

# Report

Report to:	<b>Planning Committee</b>
Date of Meeting:	<b>8 August 2023</b>
Report by:	<b>Executive Director (Community and Enterprise Resources)</b>

<b>Reference no:</b>	P/22/0878
<b>Proposal:</b>	Erection of 14 wind turbines (12 no. with a 149.9m maximum height to tip and 2 no. with a 180m maximum height to tip) with a maximum output of up to 50MW and associated infrastructure including substation, control building, crane hardstandings, underground cabling, transformer enclosures, temporary construction compounds, borrow pits, permanent wind monitoring mast and new and upgrading of existing access tracks (Section 42 application to amend condition 3 of planning permission P/18/1540, to permit operational lifetime for a 30 year period)
<b>Site Address:</b>	Cumberhead Wind Farm Stockbriggs from New Trows C13 To Cumberhead Lesmahagow Lanark
<b>Applicant:</b>	Cumberhead Wind Energy Ltd
<b>Agent:</b>	Atmos Consulting Ltd
<b>Ward:</b>	04 – Clydesdale South
<b>Application Type:</b>	Further Application
<b>Advert Type:</b>	Environmental Impact Assessment (EIA) Report Submitted: Lanark Gazette 1 February 2023 EIA Report Submitted: Edinburgh Gazette 3 February 2023 Non-notification of neighbours: Lanark Gazette 20 July 2022
<b>Development Plan Compliance:</b>	Yes
<b>Departures:</b>	N/A
<b>Recommendation:</b>	Grant subject to conditions
<b>Legal Agreement:</b>	No
<b>Direction to Scottish Ministers</b>	N/A

## **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 extends to approximately 745.5 hectares in area and is a recently constructed wind farm of 14 turbines (12 no. with a 149.9m maximum height to tip and 2 no. with a 180m maximum height to tip), (Planning Ref: P/18/1540), located within the former Cumberhead Forest, a commercial forestry plantation. The site is some 2.2km to the southwest of the settlement of Coalburn and 4.3km west of the settlement of Douglas. The operational Nutberry Wind Farm (6 turbines) is located within the centre of the application site and a number of other wind farm sites, including Galawhistle, Dalquhandy and Hagshaw Hill are located in close proximity, known collectively as the 'Hagshaw Cluster'. The application site is set wholly within the administrative area of South Lanarkshire, although it should be noted that the western boundary is located parallel to the eastern administrative boundary of East Ayrshire Council.

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

- 3.1. The application is made under Section 42 of the Town and Country Planning (Scotland) Act 1997 (as amended) and is an application for planning permission for the development of land but without compliance with a condition or conditions attached to a previous planning permission.

- 3.2. In this instance, the applicant wishes to vary condition 3 of planning permission Ref: P/18/1540 (hereon referred to as the original permission) which granted planning permission for 14 turbines at a maximum tip height of 149.9 metres for 12 no. turbines and 180 metres for 2 no. turbines on the site.

- 3.3. 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.

- 3.4. 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.

- 3.5. In essence, this application requests an extension to the operating period of the wind farm from 25 years to 30 years.

- 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 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 permission for 11 turbines, all at a maximum height to tip of 126.5m (Planning Ref: CL/15/0231) was initially approved by the Planning Committee, subject to a legal agreement. The legal agreement was not completed, and this original application was withdrawn to permit the applicant to submit a further detailed planning application (Planning Ref: P/18/1540) for 14 turbines on the site, designed to replace the previous application. This was approved at Planning Committee on 25 August 2020 subject to the conclusion of a legal agreement. This was subsequently agreed and the decision notice issued. All site works are now nearing completion, with the anticipated final commissioning of the wind farm in July 2023. Detailed planning permission was also granted consent under delegated powers in March 2020 for the installation of a length of access track at the site (Planning Ref: P/19/1738). In addition, detailed planning permission was granted for a further section of access track under delegated powers in January 2021 (Planning Ref: P/20/1607).
- 4.2 The Legal Agreement attached to P/18/1540 has been written to ensure any subsequent planning applications for the wind farm (such as this current one) are also controlled by the same terms.

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

- 5.1. The applicant has submitted a number of supporting documents with the application, including a Section 42 Supporting Statement setting out the justification for the application, the 2018 Planning Statement and the original submitted EIA documents and figures.

#### **6. Consultations**

- 6.1. **Glasgow Airport** – originally submitted a holding objection to the application, advising that it could conflict with safeguarding criteria, and that a more detailed assessment required to be undertaken. Following a number of discussions between the applicant and Glasgow Airport, the consultee has now confirmed that the development does not conflict with safeguarding criteria, and that the original objection can be removed.  
**Response:** Noted.
- 6.2. **National Air Traffic Services (NATS)** – offer no objection to the proposed time extension.  
**Response:** Noted.
- 6.3. **West of Scotland Archaeology Service (WOSAS)** – offer no objection to the application, as extending the lifespan of the wind farm would not alter or increase the impact of the development on the historic environment.  
**Response:** Noted.
- 6.4. **Countryside and Greenspace** – no objections to the further application, subject to the attachment of a condition requiring the submission of a detailed Access Management Plan, as per the condition attached to the original approval for the site.

**Response:** Noted. Should planning permission be approved appropriate conditions could be attached to any decision issued.

## **7. Representations**

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

## **8. Development Plan**

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

### **8.2 National Planning Framework 4**

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

#### National Planning Framework 4 Policies

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

### **8.3 South Lanarkshire Local Development Plan 2 (2021)**

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

#### SLLDP2 Volume 1 Policies

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

#### South Lanarkshire Council (SLC) Supporting Planning Guidance

- ◆ Renewable Energy (January 2021)

## **9. Guidance**

- 9.1. None applicable.

## **10. Assessment and Discussion**

- 10.1. The application has been made under section 42 of the Planning Act to extend the operating period of a previously consented wind farm from 25 years to 30 years. Under the terms of Section 25 of the Town and Country Planning (Scotland) Act 1997, all applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The policies contained within National Planning Framework 4 and the South Lanarkshire Local Development Plan 2 are the

main consideration in this case, together with an assessment of any other material planning considerations.

- 10.2 As the proposals involve an amendment to an existing consent, now implemented, there is no need to revisit the principle of the development, or any facets of the Original Consent that do not form part of the proposed amendments. Therefore, in this instance, the assessment of the proposals relate solely to consideration of any impacts that may arise from an increase in the permitted period of operation from 25 to 30 years. The main matters for the Council's consideration are therefore whether this extended period of 5 years for operation of the wind farm would continue to comply with the Development Plan. No changes to the scale, design or layout of the approved scheme are proposed.
- 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 windfarms 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. The Section 42 application supporting statement indicates that this will enable a further 963,600 MWh to be produced, enough to power over 12,000 homes within South Lanarkshire.
- 10.5 The previous consent, now implemented, established the principle of a wind farm development on the site in 2020. The amendments proposed relate to an extension of the permitted period of operation from 25 to 30 years. As such, the key issue in assessing the application is whether the continued operation of the wind farm for a further 5 years is considered acceptable. A detailed assessment against NPF4, local development plan policy in the adopted South Lanarkshire Local Plan 2 and its associated supporting planning guidance on Renewable Energy has been carried out. It is concluded that the extension of the permitted period of operation for a further 5 years would accord with the relevant assessment criteria and would not have any resultant significant, adverse impacts.
- 10.6 Conclusion  
In conclusion, it is considered that subject to the replication of the relevant (post construction) conditions attached to the original permission, the extension of the operational life span of the wind farm by a further 5 years is considered acceptable. It is, therefore, recommended that the Planning Committee approve the application.

## **11. Recommendation and Conditions**

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

### **Grant the further application, subject to conditions:-**

01. That the development is carried out strictly in accordance with the terms of the application and the accompanying EIA Report dated September 2018, 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 EIA 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 3 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 Final Commissioning without prior written approval of the Planning Authority.

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

04. A decommissioning, restoration and aftercare strategy has been submitted to and approved in writing by the Planning Authority in consultation with NatureScot and Scottish Environment Protection Agency (SEPA). The strategy outlines measures for the decommissioning of the Development, restoration and aftercare of the site and includes, without limitation, proposals for the removal of the Development, the treatment of ground surfaces, the management and timing of the works, and environmental management provisions.

No later than 3 years prior to decommissioning of the Development or the expiration of this consent (whichever is the earlier) a detailed decommissioning, restoration and aftercare plan, based upon the principles of the approved decommissioning, restoration and aftercare strategy, 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. 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.

06. 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 at the levels assessed within the EIA for all developments and including the immissions from the Cumberhead Wind Farm development.

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 at the levels assessed within the EIA for all developments and including the emissions from the Cumberhead Wind Farm development.

The cumulative noise (at any time) from the wind turbines must not exceed a noise level of 45dB LA90 (10 min) or background LA90 (10 min) +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.

Prior to electricity being exported the wind farm operator shall submit to the Planning Authority for written approval a list of proposed independent consultants who shall undertake compliance and validation measurements to demonstrate compliance with the levels above. Amendments to the list of approved consultants shall be made only with written approval of the Planning Authority. The measurements shall be carried out in accordance with ETSU-R-97 (with respect to current best practice) and submitted to the Planning Authority for their approval. Any variation determined from the compliance and validation measurements shall be mitigated for in order to comply with condition 1.0 above subject to agreement with the Planning Authority. Where the background levels cannot be established, the emission levels shall be based on those submitted within the EIA Report (September 2018).

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 38 shall be reduced by the penalty level identified within section 28 of 'The Assessment and Rating of Noise from Wind Farms- ETSU-R-97 (See Figure below). 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 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 (AM) 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.

07. The applicant shall ensure that all works carried out on site must be carried out in accordance with the current BS5228, 'Noise control on construction and open sites'. The applicant shall further ensure that audible construction activities shall be limited to, Monday to Friday 7.00am to 7.00pm, Saturday 7.00am to 1.00pm and Sunday - No audible activity with no audible activity taking place on Sunday, local and national bank holiday - without prior written approval of the Planning Authority.

Under exceptional conditions the above time restrictions may be further varied subject to written agreement with the council as Planning Authority.

Reason: To minimise disturbance to residents in the vicinity of the wind farm.

08. That at times during which Borrow Pits are operational, then the noise levels shall be restricted to 55dB LA eq (1hr) or background LA90 (1hr) + 10dBA, whichever is the lesser and any general construction noise, which is ongoing simultaneously with the Borrow Pit operation, shall be considered as Borrow Pit noise. The level has been derived from PAN 50 Annex A Controlling the Environmental Effects of Surface Mineral Workings Annex A: The Control of Noise at Surface Mineral Workings.

Details of any blasting at borrow pits should be included with a method statement and relevant reports as necessary.

Reason: To minimise disturbance to residents in the vicinity of the wind farm.

09. No blasting shall take place until such time as a blasting method statement has been submitted to and approved in writing by the Planning Authority.

The method statement shall include details of measures required to minimise the impact of blasting on residential and other noise-sensitive properties in the vicinity of the site. It shall also include the following measures:-

- Blasting shall be carried out using the best practicable means of ensuring that the resultant noise, vibration and air overpressure are minimised;
- Blasting techniques and instantaneous charge levels shall be employed such that the predicted peak particle velocity shall not exceed 6 mm/s in any plane in 95% of all blasts, and no individual blast shall exceed a peak particle velocity of 12 mm/s as would be measured on the ground adjacent to any vibration-sensitive building;

- Under normal atmospheric conditions, the peak linear overpressure level shall not exceed 120dB as measured from any neighbouring noise sensitive premises;
- Within the constraints of safe practice, blasting shall be avoided under weather conditions which are likely to direct or focus the blast air overpressure towards neighbouring noise sensitive properties;
- Blasting shall thereafter be carried out in accordance with the approved method statement, unless otherwise agreed in writing with the Planning Authority.

No blasting shall take place except between the following times:-

10.00 - 12.00 and 14.00 - 16.00-Mondays to Fridays and;  
10.00- 12.00 Saturdays.

Reason: To minimise disturbance to residents in the vicinity of the wind farm.

10. A detailed Traffic Management Plan (TMP) including a Travel Plan, has the written approval of the Council as Planning and Roads Authority, and requires to be fully adhered to and implemented.

Should there be 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.

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

11. A Construction Environmental Management Plan (CEMP) including Construction Method Statement, Waste Management Plan and Pollution Prevention Plan has been submitted to and approved by the Planning Authority in consultation with SEPA and Scottish Natural Heritage (SNH). All the measures described in the approved plan shall be implemented.

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

12. The mitigation measures identified in the Peat Landslide Hazard and Risk Assessment (PLHRA) require to be implemented unless otherwise agreed with the Planning Authority in consultation with SEPA.

Thereafter the approved mitigation proposals shall be incorporated in a geotechnical risk register which will identify Hazard Ranking and be implemented in full. During the period of consent, all excavations shall be suitably supported to prevent collapse and where peat is present to prevent the development of tension cracks. Peat removed from drainage ditches as part of maintenance shall be considered as excavated peat.

Reason: To minimise the risk of peat failure arising from the development.

13. A method statement has been submitted to and approved in writing by the Planning Authority, detailing all mitigation measures to be delivered to secure the quality, quantity and continuity of water supplies to properties which are served by private water supplies at the date of this consent and which may be affected by the Development. A water level and quality monitoring programme will be undertaken prior to any construction and during construction. The method statement shall include

water quality sampling methods and shall specify abstraction points. The approved method statement shall thereafter be implemented in full.

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

14. A fish and macroinvertebrate monitoring plan has been submitted to the Planning Authority and Marine Scotland Science setting out the steps that shall be taken to monitor the environmental effects of the development, during the construction phase, operational phase and decommissioning phase. The methodology of such monitoring including locations frequency, gathering of information on background levels, etc shall be submitted to the Planning Authority in consultation with Marine Scotland Science for approval and thereafter, the plan shall be implemented to the satisfaction of the Planning Authority in consultation with Marine Scotland Science, and the results of such monitoring shall be submitted to the Planning Authority and Marine Scotland Science on request.

Reason: To ensure protection of water bodies and protection for salmonid populations within and downstream of the development area.

15. Each turbine shall be erected in the position indicated. At least 1 month prior to the construction of turbine foundations a variation of the indicated position of any turbine on the approved drawing shall be notified on the following basis: (a) if the variation is less than 25 metres it shall only be permitted following the approval of the Ecological Clerk of Works (ECOW) in consultation with SEPA and West of Scotland Archaeology Service (b) if the variation is of between 25 metres and 50 metres it shall only be permitted following written approval of the Planning Authority in consultation with SEPA and West of Scotland Archaeology Service. The said provisions relating to variation shall not have the effect such that any variation will:-

- bring a turbine within 1000m of a non-involved residential property
- bring a turbine outwith the planning application boundary
- breach the 50m water buffer zones.

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

16. That during the construction of the development:-

- a) All works shall be carried out in a manner consistent with The Water Environment (Controlled Activities) (Scotland) Regulations 2005
- b) No work shall be undertaken within a 50 m buffer zone surrounding all watercourses and known functioning drains, with the exception of access route crossings, unless otherwise agreed in writing with the Planning Authority.
- c) Track layout shall minimise disruption to water courses
- d) Existing drainage routes shall be maintained through sensitive placement of soil heaps and where necessary temporary drains.
- e) Silt traps shall be provided on all existing drainage routes affected by site works.
- f) Watercourses shall not be culverted. Bridge crossings shall be used instead of culverts and a suitable design shall be put forward and agreed in writing with the planning authority in consultation with SEPA.
- g) Any disturbance of watercourses shall be minimised utilising cofferdam temporary works.
- h) Cable trenches shall only be constructed in limited sections to reduce drainage of groundwater and prevent additional drainage routes being created.
- i) Cable trenches shall be plugged to prevent the creation of new drainage paths.

- j) The scheduling of works shall minimise disruption and working during wet weather
- k) Temporary works interception drains shall be constructed to prevent potential contamination of runoff and groundwater
- l) Stockpiling of materials on wet ground and near drainage channels shall not take place, unless agreed in writing with the Planning Authority
- m) Backfilled trenches shall be re-vegetated
- n) Temporary silt traps shall be constructed to treat runoff
- o) Sulphate resistant concrete shall be used to prevent leaching of chemical.
- p) Should any material be proposed to be removed from the site the applicant shall notify the Council. Any such notification shall include details of the proposed traffic routes and phasing of such operations all for the approval of the Council as Roads Authority.

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

17. 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.

18. No part of any turbine shall be erected above ground until Primary Radar Mitigation Schemes agreed both with the Operator and Glasgow Airport have been submitted to and approved in writing by South Lanarkshire Council, in consultation with the Operator and Glasgow Airport, 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 and to prevent the impairment of the performance of aerodrome navigation aids and the efficiency of air traffic control services at Glasgow Airport.

Reason: In the interest of public safety

19. No part of any turbine shall be erected above ground until the approved Primary Radar Mitigation Schemes have been implemented and the development shall thereafter be operated fully in accordance with such approved Scheme as referred to in condition 18.

For the purpose of this condition and condition 18;

"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 and Glasgow Airport 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 and Glasgow Airport

Reason: In the interest of public safety.

20. 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.

21. That outwith the lighting required through condition 26 below, 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.

22. There shall be no Commencement of Development unless the Planning Authority has approved in writing the terms of appointment by the Company of an independent Environmental Clerk of Works (ECoW). The terms of the appointment shall include the ECoW to be appointed prior to commencement of development, remaining appointed until the final commissioning of the development. The scope of work of the ECoW shall include, 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 Environmental Impact Assessment Report dated September 2018;
- 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.

A minimum of 2 months prior to the commencement of development an Ecological Mitigation Strategy (EMS) shall be prepared and submitted for approval to and approved by the Planning Authority in consultation with NatureScot. The EMS shall include the mitigation measures set out in the Environmental Statement.

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

23. 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 those elements identified in condition 25.

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

24. A Habitat Management Plan (HMP) for the entire application site has been approved, in consultation with RSPB and NatureScot.

The HMP includes the following and takes into account recommendations in SNH letter dated 22 November 2018 including the attached SNH letter dated 28 August 2015:-

- i. Wet heath restoration
- ii. Native broadleaved scrub restoration
- iii. Habitat monitoring
- iv. Raptor monitoring programme
- v. Additional habitat enhancements - off-site compensatory planting, habitat piles, watercourse protection and improvements to upstream access, blanket bog improvements, protect and enhance biodiversity
- vi. monitoring at the site to collate any bird collisions
- vii. confirm the significance of the losses
- viii. identify any potential mitigation to minimise the potential for bird strike
- ix. monitor flight paths of SPA species and other species and recommend any mitigation measures required for approval of the Habitat Management Group.
- x. Ground management programme
- xi. Vegetation clearance should not be carried out between April to July inclusive to avoid impacts on breeding birds unless otherwise agreed with the Planning Authority.
- xii. The establishment of a Habitat Management Group (HMG) to oversee the preparation of the approved Habitat Management Plan. The HMG shall include a representative of South Lanarkshire Council and RSPB and shall have powers to make reasonable changes to the HMP necessary to deliver its agreed aims.

All works shall be implemented strictly in accordance with the terms of the approved HMP and within the timescales set out in the approved HMP.

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

25. That vehicle reversing alarms for on-site plant should utilise non-tonal reversing alarms where activities are in close proximity to noise sensitive premises. Details of alternative warning devices shall be submitted to and approved in writing by the Council as Planning Authority prior to development starting on site. Efficient silencers shall be fitted to, used and maintained in accordance with manufacturers' instructions on all vehicles, plant and machinery used on the development site.

Reason: In the interests of amenity.

26. The requirement to meet MoD aviation lighting, approved in writing by the Planning Authority, in consultation with MoD, 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 shall be fitted with 25 candela red and IR combination lighting at the highest practicable point, or as agreed in writing with MoD. The turbines at 180metres shall be fitted with aviation lighting in accordance with Article 219 of the Air Navigation Order.

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.

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

Reason: In the interests of amenity.

28. That no felling and replanting shall be allowed on site until a felling and replanting strategy has been submitted for the written approval of the Council, as Planning Authority in consultation with Forest and Land Scotland. Once approved the felling and replanting strategy shall be carried out as such and thereafter maintained as such for the lifetime of the development, hereby approved. For the avoidance of doubt no planning approval is granted for the felling identified in Plan 5a of the EIA Report dated September 2018.

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

29. A detailed Access Strategy (AS) has received the written approval of the Planning Authority. The applicant shall adhere to and implement the AS within the timescales set out. Proposals shall incorporate and identify the Council's Core Path and Wider Network and provide signage where the network identifies links.

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

30. 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.

31. The development to which this permission relates shall be begun no later than the expiration of three years beginning with the date of grant of this decision notice.

Reason: To comply with Section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).

## **12. Reason for Decision**

- 12.1. The proposals to extend the lifespan of a wind farm development that already benefits from planning consent by an additional 5 years are considered acceptable, subject to the imposition of the previous suite of applicable environmental conditions. The amended lifespan of the wind farm would allow an additional 5 years of renewable energy to be generated, is not considered to result in any adverse impacts in relation to the previous consented development, accords with policies 1, 2, 3, 4, 5, 11 and 29

of the National Planning Framework 4, and with policies 1, 2, 4, 5, 14, 15, and 18 of the adopted South Lanarkshire Local Development Plan 2 and its supporting planning guidance on Renewable Energy.

**David Booth**

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

**Date: 31 July 2023**

### **Background Papers**

Further information relating to the application can be found online:

[P/22/0878 | Erection of 14 wind turbines \(12 no. with a 149.9m maximum height to tip and 2 no. with a 180m maximum height to tip\) with a maximum output of up to 50MW and associated infrastructure including substation, control building, crane hardstandings, underground cabling, transformer enclosures, temporary construction compounds, borrow pits, permanent wind monitoring mast and new and upgrading of existing access tracks \(Section 42 application to amend condition 3 of planning permission P/18/1540, to permit operational lifetime for a 30 year period\) | Cumberhead Wind Farm Stockbriggs From New Trows C13 To Cumberhead Lesmahagow Lanark \(southlanarkshire.gov.uk\)](https://www.southlanarkshire.gov.uk/planning/P/22/0878)

### **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**

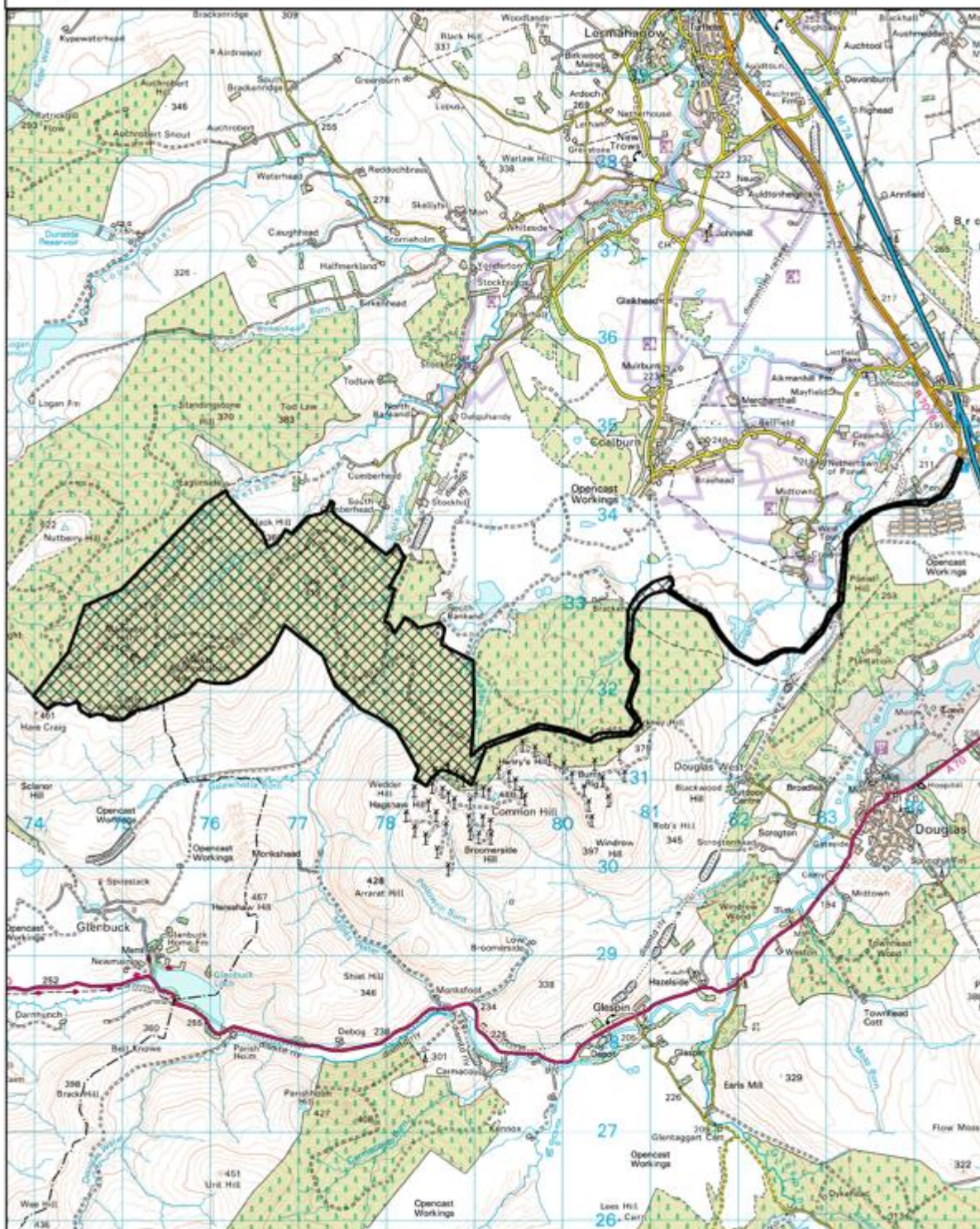
If you would like to inspect the background papers or want further information, please contact:-

Tel: 01698 454867

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



P/22/0878 Cumberhead Wind Farm, Stockbriggs, from New Trows C13 to Cumberhead, Lesmahagow, Lanark



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Scale:  
1:60,000  
Date:  
13/07/2023



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