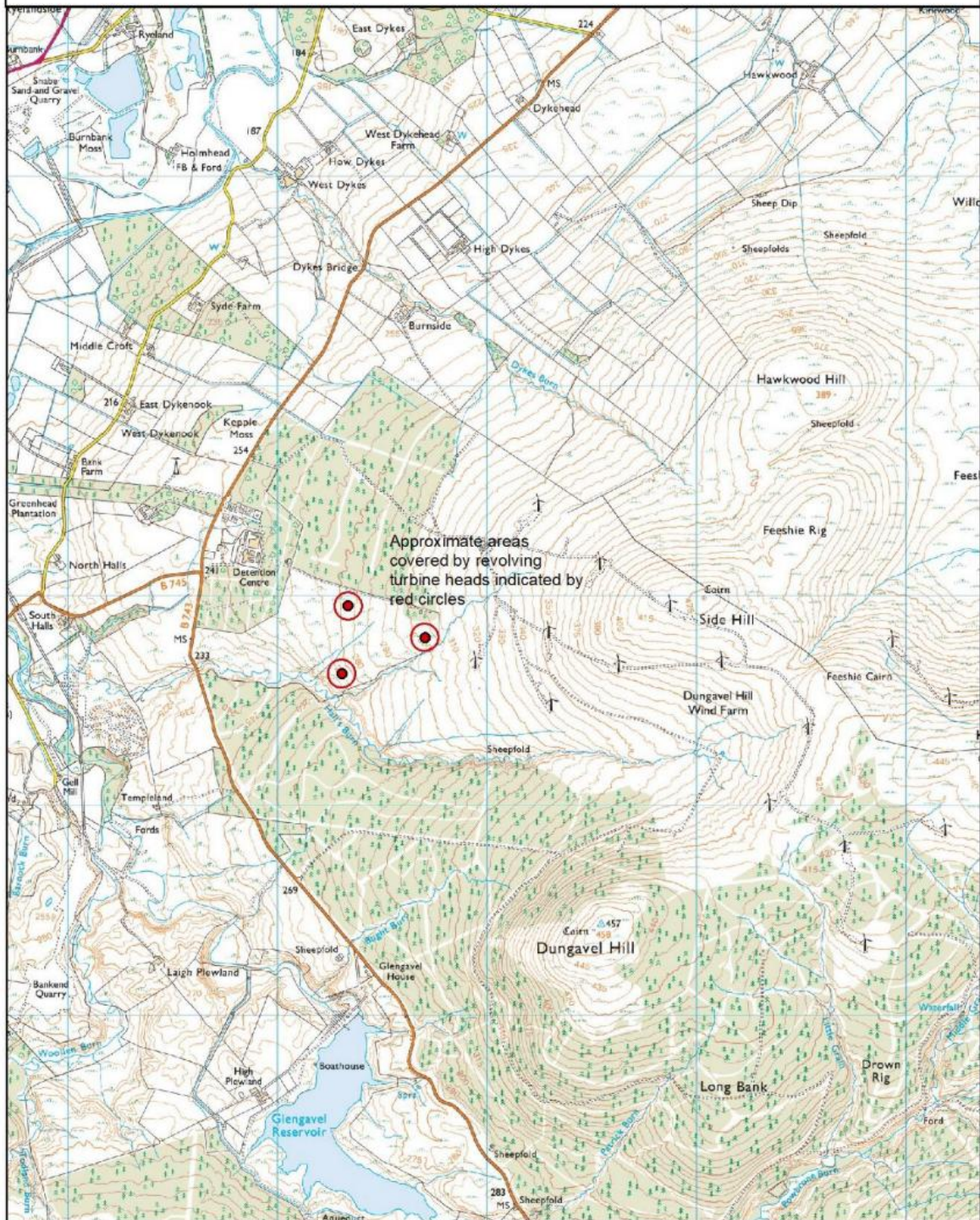
**Contact for Further Information**

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/22/1139 Land 750m southeast of Dungavel House, Strathaven**  
**Erection of three wind turbines with maximum height to tip of 149.9 metres.**



© Crown copyright and database rights 2023 OS  
 100020730. You are permitted to use this data solely  
 to enable you to respond to, or interact with, the  
 organisation that provided you with the data. You are  
 not permitted to copy, sub-licence, distribute or sell  
 any of this data to third parties in any form.



Scale:  
 1:25,000  
 Date:  
 31/01/2024



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