

Report

Report to:	Planning Committee
Date of Meeting:	3 November 2020
Report by:	Executive Director (Community and Enterprise Resources)

Application no.	P/20/0751
Planning proposal:	Erection of 4 wind turbines (126.5m maximum height to tip) and ancillary development including access tracks, hardstanding areas, substation/control building, transformers, cabling and temporary construction compound) (Section 42 application to amend condition 2 (extension of lifetime of windfarm from 25 to 30 years) of planning permission Ref CL/13/0206)

1 Summary application information

Application type:	Further application
Applicant:	Crookedstane Windfarm Limited
Location:	Crookedstane Wind Farm Development Access From B7076 To Crookedstane Farm Elvanfoot Biggar South Lanarkshire

2 Recommendation(s)

2.1 The Committee is asked to approve the following recommendation(s):-

- (1) Grant detailed planning permission (subject to conditions) based on conditions attached.

2.2 Other actions/notes

- (1) The Planning Committee has delegated powers to determine this application
- (2) The Committee should note that the decision notice should not be issued until the following matters are concluded:-

A Legal Agreement securing:-

- ◆ Community benefit contributions
- ◆ The funding of an independent Planning Monitoring Officer
- ◆ Control Over turbine transportation and the repair of any damage to roads and bridges arising from extraordinary wear and tear associated with the development and associated indemnity insurance requirements

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

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

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

3 Other information

- ◆ Applicant's Agent: Laura Fleming
- ◆ Council Area/Ward: 03 Clydesdale East
- ◆ Policy Reference(s): **South Lanarkshire Local Development Plan**
Policy 1 Spatial Strategy
Policy 2 Climate Change
Policy 3 Green belt and rural area
Policy 4 Development management and placemaking
Policy 15 Natural Environment
Policy 16: Travel and Transport
Policy 19 Renewable Energy

Supplementary Guidance

Development Management, Place Making and Design

Proposed South Lanarkshire Local Development Plan 2

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 18 Renewable Energy

◆ Representation(s):

▶	0	Objection Letters
▶	0	Support Letters
▶	0	Comment Letters

Planning Application Report

1 Application Site

- 1.1 The application site is located approximately 3km south of Elvanfoot, 7.5km east of Leadhills and 3km west of the M74 motorway. The development area extends to approximately 43 hectares (ha) of which the land take of the development will be around 2.17ha. The application site is located within the Southern Upland Wind Farm Landscape Character Type. To the east and north of the application site is located the operational Clyde Wind Farm. Land cover on the application site consists of coarse grassland mainly used for rough grazing with the highest point lying at 383m Above Ordnance Datum (AOD). To the east of the site lies forestry, and 3 watercourses (Daer Water, Blakehouse Burn and Crookedstane) lie adjacent to and cross the site.

2 Proposal(s)

- 2.1 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.
- 2.2 In this instance, the applicant wishes to vary condition 2 of planning permission Ref: CL/13/0206 (hereon referred to as the original permission) which granted planning permission for 4 turbines at a maximum tip height of 126.5m.
- 2.3 Condition 2 of the original permission states:-

That consent is granted for a period from the date of this consent until 25 years from the date of final commissioning of the development. No later than 12 months prior to the end of said 25 year period, the decommissioning scheme referred to in condition 28 of this consent shall be submitted to and approved in writing by the planning authority. Written confirmation of the date of the commencement of the development shall be supplied in writing to the Planning Authority and the date of commencement of the development shall be no later than 5 years from the date of this consent.

- 2.4 The applicant has requested that condition 2 be varied to read:-

That consent is granted for a period from the date of this consent until 30 years from the date of final commissioning of the development. No later than 12 months prior to the end of said 30 year period, the decommissioning scheme referred to in condition 28 of this consent shall be submitted to and approved in writing by the planning authority. Written confirmation of the date of the commencement of the development shall be supplied in writing to the Planning Authority and the date of commencement of the development shall be no later than 5 years from the date of this consent.

- 2.5 In essence, this application requests an extension to the operating period of the wind farm from 25 years to 30 years. The application does not request any other variation to the original permission. It should be noted that a separate report (ref no P/20/0752) is included on the agenda for this Committee which seeks similarly to extend the operating period for a 4 turbine windfarm at a site known as Lion Hill which is adjacent to the proposals subject of this application.

- 2.6 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.

3 Background

3.1 National Policy

- 3.1.1 National Planning Framework 3 (NPF3) June 2014 sets out the long-term vision for the development of Scotland and is the spatial expression of the Scottish Government's Economic Strategy. It has a focus on supporting sustainable economic growth which respects the quality of the environment, place and life in Scotland and the transition to a low carbon economy. The framework sets out strategic outcomes aimed at supporting the vision – a successful, sustainable place, a low carbon place, a natural, resilient place and a connected place.
- 3.1.2 Scottish Planning Policy (SPP) June 2014 aligns itself with NPF3 and one of its policy principles states that there will be “a presumption in favour of development that contributes to sustainable development” (page 9). At paragraph 28, SPP states that “the planning system should support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term. The aim is to achieve the right development in the right place, it is not to allow development at any cost.” The SPP also identifies a number of considerations to be taken into account when determining energy infrastructure developments including net economic benefit, the contribution to renewable energy targets, cumulative impacts, visual impacts, residential amenity, and landscape and visual impacts (paragraph 169). SPP (paragraph 170) also notes that areas “identified for wind farms should be suitable for use in perpetuity”.
- 3.1.3 The application site, by nature of the original permission granting wind development, is considered to be “identified” as noted within paragraph 170 of SPP. It is considered that, as the proposals would result in allowing an already permitted wind farm an additional 5 years of renewable energy generation, it would comply with national policy. No further assessment of the proposals against national policy is, therefore, required.

3.2 Development Plan

- 3.2.1 Under the terms of Section 25 of the Town and Country Planning (Scotland) Act 1997, all applications must be determined in accordance with the development plan, unless material considerations indicate otherwise. In this case, the development plan comprises the approved Glasgow and the Clyde Valley Strategic Development Plan 2017 (GVCSDP), the adopted South Lanarkshire Local Development Plan 2015 (SLLDP) and associated Supplementary Guidance.

3.2.2 The proposed development requires to be considered against the approved Glasgow and Clyde Valley Strategic Development Plan 2017 (GCVSDP) Onshore Wind Spatial framework (paragraphs 7.8 and 7.9). The Onshore Wind Spatial Framework is aligned to increasing energy efficiency and reducing carbon emissions. Diagram 6 identifies areas within the city region that are likely to be most appropriate for onshore wind farm development. Policy 10 Onshore Energy requires proposals to accord with local development plans. With regard to this proposal, it is noted that the site currently benefits from an extant permission for 4 wind turbines and, therefore, there is no further requirement for the proposals to be assessed against this strategic plan.

3.2.3 The South Lanarkshire Local Development Plan (SLLDP) was adopted in 29 June 2015 and contains the following policies against which the proposal should be assessed:-

- ◆ Policy 1: Spatial Strategy
- ◆ Policy 2: Climate Change
- ◆ Policy 3: Green belt and rural areas
- ◆ Policy 4: Development management and placemaking
- ◆ Policy 15: Natural and historic environment
- ◆ Policy 16: Travel and Transport
- ◆ Policy 19: Renewable Energy

3.2.4 The following approved Supplementary Guidance support the policies in the SLLDP and also requires assessment:-

- ◆ Supplementary Guidance – Renewable Energy

3.2.5 On 17 August 2020, the Directorate for Planning and Environmental Appeals issued its report of the Examination of the proposed South Lanarkshire Local Development Plan 2 (LDP2). For the purposes of determining planning applications, the Council will continue to assess proposals against the policies contained within the adopted South Lanarkshire Local Development Plan and those within the proposed South Lanarkshire Local Development Plan 2 alongside the Reporters recommendations. A separate report on the outcome of the Examination of the proposed SLLDP2 which recommends that the modifications suggested by the Reporter are accepted, is included elsewhere on the agenda for this committee meeting. They are, therefore, a material consideration in determining planning applications. The following policies are relevant:-

Volume 1

- ◆ 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 18 Renewable Energy

- 3.2.6 It should be noted that LDP2 is only referenced should there be a specific conflict between a proposed policy and a policy within the approved SLLDP 2015.

3.3 Planning Background

- 3.3.1 Planning permission was granted in 2016 for the erection of 4 wind turbines with a maximum height to tip of 126.5m and associated infrastructure, such as access tracks, hardstanding areas, substation/control building, cabling as well as a temporary construction compound (CL/13/0206).

4 Consultation(s)

- 4.1 The proposals are made under Section 42 of the Town and Country Planning Act and are in effect to allow a permitted wind farm to have an additional 5-year life span of 30 years rather than 25.
- 4.2 No consultation was, therefore, required as part of the application.

5 Representation(s)

- 5.1 Statutory Neighbour notification was carried out by the Council on 13 July 2020. The proposal was also publicised as an application requiring advertisement for the non-notification of neighbours and constituting an environmental impact assessment (EIA) development in the Lanark Gazette on 22 July 2020. The application was also advertised in the Edinburgh Gazette for EIA purposes on 24 July 2020.
- 5.2 No representations have been made in relation to this application.

6 Assessment and Conclusions

- 6.1 This application has been submitted under Section 42 of the Town and Country Planning (Scotland) Act 1997 (as amended). Section 42 of the Act states that:-

'On such an application, the Planning Authority shall consider only the question of the conditions subject to which planning permission should be granted.'

This type of application, therefore, does not revisit the principle of development on the site but only considers the appropriateness of the conditions attached to the previous consent and whether it is acceptable to amend or delete as requested. Whilst, in essence, a Section 42 is an application to vary condition(s) on an existing permission, the process requires a new, stand-alone planning permission to be issued for the original development but with a new suite of conditions, including all those still thought to be relevant as well as the varied condition(s). Should the proposed amendment to the condition(s) not be acceptable, a Section 42 application is to be refused but without affecting the status of the original permission.

- 6.2 In assessing whether any condition is still relevant, there would be the requirement to consider certain aspects of the development. In this instance, the applicant has requested that condition 2 of the original permission is amended to extend the operational lifetime of the consented farm. No changes to the scale, design or layout of the approved scheme are proposed. However, it is noted that the nature of the legislation requires all conditions to be revisited as they may be linked or connected to these specific conditions. The main matters for consideration are, therefore, whether the proposed amendment to the condition proposed would undermine the reasons for the original condition(s) or the Development Plan

position; and if it is considered this Section 42 application does undermine either of these, whether there are material considerations which would outweigh this to allow permission to be granted.

- 6.3 As referenced elsewhere, the principle of the erection of a windfarm at the application site has been established by the original permission. This current application seeks to extend the operational lifetime of the windfarm to 30 years; no changes to the approved scheme are proposed. In addition, the scheme has been subject to an updated Environmental Assessment to determine if the effects of the windfarm on environmental criteria have changed. Overall, it concludes that the impact remains the same.
- 6.4 At the time of the original application, the development plan comprised the approved Glasgow and Clyde Valley Strategic Development Plan 2017 (GCVSDP) and the adopted South Lanarkshire Local Development Plan. Since then, the proposed replacement South Lanarkshire Local Development Plan 2 has been approved by the Council and undergone examination (see below). In addition, Supplementary Guidance (SG) on Renewable Energy has been approved. Nevertheless, the intent of the policies that were taken into consideration in determining the original application are broadly similar to those now included in the SLLDP2 and the SG.
- 6.5 On 17 August 2020, the Directorate for Planning and Environmental Appeals issued its report of the Examination of the proposed South Lanarkshire Local Development Plan 2 (LDP2). For the purposes of determining planning applications, the Council will continue to assess proposals against the policies contained within the adopted South Lanarkshire Local Development Plan and those within the proposed South Lanarkshire Local Development Plan 2 alongside the Reporters recommendations. A separate report on the outcome of the Examination of the proposed SLLDP2 which recommends that the modifications suggested by the Reporter are accepted is included elsewhere on the agenda. They are, therefore, a material consideration in determining planning applications.
- 6.6 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 imposed on the original permission was not related to mitigating any effects on the wind turbines on the surrounding area but rather reflected the 'industry standard' at the time that the operational capacity of turbines was limited by the technology then in place. However, as technology has advanced and windfarms become an established feature in certain landscape areas, developers have sought to extend their operational 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 the environmental impact of the proposals are unchanged. In addition, the application, if successful, would result in an additional 5 years of renewable electricity generation for an already consented wind farm which accords with policy direction at a national and local level.

- 6.7 The original permission had planning obligations in relation to community benefit contributions, funding of an independent Planning Monitoring Officer, control over turbine transport and required repair to any roads and bridges in relation to said turbine transportation. As noted above, the recommendation requires a legal agreement for these obligations to be secured through any new permission, if granted.
- 6.8 In conclusion it is, therefore, considered that subject to the replication of all the conditions attached to the original permission and a legal agreement to secure the required planning obligations, 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 application be granted. Under the terms of Section 42 of the Town and Country Planning (Scotland) Act 1997, if a Planning Authority is content that the proposed changes to condition(s) are acceptable, as in this instance, a new planning permission with amended conditions could be issued. The paper apart sets out the full suite of conditions that would be replicated, should a new permission be accepted.
- 7 Reasons for Decision**
- 7.1 The request to extend the lifespan of a development that already benefits from planning permission by an additional 5 years is considered to have no additional planning implications subject to the imposition of the previous suite of environmental conditions. The amended condition would allow an additional 5 years of renewable energy to be generated. The proposals, therefore, comply with Policies 1, 2, 3, 4, 15, 16 and 19 of the adopted South Lanarkshire Local Development Plan 2015 and associated Supplementary Planning Guidance and the Proposed South Lanarkshire Local Development Plan 2 (2020).

Michael McGlynn
Executive Director (Community and Enterprise Resources)

12 October 2020

Previous references

- ◆ Planning Committee of 24 February 2015 (CL/13/0206)

List of background papers

- ▶ Application form
- ▶ Application plans
- ▶ South Lanarkshire Local Development Plan 2015 (adopted)
- ▶ Proposed South Lanarkshire Development Plan 2
- ▶ Neighbour notification advert dated 22 July 2020

Contact for further information

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

James Wright, Planning Officer, Montrose House, 154 Montrose Crescent, Hamilton,
ML3 6LB
Phone: 01698 455903
Email: james.wright@southlanarkshire.gov.uk

Detailed planning application

Paper apart – Application number: P/20/0751

Conditions and reasons

01. That the development is carried out strictly in accordance with the terms of the application and the accompanying ES and SEI, 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 Environmental Statement, in the interests of amenity and in order to retain effective planning control.

02. That consent is granted for a period from the date of this consent until 30 years from the date of final commissioning of the development. No later than 12 months prior to the end of said 30 year period, the decommissioning scheme referred to in condition 28 of this consent shall be submitted to and approved in writing by the planning authority. Written confirmation of the date of the commencement of the development shall be supplied in writing to the Planning Authority and the date of commencement of the development shall be no later than 5 years from the date of this consent.

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

03. 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.

04. Noise Emission - in Accordance with ETSU- R- 97

Noise from the wind turbines shall not exceed 40dB LA90 (10 min) or the background noise level measured as LA90 (10 min) +5dB, whichever is the greater, at any noise sensitive premises at all times at wind speeds of up to 12 metres per second as measured within the site.

Reason: To safeguard the noise amenity of local residents in accordance with ETSU-R-97.

05. Tonal Contribution

If the tonal noise emitted by the development exceeds the threshold of audibility by 6.5dB or more, then the acceptable noise specified in condition 4 shall be reduced by 5dB, always providing that the definition of audibility for the purposes of this condition shall be as described in 'The Assessment and rating of Noise from Wind Farms (ETSU-R-97).

Reason: To safeguard the noise amenity of local residents in accordance with ETSU-R-97.

06. Construction Works

All construction work associated with the development must be carried out in accordance with the current BS 5228, 'Noise control on construction and open sites' and all audible construction activities shall be limited to:-

Monday to Friday 8.00am to 7.00pm,
Saturday 8.00am to 1.00pm;

With no audible activity taking place on Sunday, local and national bank holiday. Outwith these periods, works at the site shall be limited to emergency works and dust suppression, unless otherwise approved in writing by the local planning authority. The local planning authority shall be informed in writing of emergency works within three working days of occurrence.

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

07. Noise Complaint Investigation

That in the event of a complaint of noise emissions relating to the operation of the wind farm, the wind farm operator shall appoint an independent noise consultant, whose appointment shall require the approval of the planning authority, to measure the level of noise emissions from the wind farm at the property to which the complaint relates. A noise report shall be prepared in a timescale agreed with the Planning Authority. The measurement and calculation of noise levels for the report shall be undertaken in accordance with ETSU-R-97. The report including the

proposed mitigation measures and timescales for implementation shall be submitted to the Planning Authority for approval, and thereafter implemented.

Reason: In order to retain effective planning control.

08. Prior to commencement of development the applicant shall submit details on the following items for the approval by the Planning Authority in consultation with the Roads Authority and thereafter implement the approved drawings in the agreed timescales. The following items require to be approved in writing and implemented to the Council's satisfaction:-

- a) Details that the corridor width required for the transportation of loads can be accommodated on the existing public road. Therefore the applicant should submit proposals, together with any oversail areas, along the proposed route including details of local improvements in the public road geometry and strengthening in order to provide the required transport corridor for these loads.
- b) Provide a 4.5m x 210m visibility splay in both directions. The visibility splay shall be maintained free of all obstructions greater than 1.05m in height above the adjacent road channel level for the duration of the wind farm construction, operation and decommissioning phases.
- c) Swept Path Analysis detailing over run areas for specialists loads and clarification of lands agreements where improvements are required to third party land to facilitate road infrastructure and/or junction visibility splays. All such works shall be undertaken to the satisfaction of the Council as Roads Authority.
- d) Details of any alternations to existing signs/street furniture or any proposed advanced warning signage, on proposed haul route to the construction site access
- e) Site compound should provide sufficient parking and a turning area to ensure all vehicle exit in a forward gear.
- f) The proposed site access and alterations to the public road to facilitate construction of the access shall be designed in accordance with the Design Manual for Roads and Bridges.
- g) All public road works must be implemented and completed prior to the construction of the wind farm on site.
- h) The developer shall enter into a Section 96 Legal agreement

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

09. Prior to commencement of development the developer shall submit a detailed Traffic Management Plan (TMP) for the written approval of the Council as Roads Authority, and thereafter adhere to and implemented. The TMP shall be produced in consultation with Roads & Transportation Services and Police Scotland and include a programme indicating phasing of construction of the project. Details of the proposed road traffic signage directing all construction traffic to the proposed site access shall be included.

No works shall commence on site until such times as the TMP has been approved in writing by the Council as Roads Authority.

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

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

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

11. The developer shall undertake all work associated with the approved planning consent and any subsequent amendments in accordance with the approved TMP. All specialist wind turbine components shall be delivered to site in accordance with the approved TMP and Abnormal Load Route Assessment.

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

12. At least 3 months prior to the delivery of abnormal loads the developer will undertake an Abnormal Load Route Assessment and submit details of their report together with any recommendations for the written approval of the Council as Roads Authority. The recommendations shall thereafter be implemented in accordance with a programme to be approved by the Planning Authority and shall be implemented prior to the delivery of the abnormal loads.

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

13. No development work shall commence until a Construction Environmental Management Plan (CEMP) including Construction Method Statement, Waste Management Plan, Pollution Prevention Plan and Peat Management Plan has been submitted to and approved by the Planning Authority in consultation with SEPA and SNH. The method statement, which 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 ES and SEI supporting the application, shall be submitted no less than 2 months prior to the proposed commencement of the development unless the Planning Authority agrees otherwise. Thereafter, all the measures described in the approved method statement shall be implemented. 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 SNH and SEPA guidance.
- j) A management plan setting out the steps that shall be taken to monitor the environmental effects of the development, including the effects on ground water, surface water, noise and dust, during the construction phase and the operational phase. Including a description of and measures to mitigate impact on surface water courses and the hydrology. The methodology of such monitoring including locations frequency, gathering of information on background 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 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.
- k) 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.
- l) Compliance with the Council's Sustainable Drainage Systems (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 4.
- m) 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.

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

14. Construction Environmental Management Plan (CEMP) continued from condition 13 above:-

- n) Peat Management Plan - shall be submitted to and approved by the Planning Authority in consultation with SEPA and SNH and thereafter all work will be carried out in accordance with the plan.
- o) Watercourse crossing 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.
- p) 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 high periods of high rainfall.

- q) Timing and extent of any necessary re-instatement.
- r) 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 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.
- s) Waste Management Plan shall be submitted to and approved by the Planning Authority in consultation with SEPA and thereafter all work will be carried out in accordance with the plan.
- t) Best practice mitigation for pollution prevention. Pollution Prevent Plan shall be submitted to and approved by the Planning Authority in consultation with SEPA and thereafter all work will be carried out in accordance with the plan.

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

15. 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.

16. 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 order to retain effective planning control.

17. 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 20 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.

Reason: To minimise environmental impact on watercourses and in order to retain effective planning control.

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

Reason: In the interests of public safety.

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

For the purpose of Conditions 18 and 19 above:-

"Operator" means NATS (En Route) plc., incorporated under the Companies Act (4129273) whose registered office is 4000 Parkway, Whiteley, Fareham, Hants, PO15 7FL, or such other organisation licensed from time to time under section 5 and 6 of the Transport Act 2000 to provide air traffic services to the relevant managed area (within the meaning of section 40 of that Act).

"Primary Radar Mitigation Scheme" or "Scheme" means a detailed scheme agreed with the Operator which sets out the measures to be taken to avoid at all times the impact of the development on the Lowther Hill primary radar and air traffic management operations of the Operator.

Reason: In the interests of 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. Prior to development commencing on-site details of the confirmed turbine layout height and manufacture, including illustrations as well as details of size, shall be submitted to, and approved in writing by, the Planning Authority. The turbines:-
- i) Shall have a light grey colour with a semi matt finish as stated in the ES.
 - ii) Shall have blades that rotate in the same direction.
 - iii) Shall have no large 'logos' or other symbols or writing unless for reasons of health and safety or as agreed in writing by the Planning Authority.

Only the approved type shall be installed.

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

22. 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.

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

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

24. Three months prior to the commencement of the development, an Ecological Clerk of Works (ECoW) shall be in place. The Planning Authority shall approve the ECoW for the period from prior to commencement of development to final commissioning of the development. The scope of work of the ECoW shall include:-

- Monitoring compliance with the ecological mitigation works that have been approved in this consent, including the mitigation measures identified in the ES and SEI;
- Advising the developer on adequate protection of nature conservation interests on the site;
- Directing the micro-siting and placement of the turbines, grid building, bridges compounds and tracks and,

- Monitoring compliance with the CEMP required by condition 13 and 14.

Reason: To safeguard environmental impacts, ecology, species and habitats, to ensure development conforms to Environmental Statement and maintain effective planning control.

25. 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 after consultation with SNH until the completion of aftercare or such earlier date as may be agreed in writing by the Planning Authority. The scope of work of the ECoW shall include those elements identified in condition 24 with the exception of the third bullet point of that condition.

Reason: To safeguard environmental impacts, ecology, species and habitats, to ensure development conforms to Environmental Statement and maintain effective planning control.

26. Not more than 3 months prior to commencement of development a bird protection plan shall be submitted to and approved by the Planning Authority in consultation with SNH and shall include:-

- a pre-construction lek survey for black grouse
- monitoring of construction works undertaken during the breeding bird season to ensure that disturbance to breeding birds is minimised by the implementation of specific mitigation measures such as 'no-go' buffer areas to protect ground nesting birds within the construction site. A 500m buffer will be implemented around any breeding curlew site.
- a timetable for construction activities that takes into account the results of the black grouse lek surveys
- post construction monitoring to record any collisions

Thereafter any required works will be carried out in accordance with the approved mitigation measures and timescales set out.

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

27. Not more than 3 months prior to commencement of development a pre-construction survey for otter, badger and water vole shall be submitted to and approved by the Planning Authority in consultation with SNH. Thereafter any required works will be carried out in accordance with the approved mitigation measures and timescales set out. Should any otter, badger and/or water vole be recorded a licence shall be obtained from SNH prior to works commencing.

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

28. No later than 12 months 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 method statement for the decommissioning of the wind farm 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. The approved plan and Decommissioning Method Statement shall be implemented and overseen by an ECoW.

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

29. No fixed or mobile plant used within the site during the construction period shall incorporate bleeping type warning devices that are audible at any noise sensitive receptor. Details of alternative warning devices shall be submitted to and approved in writing by the 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

30. At least 1 month prior to commencement on site the applicant shall have secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted by the applicant, agreed by the West of Scotland Archaeology Service, and approved by the Planning Authority. Thereafter the applicant shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the satisfaction of the Planning Authority in agreement with the West of Scotland Archaeology Service.

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

31. Prior to development commencing on-site, details of materials, external finishes and colours for all ancillary elements (including access tracks, transformers, switchgear/ metering building, compound, and fencing) shall be submitted to and approved in writing by the Planning Authority. If required by the Planning Authority, samples of materials shall be provided and only materials approved by the Planning Authority shall be used.

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

32. Within 24 months of the end of the period of this consent (unless a further consent is granted) 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 Restoration Plan and Aftercare Scheme referred to in Condition 28. Notwithstanding this requirement, no later than one year prior to the commencement of the restoration and aftercare scheme, the Planning Authority, in consultation with SNH, shall review the retention of pads, foundations, cable/ducts and access tracks within the context of the restoration strategy to identify any elements to be retained on site or requiring alternative reinstatement.

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

33. Prior to the commencement of the development Bridge Assessments require to be submitted to and approved by South Lanarkshire Council for the bridges on the approved route and any remedial works implemented in accordance with a programme, to be approved by the Planning Authority prior to work commencing on site.

These assessments shall be in accordance with the Design Manual for Roads and Bridges and shall include the full Technical Approval process, the assessment, the assessment check appropriate to the category of structure, assessment certificate, assessment check certificate appropriate to the category of structure and preparation of the assessment report. Preliminary results shall be submitted to South Lanarkshire Council for approval before finalising the report.

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

34. Prior to commencement on site, if a bridge has been assessed as not capable of carrying the proposed loads then these loads shall not cross the bridge until remedial measures have been approved by the Council and implemented in full to the satisfaction of the Council.

All remedial measures will be carried out in accordance with the Design Manual for Roads and Bridges and the relevant Eurocodes. This will include the full Technical Approval process, the design, the design check appropriate to the category of structure, design certificate, the design check certificate appropriate to the category of structure and the procurement of the physical works through to completion on site. South Lanarkshire Council will be the Technical Approval Authority.

These loads must cross the bridge at a maximum speed of 5mph. No braking, gear changing or manual steering of the rear trailer is permitted on the bridge. Only one load will be permitted on the bridge at any one time. No other vehicle will be permitted on the bridge at the same time as the load.

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

35. Prior to the erection of any turbines, the requirement to meet Ministry of Defence (MoD) aviation lighting shall be submitted to, and approved in writing by the Planning Authority, in consultation with MoD, thereafter implemented and maintained over the life of the wind farm. Turbines are to be fitted with 25 candela omni-directional red lighting or infrared aviation lighting with an optimised flash pattern of 60 flashes per minute of 200ms to 500ms duration, and cardinal turbines should be fitted with 25 candela red and IR combination lighting at the highest practicable point or as agreed in writing with MoD. The developer shall provide the MoD with the 'as built' turbine locations within 1 month of installation of turbine erected.

Reason: In the interests of public safety.

36. Prior to the erection of turbines or cranes on site the company shall provide to the Planning Authority, Ministry of Defence, Defence Geographic Centre, Civil Aviation Authority, and NATS with the following information, and has provided evidence to the Planning Authority of having done so:-

- date of the expected commencement of turbine or crane erection
- height above ground level of the tallest structure forming part of the Development;
- the maximum extension height of any construction equipment; and
- grid co-ordinates of the turbines and masts positions in latitude and longitude.

Reason: In the interests of public safety.

37. Where a complaint of deterioration in television signal is received by the Local Authority or applicant the wind farm operator shall undertake appropriate investigations as agreed in writing with the Planning Authority to confirm the deterioration and occurrence within 1 month of the complaint or otherwise agreed in writing with the Planning Authority. If the applicant's wind turbines are deemed to be the cause of the deterioration of television signal the applicant will implement within 2 months of the complaint or otherwise agreed with the Planning Authority, an agreed technical mitigation measure with the Planning Authority to prevent any re-occurrence.

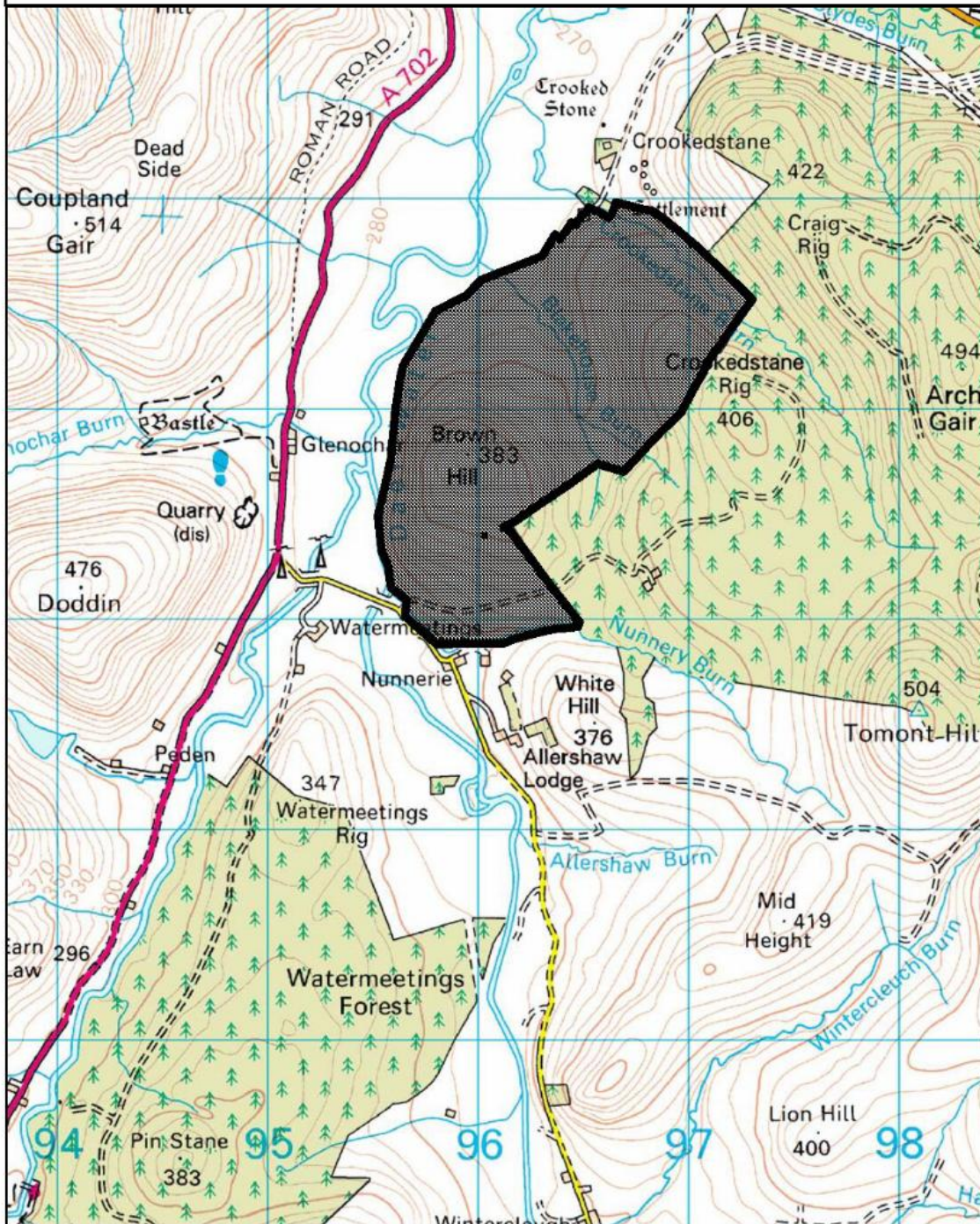
Reason: In the interests of amenity

38. 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.

Reason: In the interests of amenity

P/20/0751

Crookedstane Wind Farm



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06/10/2020



South Lanarkshire Council
Community and Enterprise Resources
Planning and Economic Development