SECTION 36 OF THE ELECTRICITY ACT 1989 AND SECTION 57 OF TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

Report by David Buylla and Claire Milne, reporters appointed by the Scottish Ministers

- Case reference: WIN-140-4
- Site Address: Whitelaw Brae, south of Tweedsmuir, Scottish Borders
- Application by Whitelaw Brae Wind Farm Limited
- Application for consent (section 36 Electricity Act 1989) and deemed planning permission (section 57 Town and Country Planning (Scotland) Act 1997)
- The development proposed: construction and operation of Whitelaw Brae Wind Farm
- Dates of inquiry / hearing sessions: 23 August to 1 September 2016

Date of this report and recommendation: 17 August 2017
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The construction and operation of Whitelaw Brae Wind Farm at land south of Tweedsmuir, Scottish Borders

• Case reference
WIN-140-4

• Case type
Application for consent (section 36 Electricity Act 1989) and deemed planning permission (section 57 Town and Country Planning (Scotland) Act 1997)

• Reporters
David Buylla and Claire Milne

• Applicant
Whitelaw Brae Wind Farm Limited

• Planning authority
Scottish Borders Council

• Other parties

• Date of application
11 December 2014

• Date case received by DPEA
20 November 2015

• Method of consideration and date
Inquiry sessions on 23, 24, 29, 30 and 31 August 2016
Hearing session on 31 August 2016

• Date of report
17 August 2017

• Reporters’ recommendation
Subject to completion of a unilateral undertaking, grant Electricity Act consent and deemed planning permission.

The Site

The site covers an area of approximately 820 hectares. It lies approximately three kilometres to the south of the hamlet of Tweedsmuir. The site contains a number of small hills, ranging in height from 395 metres Above Ordnance Datum (AOD) to 553 metres AOD. Land cover at present is unimproved rough pasture and forest plantation. Some tree felling would be required in order to implement the proposal. Vehicular access would be via the A701.

Description of the Development

It is proposed to erect 14 wind turbines, each with a hub height of 80 metres and a blade tip height of up to 133.5 metres. Ancillary development would include substation and control room buildings and an associated compound, underground electrical and communication
cables to each turbine, onsite access tracks (1.15 kilometres of upgraded existing tracks and 11.59 kilometres of new tracks) incorporating four new water crossings including of the River Tweed, one temporary and one permanent 80 metre meteorological masts, up to four borrow pits and two temporary construction and site storage compounds.

The development would also incorporate on-site battery storage, which would incorporate two battery storage units with a combined capacity of 4 megawatts and one inverter / transformer unit.

The power output of the proposal (excluding the battery storage element) is estimated to be 50.4 megawatts.

Consultations and Representations

Tweedsmuir Community Council objects to the proposal due to a proliferation of wind farms along the Tweed valley over the past 15 years, because the application would be much closer to the core wild hills than existing development and would adversely affect the only Wild Land Area in south-eastern Scotland, and because it would be harmful to tourism and local wildlife.

Ettrick and Yarrow Community Council contends that there are already too many wind farms in this area and that Scottish Government targets have been met - so there is no need for further wind farm development.

Upper Tweed Community Council states that the proposal would be environmentally detrimental and very noticeable from the main A701 road, which is signposted as a scenic tourist route into Edinburgh. The site is in an area of Great Landscape Value and the proposal would compromise this. The community council is concerned over impacts on tourism and cultural heritage, and is concerned over the impact of pylons should this proposal be approved.

Scottish Natural Heritage (SNH) is concerned that the proposal could adversely affect the River Tweed Special Area of Conservation and points out that Scottish Ministers should undertake an appropriate assessment of the likely effects on this asset. However, it is satisfied that appropriate conditions could overcome any concerns, including those it has raised with regard to Black Grouse.

With regard to landscape and visual effects, SNH has not objected to the proposal. However, it has raised concerns over effects on the Talla- Hart Fell Wild Land Area and the wider local landscape, and the adverse landscape and visual impacts, including cumulative impacts, that would be experienced from the A701, which it regards as a key transport route.

Historic Environment Scotland (HES) originally objected to the proposal due to a significant adverse impact on the scheduled monument and property in care of Scottish Ministers, known as Hawkshaw Castle and its setting. However, it subsequently withdrew that objection following amendments to the layout of the proposal.

The John Muir Trust (JMT) objects to the proposal due to the cumulative and landscape impact of the proposed development, particularly in connection with the Talla- Hart Fell Wild Land Area.
The Mountaineering Council of Scotland (MCofS) believes the proposed development, within the Tweedsmuir Uplands Special Landscape Area (SLA), immediately alongside an area of substantial mountaineering interest – the Tweedsmuir Hills (part of which is the Talla-Hart Fell Wild Land Area) would have severe landscape and visual impacts and would diminish the local tourist and recreation resource.

Marine Scotland notes that the River Tweed, into tributaries of which the site drains, is a Special Area of Conservation (SAC) and that salmon is a primary reason and lamprey a qualifying reason for this designation status. The River Tweed is also designated as a Site of Special Scientific Interest (SSSI), furthermore, salmon, trout and lamprey are UK Biodiversity Action Plan species, listed as priorities for conservation. However, it has no objections, subject to the developer adhering to certain stipulations during construction and when replanting felled trees.

The Scottish Rights of Way and Access Society (ScotWays) objects to the proposal on grounds of the visual impact on recreational amenity generally and the cumulative visual impact of wind farm developments in the area. Particular concern is expressed over effects on walkers within the Talla- Hart Fell Wild Land Area.

VisitScotland notes the importance of Scottish tourism to the economy, and of Scotland’s landscape in attracting visitors to Scotland. It strongly recommends that any potential detrimental impact of the proposed development on tourism should be assessed using an independent tourism impact assessment.

All other consultees have raised no objections, subject to conditions.

**Scottish Borders Council’s Case**

The site is in the south western part of the very extensive Southern Uplands with Scattered Forest: Broadlaw Group landscape character area (“LCA”). It falls within the Tweedsmuir Uplands Special Landscape Area and is located to the north west of, and is contiguous with, the Talla–Hart Fell Wild Land Area (WLA) at its very north-west point. This part of the Broadlaw Group LCA is currently free of any substantial wind farm development, with wind farms consented only to the west of the Tweed valley.

There would be less than four kilometres separating the Clyde and proposed Whitelaw Brae turbines. By virtue of Clyde Wind Farm being almost completely within South Lanarkshire, it lies within a separate Landscape Character Area: Southern Uplands – South Lanarkshire. This LCA shares ‘upland landscape type’ characteristics with the adjacent Broadlaw Group LCA but the hills on which the Clyde wind farm is located are part of a wind farm landscape. The council argues that this is very different to the beautiful, historical Tweed Valley with the A701 road running through it, which has no capacity for taller turbines.

It is the Council’s submission that it is clear from National Planning Framework 3 (NPF3) and Scottish Planning Policy (SPP), that wild land areas are important to preserve and have a high degree of protection. The Talla–Hart Fell Wild Land Area is a relatively small wild land area of only 9335 hectares, and is the only wild land area in the council’s area and one of only two in southern Scotland. The council considers that the scarcity of wild land areas in southern Scotland and its small size, add to the importance of properly protecting and limiting negative impacts on the Talla–Hart Fell Wild Land Area.
The Council acknowledges that paragraph 215 of SPP does not directly apply to this case. However, SPP paragraph 200 is important in understanding the importance of wild land areas, and SPP paragraph 169 - bullet point 6 contains the applicable test for whether this development is acceptable given it has landscape and visual effects on a wild land area. It is the Council’s submission that the Whitelaw Brae scheme would have significant effects on the immediately adjacent Talla-Hart Fell WLA.

The council notes that SNH’s Advice to Government is clear that the less wild areas within but on the outer edge of a WLA are an integral part of the area as a whole, and that they are critical to ensuring that the most wild areas within the WLA retain their status. It is the Council’s submission that, given this SNH advice, effects on the WLA must be assessed on the area as a whole and that the Applicant’s approach to WLA assessment of breaking the area down to assess effects on parts of the area by levels of wildness, is flawed. It is acknowledged in the applicant’s own evidence that almost a third of the WLA will have visibility of the proposed turbines.

It has been argued by the applicant that the proposal’s impact is not that significant given that other wind farms such as Clyde are visible from some viewpoints within the WLA. However these wind farms are not immediately adjacent to the WLA and are at greater distances. The proposal breaks into an area of ground currently without wind farm development immediately adjacent to the WLA and would result in turbines being visible within the foreground of views from the WLA rather than in more distant background views as is currently the case.

The proposal sits fully within the Tweedsmuir Uplands Special Landscape Area, where policy seeks to safeguard landscape quality and where proposals that have a significant adverse impact on the landscape will only be permitted where this is outweighed by the social or economic benefits. The policy references the Supplementary Planning Guidance on Local Landscape Designations, within which the Statement of Importance for the Tweedsmuir Uplands SLA identifies that wind farms are a threat to the integrity of SLAs. Due to their substantial landscape and visual impacts it is generally not appropriate for wind farms to be situated within an SLA in the council area. Although there are examples within the Borders where the Local Plan policy test has been held to have been met and wind farms built within SLAs, clearly such proposals must be scrutinised very carefully.

In respect of the Fruid Road and the Right of Way BT100, all parties agree that the effects of the proposal would be substantial and significant. While there is no agreement regarding the significance of effects on receptors on the A701 (the historic route between Moffat and Edinburgh), the fact that there are certain significant visual effects is largely a matter of agreement between the council and the applicant.

The council states that cumulative impacts are not simply a matter of how many turbines can be seen in one view. It considers that the addition of Whitelaw Brae to the baseline, by introducing 133.5 metre tall turbines into a landscape currently free of wind turbines and one that is recognized by its SLA status as highly scenic with a significant degree of wildness, and adjacent to a WLA, would have a substantial and significant cumulative visual effect. The council also considers that the proposals would result in significant sequential cumulative effects on receptors on the A701. While currently there is a wind farm landscape to the west of the section of the A701 nearest the proposed site, to the east, where the application site is situated, there is currently no wind farm development. The council considers that it would be clear to road users travelling on this section of the A701 that there are currently only turbines to the west.
It is the council’s submission that there would be significant effects on a number of private residences within and close to two kilometres of the development. How residential amenity effects from wind farms are to be assessed is not currently set out in policy or guidance. The so-called “Lavender test” that the applicant refers to is not in fact a test, but refers to a series of cases that identified some factors to consider in assessing impacts on residential amenity. The council submits that this sets the limits artificially high in terms of the magnitude of effect that is necessary on residential amenity to justify refusal. It is further submitted that impacts on private garden space must be taken into account and not just from the buildings themselves. It is the Council’s view that the conclusions reached in the applicant’s assessments of each of the eight properties that the impacts would not be overbearing or make the properties unattractive places to live, despite identifying varying levels of significance and major impacts, are unjustified. In addition, where the seclusion and intimacy of the surroundings experienced upon daily approaches by residents provides an important and integral contribution to residential amenity, that factor should also be taken into account.

The ruins of Hawkshaw Castle are designated as a nationally significant scheduled monument. The current setting of the castle is appreciated and experienced through its relationships with the later enclosure in which it sits, the Porteous family monument, the Hawkshaw Burn valley (including its constraining hills), historic land-use features, and the predominance of rough grazing and woodland on Glengonnor Hill. It is the council’s submission that the turbines and infrastructure on Glengonnor Hill would result in the diminution of the castle’s location and setting context and add a dominating backdrop of wind energy development to the asset. It is clear in terms of Scottish Planning Policy and Historic Environment Scotland guidance that setting is a key component of any historical asset. Turbines 5 and 6 would dominate the current setting of the castle and its relationship with the valley as viewed from Benner Dodd, further diminishing the site’s relationship with the surrounding landscape, contrary to both the 2010 and current (2016) Managing Change and Historic Environment: Setting Guidance. While it is accepted that the Scheduled castle is not visually prominent from Benner Dod, its location and context, as accentuated by the Porteous Family cairn and surrounding enclosure, are easily understood, experienced and appreciated from this viewpoint. It is the Council’s opinion that this viewpoint is a principal view of the castle’s location, its landscape context and its associative value for visitors all of which enhance the site’s cultural significance.

It is the Council’s position that appreciation of the asset is enhanced by the Porteous family monument given the family’s clear historical links to the castle and the on-going family gatherings at the asset. Views from approaches to an asset are a key part of the setting of an asset that requires to be considered when assessing the effects on an historic asset. The current proposals would significantly affect the Porteous family’s and other users’ experience and appreciation of the castle, particularly from the Benner Dod track which is the only route in from the parking sited at the Fruid reservoir.

The Fingland Burn Settlement is a well-preserved prehistoric unenclosed platform settlement, encompassing a number of house platforms. Although not currently scheduled, the council’s expert witness believes the asset to be of national importance. HES have clarified that they will not determine whether to schedule HA5 until this proposal has first been determined. However, it is the council’s judgement that the asset is of national significance and that this increases its sensitivity to change. In the council’s submission, the setting of HA5 includes an historic landscape comprising the series of settlements along Fingland Burn, all of which are within the red line boundary of this application site, and more recent grazing, forestry and
The council’s objection is on the basis of impacts to the principal elements of HA5’s setting, namely: the confluence of the Fingland Burn and Cleuchhead Burn; and the valleys that feed the confluence these being the areas that the people that lived in HA5 would have exploited in order to live.

SPP and national guidance are clear that setting is a relevant factor to consider when deciding whether an historical asset is nationally or regionally designated. It remains the council’s position that it is perfectly clear from both national policy and the council’s LDP that it is competent for the council to object on the basis of negative impacts on a unscheduled monument that it considers to be of national importance.

The council recognises the potential benefits to the provision of a stable energy supply of battery storage. However, the fact that no contract has currently been awarded for battery storage on the site, the highly competitive nature of the tendering process, and the high degree of uncertainty as to whether a contract for battery storage would be awarded, means that this aspect should be afforded limited weight in the planning balance.

It is acknowledged that the Electricity Act 1989 contains the relevant statutory test to be applied to the consideration of this application. However the Electricity Act 1989 still has to be considered against the backdrop of all relevant planning policies including Scottish planning policy, principally NPF 3 and SPP 2014.

The council’s LDP is a key material consideration in determining the acceptability of the proposed development. The council remains positive towards the principle of wind energy development, as is reflected in its policy and guidance, which include the Strategic SESplan policies, and is further reflected by the high number of approvals in practice. However, as required by all policy considerations, the balance between the benefits of energy production, and the disbenefits of environmental impact must be weighed carefully against one another, as is made clear in SPP.

In the council’s view, very little weight should be given to the issue of community ownership, because no partner has been identified to deliver community ownership in the event of consent.

It is the council’s position that its grounds of objection to this application cannot be satisfactorily addressed through either planning conditions or legal agreement. However in the event that Ministers decide that this application should be approved, the consent should be subject to the conditions that the council has highlighted in the conditions hearing session. The council has no objection to the applicant’s proposed unilateral obligation in respect of the offset archaeology works with Biggar Archaeology Group, local procurement and public information. However, it is the council’s position that the proposed unilateral obligation does not properly address the need for archaeology compensation measures and that the council’s proposed conditions regarding these remain necessary.

The council commends the decision reached by the reporter in the Barrel Law application, and Professor Ponton’s statement in considering whether the current Scottish Government targets on renewable energy have been reached (having regard to both built and consented developments). It is the council’s submission that this is an important consideration where a development proposal may be finely balanced in terms of its positive energy benefits versus the significant negative environmental impacts it creates. When the relative energy contribution of the development is considered in light of progress on Scottish Government
targets, and the fact that wind farms should now be considered in terms of Scottish Planning Policy as being permanent, it is the council’s submission that the Whitelaw Brae proposals, with their significant environmental impacts, should be refused.

The Applicant’s Case

The applicant states that EU, UK and Scottish Government renewable energy policy documents, and associated renewable energy and climate change targets all provide considerable support for renewable energy development. It is argued that the proposed development would aid the realisation of policy objectives and would make a valuable contribution to the respective unmet EU, UK and the Scottish 2020 and 2030 renewable energy and electricity targets.

The applicant argues that there is also a pressing need to achieve greater security in the domestic supply of energy. Following the closure of Longannet coal-fired power station in 2016, which had an installed capacity of 2,400 megawatts, it is important that additional electricity generating developments are consented in the interests of maintaining energy security. The security of energy supply is recognised as a crucial matter within the UK Renewable Energy Roadmap (as updated) and the 2020 Routemap for renewable Energy in Scotland 2011 (as updated). The proposed development, with an installed capacity in the order of 50.4 megawatts, would make a valuable contribution to Government policy objectives and unmet targets. As the Scottish Government makes clear in the Roadmap Update of September 2015, onshore wind is seen as being “pivotal” to the attainment of the Government’s 2020 targets.

The applicant accepts that progress has been made towards meeting Scotland’s renewable energy targets. However the UK is still some way from meeting its legally binding target of achieving 15% of energy consumption from renewable sources by 2020 and schemes in Scotland contribute to that UK target. In any event, the applicant can find no policy support for any suggestion that the targets should act as a cap. Furthermore, there is no certainty as to what proportion of consented schemes will be implemented.

The applicant believes this to be the first application and inquiry in Scotland that has included an element of battery storage. The development management criteria for wind farm developments, set out at paragraph 169 of SPP set out that considerations will include “opportunities for energy storage”. This is also repeated in LDP Policy ED9. This aspect of the proposed development is argued to be an important additional benefit in the planning balance.

With regard to effects on cultural heritage, the applicant states that the ability to experience and understand the siting of Hawkshaw Castle and the relationships between the various archaeological features surrounding the tower house would be unaffected by the presence of wind turbines at least 700 metres away, behind Glengonnor Hill. Longer-range views out into the landscape would be changed, particularly to the south, but it would still be possible to understand the social factors that led to the selection of this remote and hidden location and appreciate its relationship to Tweeddale. Turbines would be prominent in views towards Hawkshaw Castle when approaching from the east. However, Hawkshaw Castle is not a well-preserved medieval building that conjures up a strong sense of the past, and it exists in a modern landscape that already contains man-made features such as the dam and reservoir on the Hawkshaw Burn, just below the site of the tower house. Taken together, these
various points demonstrate the contribution that setting makes to the cultural significance of Hawkshaw Castle would be largely unaffected by the operation of the wind farm.

The applicant notes that the Fingland Burn unenclosed platform settlement (Asset HA5) is not scheduled. It is significant that Historic Environment Scotland has chosen to schedule another nearby settlement but not this one. It is also of significance that HES does not object to the proposal on account of Asset HA5. In the applicant's view, HA5 is appreciated in an entirely local topographic setting on the valley side above the Fingland Burn. Long-range views, either out from or towards the asset, make no material contribution to its cultural significance. Therefore, the presence of wind turbines at least 540 metres from the asset would not lead to any appreciable reduction in the cultural significance of this asset.

A wild land assessment established that that 32.11% of the overall wild land area would have visibility of the Whitelaw Brae turbines (alongside views of other existing turbines) but that only 3% of the Class 7, and only 0.15% of the Class 8 areas (the locations expressing the highest qualities of wildness), would have such views. The Whitelaw Brae turbines would not therefore have any significant effect on the visibility of turbines from the most wild areas of this landscape. Only 0.23% of the WLA would have visibility of only the Whitelaw Brae turbines and no visibility of the existing wind farms. None of this very small proportion of the landscape is located in the highest Classes of relative wildness (7 and 8). The area in which the majority of the visibility would occur is of a lower quality of wildness and effectively serves as the apron, or periphery to the core area of wild land further south and southeast. On the basis that this apron of lower wildness quality landscape has already been included within the WLA, the applicant believes that a further buffer zone from which otherwise appropriate development is excluded, is not required in order to preserve the integrity of the wild land core.

Ignoring the effect of any screening by forestry plantations, the applicant calculates that the proposed development would be visible from 13.7 kilometres of the 15.8 kilometre length of the A701 nearest the site. Across this same 15.8 kilometre length, the theoretical visibility of other wind turbines, not considering forestry screening, is 15.6 kilometres, or 98.7% of the length. It is argued that the proposed wind farm would not cause a dominant visual effect on users of the A701. Indeed, it would not significantly change the overall experience when travelling along the A701.

The applicant accepts there would be significant visual effects from upon Right of Way BT100, and also the minor road along Fruid reservoir. However, it predicts that the experience for walkers would remain pleasant and enjoyable.

The effects on the remarkably small number of properties who would have visibility of the proposed turbines would not, in the applicant’s submission, be overbearing or such that those properties became undesirable places to live. It points out that case law is very clear that effects on property prices are not material to Ministers’ consideration of this proposal.

The applicant acknowledges that there would be some significant landscape and visual effects within the Tweedsmuir Uplands SLA, but not to the extent that the integrity of the SLA would be compromised, nor its function harmed. The Glenkerie wind farm scheme and its recently consented extension also lie in the Tweedsmuir Uplands SLA. There are also a number of other wind energy schemes which have been consented within the Scottish Borders SLAs. These include the Dun Law, Fallago Rig and Crystal Rig wind farms within the Lammermuir Hills SLA.
Significant effects on some parts of the Southern Uplands with Scattered Forest landscape character area are recognised. However, these would be localised to within 5 to 6 kilometres the site. The landscape of the site is one which has the expansive upland characteristics which successfully accommodate wind energy development elsewhere across southern Scotland and which lies outside those landscapes that are recognised for their nationally important scenic qualities. It is not agreed that the Whitelaw Brae site is of a noticeably different landscape character to that of the landscape in which the Clyde and Glenkerie wind farms are located. The A701 does not form a visual boundary or barrier in the local landscape.

The Whitelaw Brae wind farm is argued to be an appropriate form and scale of development. The localised significant effects of wind farms in terms of views and character are an inherent and inevitable consequence of such development, and should not of themselves be considered a justification for refusing a wind farm in a landscape outside of national designations. The scale, grain and nature of this landscape are able to accommodate the turbines without giving rise to visual or character effects that could be considered unacceptable.

The applicant expects that over the lifetime of the project there would be significant economic and jobs impacts including 264 job years of employment and £32.6 million supported in Scotland, of which 52 job years and £6.7 million could be in the Scottish Borders, including indirect and induced effects. During the operation and maintenance of the proposed development there could be a further 19 jobs and £2.4 million supported each year in Scotland, of which 6 jobs and £0.8 million could be in the Scottish Borders. After reviewing the available literature on the effect of wind energy developments on tourism in Scotland, the applicant concludes that there is little evidence to suggest a strong, negative relationship.

A total of 52 hectares of Sitka Spruce-dominated commercial forestry would be removed and replaced with some 56 hectares of native riparian woodland in locations identified as “preferred” within the Scottish Borders woodland Strategy. There would therefore be an overall net gain in woodland area consistent with the council's strategy and this would be a significant positive benefit of the proposal.

Reporters’ Conclusions:

Schedule 9 to the Electricity Act 1989 requires regard to be had to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest. Applicants for consent are required to do what they reasonably can to mitigate any effect which the proposals would have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings or objects. In considering any relevant proposals for which consent is required under section 36, Ministers are required to have regard to the desirability of the matters mentioned above and the extent to which the applicant has complied with his duty to incorporate reasonable mitigation.

The proposal’s effects on natural beauty are addressed in Chapter 3 of the main report, where we conclude that significant effects would be limited in geographical extent, would affect relatively few receptors and would not threaten the integrity of any landscape designation or the nationally important wild land area.
Flora, fauna and geological or physiographical features of special interest are addressed in Chapters 4 and 8 of the main report. There was quite broad agreement that, subject to conditions, effects on the River Tweed SAC and other ecological receptors would be acceptable. Our conclusion in respect of the effects on forestry interests was that the proposals, to which FCS has no objection, would offer environmental benefits to the locality.

Sites, buildings and objects of architectural, historic or archaeological interest are addressed in Chapter 5 of the main report, where we conclude that direct effects on buried archaeology could be controlled adequately by condition and that indirect effects on the setting of Assets HA1 and HA5 would not be of a significant magnitude.

With regard to the requirement for mitigation, we accept that the scheme that is before Ministers for determination contains in-built mitigation as a result of various iterations to its design in response to a number of factors including concerns that were expressed by consultees. While we note that some parties remain dissatisfied with the proposals, we are satisfied that the applicant has met its Schedule 9 duty to incorporate mitigation into its proposal.

As is to be expected of a development proposal of this scale and type, the proposal would have both negative and positive consequences. Ministers need to weigh these in the planning balance in order to determine whether consent should be granted.

Negative effects would comprise the proposal’s landscape and visual effects including its effects on wild land.

Landscape effects would include significant effects on parts of the Tweedsmuir Uplands SLA and the Moffat Hills RSA, which are landscapes that have been recognised to have regional importance. However, we conclude in Chapter 3 of the main report that the integrity of both areas would be maintained, as the effects of the development would be confined to a radius of approximately five kilometres from the site, where there are already detracting influences in the landscape including extensive wind turbine development, and would not affect the more valuable parts of the designated landscapes to any significant degree.

We conclude in Chapter 3 that neither the River Tweed or the A701 mark a point of genuine landscape transition or provide any sense of a defensible boundary at the edge of the wind farm landscape of the Clyde Wind Farm. Therefore, although the proposal would extend the coverage of turbines in the landscape, we conclude that the effects of that on the character of that landscape would be geographically confined and would be acceptable.

The Talla-Hart Fell WLA is a resource of national importance, which, due to its relatively small size, is potentially very susceptible to harm from a proposal such as this. However, there is a marked difference in the degree of relative wildness between the central core valleys of the WLA and its northern slopes and certain summits, from where the proposed development would be visible. From most of the heart of the WLA, where wild land qualities and the associated perceptual responses are most clearly expressed, the proposal would not be visible. From the locations where it would be seen, there is already clear visibility of existing extensive man-made development. Taking these factors into account, our conclusion is that the WLA would continue to function as a viable resource of the most wild land in the area and would not be materially undermined by this proposal.
Visual amenity within the Fruid Valley in particular, and from a small number of other locations including from limited points on the A701 tourist route, would be significantly affected by the proposals. This is a disbenefit of the scheme that must be weighed in the planning balance. Such adverse effects would be experienced by a number of residents, whom we consider should be regarded as the most sensitive of receptors.

We consider that there is sufficient separation between the application site and its nearest neighbour (Clyde Wind Farm) and sufficient consistency in the siting and design of the two developments for there to be no harmful visual interaction between the two. We are also confident that the intermittent visibility of the proposal from the A701, the similarity of the landscape to either side of the valley and the lack of any sense that the road forms a landscape boundary feature means there is no likelihood that the proposed development, when seen in conjunction with the Clyde or Glenkerie developments would give the impression of turbine development encroaching from a landscape that is dominated by such development into one where it is absent.

Turning to likely benefits of the proposal, its principal positive effects would include its contribution to national and international targets for increased renewable energy generation and for reduced emissions of greenhouse gasses and its contribution to a diverse and indigenous energy supply network. Additional benefits would include its likely net economic benefit, an improvement in local woodland cover and the proposal’s status as development that would contribute to sustainable development, to which particular support is given in SPP.

The site lies within an area that would be included within Group 2 in Table 1 of SPP. Group 2 areas require significant protection from wind energy development. However, the site’s inclusion within Group 2 is on account of the presence of deep peat within the site and there is no evidence to suggest that effects on deep peat would be unacceptable. Therefore, we find that the site’s Group 2 status is not an impediment to its development in the manner that is proposed.

For reasons we set out in the main report, we are also content that there is no conflict with relevant provisions of the development plan.

In conclusion, we find that the proposal’s adverse effects are outweighed by its positive contribution to very clear Scottish Government and international aspirations for increased renewable energy generation and reductions in greenhouse gas emissions and a national desire for a more diverse and indigenous energy supply network. A limited degree of further justification for the proposal is provided by its potential socio-economic benefits, its contribution to native woodland creation, and its status as development that would contribute to sustainable development.

**Recommendations:**

Subject to the applicant completing the unilateral undertaking it has proposed, grant consent under section 36 of the Electricity Act 1989 and deemed planning permission under section 57 of the Town and Country Planning (Scotland) Act 1997.
The Scottish Ministers  
Edinburgh

Ministers

In accordance with our minutes of appointment dated 11 January and 19 February 2016, we conducted a public inquiry in connection with an application to construct and operate the Whitelaw Brae Wind Farm at land to the south of Tweedsmuir, Scottish Borders. The Scottish Borders Council as planning authority has lodged an objection to the proposal which has not been withdrawn.

We held a pre-examination meeting on 11 March 2016 to consider the arrangements and procedures for the inquiry. It was agreed that the following issues would be addressed at an inquiry session: policy matters; landscape and visual effects including effects on wild land; forestry effects; and cultural heritage effects. In addition it was agreed that there would be a hearing session on planning conditions and any planning obligation that might be appropriate.

The inquiry sessions were held on 23, 24, 29, 30 and 31 August 2016, and the hearing session took place on 31 August 2016. Closing submissions were exchanged in writing, with the final closing submission (on behalf of the applicant) being lodged on 12 October 2016.

We conducted unaccompanied inspections of the appeal site, its surroundings and other locations referred to in evidence on 11 July, 17 August and 21 November. Accompanied site inspections took place on 1 September 2016.

Following the close of the oral process, we allowed the parties to make further written submissions in response to the Creag Riabhach Wind Farm decision and to the publication by the council of draft supplementary guidance on wind energy, and the Scottish Government’s publication of the Draft Climate Change Plan 2017, the Draft Onshore Wind Policy Statement January 2017 and the Draft Scottish Energy Strategy January 2017. We also accepted further written submissions on Scottish Natural Heritage’s Wild Land Area descriptions and its draft technical guidance on assessing impacts on Wild Land Areas.

Our report, which is arranged on a topic basis, takes account of the precognitions, written statements, documents and closing submissions lodged by the parties, together with the discussion at the inquiry and hearing sessions. It also takes account of the Environmental Statement and Further Environmental Information and all other environmental information submitted by the parties, and the written representations made in connection with the proposal including those made after the close of the inquiry, in response to the documents referred to above.

Abbreviations
CHAPTER 1: BACKGROUND

The proposal

1.1 It is proposed to erect 14 wind turbines, each with a hub height of 80 metres and a blade tip height of up to 133.5 metres. Ancillary development would include substation and control room buildings and an associated compound, underground electrical and communication cables to each turbine, onsite access tracks (1.15 kilometres of upgraded existing tracks and 11.59 kilometres of new tracks) incorporating four new water crossings including of the River Tweed, one temporary and one permanent 80 metre meteorological masts, up to four borrow pits and two temporary construction and site storage compounds.

1.2 The development would also incorporate on-site battery storage, which would incorporate two battery storage units with a combined capacity of 4 megawatts and one inverter / transformer unit.

1.3 The power output of the proposal (excluding the battery storage element) is estimated to be 50.4 megawatts.

Site description

1.4 The site covers an area of approximately 820 hectares. It lies approximately three kilometres to the south of the hamlet of Tweedsmuir. The site contains a number of small hills, ranging in height from 395 metres AOD to 553 metres AOD. Land cover at present is unimproved rough pasture and forest plantation. Some tree felling would be required, which is discussed in Chapter 4 of this report. Vehicular access would be via the A701.

Consultation responses

1.5 In this section of the report we summarise the responses from consultees to the initial consultation process and, where necessary, indicate where this has been supplemented by subsequent submissions – for example in response to further environmental information or to later developments in policy or guidance. Fuller detail on the views of consultees is provided in subsequent chapters of the report.

1.6 Tweedsmuir Community Council objects to the proposal. It contends that there has been a proliferation of wind farms along the Tweed valley over the past 15 years and feels that Whitelaw Brae represents ‘a wind farm too far.’ It argues that development of wind farms should be halted in this area. It notes that all of the existing and consented wind farms have been to the west of the village of Tweedsmuir and the A701, but the Whitelaw Brae application proposes to cross the River Tweed and the A701 and would, therefore, set an extremely undesirable precedent for further development on the eastern side of the river, both at the site itself and, potentially, on other sites. It notes that this undesirable precedent was recently recognised by both Scottish Borders Council and Dumfries and Galloway Council in their objections to the proposed development of the proposed Earlshaugh wind farm at the Devil’s Beef Tub, near Moffat, and it urges the Scottish Government to follow the planning precedent in this respect. [Note for Ministers – the Earlshaugh section 36 application was subsequently withdrawn.]

1.7 The location of the turbines also brings the development much closer to the area of land nationally recognised as wild land at Talla-Hart Fell and within the Tweedsmuir Uplands
Special Landscape Area. The community council echoes the Mountaineering Council of Scotland’s view that this application would be ‘much closer to the core wild hills than existing development and would adversely affect the only Wild Land Area in south-eastern Scotland.’

1.8 The community council notes that the applicant’s own environmental statement identifies significant adverse impacts from the proposal.

1.9 The community council is keen to develop tourism for the benefit of villagers and visitors alike, with consequent advantages for the local economy. However, it believes these wind farm proposals are likely to have a devastating, negative impact on the area’s appeal, and make it less attractive to visitors and those who wish to enjoy the wild outdoors and visual amenity the area has on offer currently. It points out that there are a number of local businesses that rely on tourism, and, highlights in particular, that the community is in the process of reopening the Crook Inn, now a community asset, and the oldest coaching inn in Scotland.

1.10 The community council is also extremely concerned about the impact of the proposed development on the local natural environment. It notes that the environmental statement acknowledges that there are ospreys, owls, bats, otters and geese in and around the application site. The community council feels that it is inconceivable that bats and these birds, in particular, will not be adversely affected by the development.

1.11 **Ettrick and Yarrow Community Council** contends that there are already too many wind farms in this area and that Scottish Government targets have been met - so there is no need for further wind farm development. The site is also considered to be close to the gateway to the Ettrick and Yarrow valleys where it is trying to foster tourism development. It considers that another wind farm would be unsightly and would adversely affect the tourist trade.

1.12 **Upper Tweed Community Council** objects to the proposal. It states that it would be environmentally detrimental and very noticeable from the main A701 road, which is signposted as a scenic tourist route into Edinburgh. The site is in an area of Great Landscape Value and the proposal would compromise this. The preservation of this unspoilt landscape beauty is vital to Tweedsmuir, which has plans to attract an increasing number of tourists to the area by renovation of the historic Crook Inn. There are already many wind turbines in Tweeddale and the community council believes that installing more would be likely to reduce the attractions of the area very significantly to the numerous people from afar who value natural surroundings which are very different from the areas where they live. It is unclear to the community council whether the development would have a significant impact on the view from the Dreva Hill Fort, which is located in the Tweeddale National Scenic Area and is an ancient monument of pre-eminent national importance. If that view were adversely impacted, it would severely detract from the experience of visitors to that special site, who can at present still enjoy the experience of going back in time to a pre-historic era unaffected by modern civilisation. There are also worries about the ways in which the wind farm might access the National Grid, since any necessary pylons could themselves be significant eyesores.

1.13 **Scottish Natural Heritage (SNH)** is concerned that the proposal could adversely affect the River Tweed Special Area of Conservation and points out that Scottish Ministers should undertake an appropriate assessment of the likely effects on this asset. However, it is
satisfied that appropriate conditions could overcome any concerns, including those it has raised with regard to Black Grouse.

1.14 With regard to landscape and visual effects, SNH has not objected to the proposal. However, it has raised the following concerns: the general adverse impacts, and, in close proximity, significant adverse impacts, on the Talla-Hart Fell Wild Land Area; the significant and adverse impacts on local landscape character and visual amenity as experienced in the areas around the Fruid Reservoir; and the adverse landscape and visual impacts, including cumulative impacts, that would be experienced from the A701 - a key transport route. These are discussed in Chapter 3.

1.15 Historic Environment Scotland (HES) originally objected to the proposal as it believed it would have a significant adverse impact on the scheduled monument and property in care of Scottish Ministers, known as Hawkshaw Castle and its setting. However, following amendments to the layout of the scheme, it was satisfied that the level of impact was reduced to a point where it would no longer object. Effects on the historic environment are discussed in greater detail in Chapter 5.

1.16 The John Muir Trust (JMT) objects to the proposal. It is seriously concerned about the cumulative and landscape impact of the proposed development and believes that the applicant’s analysis is at best a very optimistic interpretation of the facts. The JMT does not agree with the applicant’s approach to assessing impacts on the Wild Land Area (WLA). It contends that Wild Land Areas as identified by SNH cannot be considered in small sections it is the overall effect which defines the WLA. The applicant’s attempt to down-play the impact of the proposal on the WLA is disingenuous at best. It is not for an applicant to reinterpret a Government agency’s fully consulted-upon WLA map and the methodology used to define it. The JMT does not agree with the applicant’s claim that the proposal can be accommodated with the extension to the Clyde Wind Farm, which is currently being constructed nearby, without there being significant adverse cumulative effects on the WLA. The proposal, in combination with a number of other developments in the area including the original Clyde Wind Farm, the Glenkerie Wind Farm and its extension, would introduce unacceptably adverse cumulative effects.

1.17 The JMT considers that the Scottish Government’s refusal of consent to the proposed Glenmorie Wind Farm in 2014 must be taken into account when considering this proposal. Landscape and visual effects are considered in more detail in Chapter 3 of this report.

1.18 The JMT notes that the soils of the application site contain significant peat reserves and contends that the applicant has not attempted to avoid upland areas of blanket peat.

1.19 With regard to socio-economic effects, it notes that, as the number of turbines increases, so does the negative response to them from residents and visitors. It refers to a recent survey that found that 51 per cent of people in Scotland would be ‘less likely to visit a scenic area which contains large scale developments (e.g. commercial wind farms, quarries or pylons).’ Socio-economic effects are discussed in Chapter 6.

1.20 The Mountaineering Council of Scotland (MCofS) believes the proposed development, within the Tweedsmuir Uplands Special Landscape Area (SLA), immediately alongside an area of substantial mountaineering interest – the Tweedsmuir Hills – part of which is the Talla-Hart Fell Wild Land Area – would have severe landscape and visual
impacts and would diminish the local tourist and recreation resource. It objects to the proposal on these grounds.

1.21 It contends that the proposal would cause significant and unacceptable harm to the landscape setting of the Corbetts and other high ground of the Tweedsmuir Hills. This is a popular and easily accessed area, important as a recreational and tourism asset, unparalleled south of the Highlands except for the similarly modestly-sized wild upland of the Merrick-Rhins of Kells in Galloway. It notes that the site lies within a regionally designated landscape and adjacent to a nationally defined wild land area. It argues that the proposal represents a significant leap across the River Tweed from the existing extensive Clyde Wind Farm (with approved extension) towards the core wild upland of the Tweedsmuir Hills. These issues are discussed in Chapter 3.

1.22 Marine Scotland notes that the River Tweed, into tributaries of which the site drains, is a Special Area of Conservation (SAC) and that salmon is a primary reason and lamprey a qualifying reason for this designation status. The River Tweed is also designated as a Site of Special Scientific Interest (SSSI), furthermore, salmon, trout and lamprey are UK Biodiversity Action Plan species, listed as priorities for conservation. However, it has no objections, subject to the developer adhering to certain stipulations during construction and when replanting felled trees.

1.23 The Royal Society for the Protection of Birds (RSPB) has no objections subject to certain mitigation measures being secured by conditions.

1.24 National Air Traffic Services en route plc (NERL) originally objected to the proposal due to impact on the Lowther Hill radar with consequent adverse implications for air traffic control. Subsequently, it was agreed that a condition could address this issue.

1.25 The British Horse Society has no objections subject to attention being paid to its Wind Farm Advisory Statement and the use of fine grade material for the access tracks in order to facilitate use by horse riders.

1.26 The Scottish Rights of Way and Access Society (ScotWays) objects to the proposal. Its principal concern is the visual impact on recreational amenity generally and the cumulative visual impact of wind farm developments in the area. It notes that the design has been amended to minimise visibility from the Devil's Beef Tub and remove any visible turbines from specific signposted viewpoints. It welcomes the fact that the Annandale Way has been included as a viewpoint in the LVIA. It notes that the visual impact on it has been assessed as not significant, although up to ten turbines are visible from it at various points. It also notes that the visual impact on right of way BT100 is assessed as significant, as the applicant acknowledges that it passes close to the development, which would dominate the view from it. The visual impact is also significant on Hartfell Rig, as the development would draw turbines closer to the summits of these hills. The visual impact is of significant concern as it affects the Talla-Hart Fell Wild Land Area, particularly if the application for Earlshaugh wind farm is successfully appealed. The development would also feature prominently in the view to the east of Black Dod, the only direction which currently does not include wind turbines.

1.27 Forestry Commission Scotland note that no detail had been provided of how it is proposed to compensate for the 52 hectares of existing plantation woodland that would be felled as part of the proposal. However, it accepts that it should not be difficult for the
applicant to more clearly identify specific locations within the site which would be appropriate and suitable and to more accurately quantify the area of compensatory planting which would be delivered. Subject to this being finalised along with a clear timescale for when such compensatory planting would be delivered, no objections would be raised. It is proposed to deal with this matter in a condition. Forestry issues are discussed in Chapter 4 of this report.

1.28 **Scottish Water** notes that there are Scottish Water water abstraction sources, which are designated as Drinking Water Protected Areas under the Water Framework Directive, in the area, that may be affected by the proposed development. Scottish Water has been in consultation with the developer during the EIA process and has agreed protection measures to safeguard water quality, quantity and assets in the area.

1.29 The **Scottish Environment Protection Agency (SEPA)** originally objected to the proposal on grounds of a lack of information relating to flood risk, groundwater dependent terrestrial ecosystems and the groundwater environment. Subsequently, however, these objections were withdrawn in letters dated 6 May 2015 and 29 June 2015, following further discussions with the applicant over appropriate conditions.

1.30 **CH2MHill, acting as consultants for the Scottish Government** undertook a peat slide hazard and risk assessment. This took the form of a technical assessment of the applicant’s peat stability reports in order to quantify the risk of peat instability being brought about by any element of the proposed development. It found that the proposed development would be kept away from the main areas of peat within the site and that the applicant’s studies provide a sufficiently robust assessment of the issue.

1.31 **VisitScotland** notes the importance of Scottish tourism to the economy, and of Scotland’s landscape in attracting visitors to Scotland. It strongly recommends any potential detrimental impact of the proposed development on tourism - whether visually, environmentally or economically - be identified and considered in full. This includes when taking decisions over turbine height and number. VisitScotland strongly agrees with the advice of the Scottish Government – the importance of tourism impact statements should not be diminished, and that, for each site considered, an independent tourism impact assessment should be carried out. This assessment should be geographically sensitive and should consider the potential impact on any tourism offerings in the vicinity. Socio-economic effects including effects on tourism are considered in Chapter 6.

1.32 **Transport Scotland** has no objections subject to conditions regulating abnormal loads during the construction period.

1.33 **British Telecommunications plc, The Joint Radio Company, Glasgow Airport, Glasgow Prestwick Airport, the Ministry of Defence, the Nuclear Safety Directorate, The Crown Estate and the Civil Aviation Authority** have no objections.

**Representations**

1.34 There have been 50 representations in opposition to the proposal and no representations in support.

1.35 Matters raised in opposition include:
• Harm to the residential amenity of the nearest properties as a result of an overwhelming and overbearing visual impact.
• To grant permission for a wind farm on land recognised as a Special Landscape Area would set an undesirable precedent.
• The numerous local landscape and conservation designations highlight the sensitivity of this area.
• The local economy benefits from tourists visiting the area including the bi-annual visits to the application site by the Porteous clan.
• The turbines would be highly visible from the A701, a recognised tourist route.
• There would be significant effects on users of the BT100 right of way and those who enjoy a walk along the southern and eastern banks of the Fruid reservoir.
• Concern over the noise of turbines in this quiet and wild landscape.
• Concern over shadow flicker / shadow throw.
• The habitats of rare species including osprey would be harmed.
• The loss to the landscape and local amenity is disproportionate to the benefits of the proposal.
• The local landscape is saturated with turbines and to allow any to the east of the A701 would set a harmful precedent.
• Claimed employment and financial benefits are unlikely to benefit the local community. The cost to the local council of dealing with this proposal is already a local economic disbenefit. Claims of job creation have not been followed through on other sites.
• As we have met the 2020 renewable energy targets, much less weight should be given to the renewable energy benefits of this proposal. Two reporters have previously accepted that progress to meeting targets is a material consideration when deciding the weight to be given to the energy contribution of an individual proposal.
• Wind farms should be directed to more remote areas in the Ettrick Hills and not adjacent to the A701.
• It is unacceptable that a 1.2 kilometre stretch of the River Tweed has been included within the site boundary as this has immense value.
• Release of carbon stored in the peat would take many years to pay back from carbon reductions secured by the turbines displacing other forms of energy generation.
• The focus should be on tidal and hydroelectricity.
• The substation and other ancillary buildings would be out of keeping with anything in the area.
• During the construction process there would be traffic problems, pollution and damage to local roads.
• The site’s archaeology needs to be preserved.
• Assurances should be secured that borrow pits would be used rather than importation of materials from elsewhere as happened at Glenkerie to the detriment of road users.
• The Fruid valley contains one of very few paths in the Borders that is suitable for wheelchair users to access the countryside. It is therefore a rare resource.
• Views from the top of Broad Law, the highest summit in the Borders would be ruined.
• Run-off from the proposed deforestation and the construction of over 11 kilometres of access roads could harm spawning salmon and many rare invertebrates.
The application site occupies one of the few vistas from Tweedsmuir where turbines cannot, at present, be seen. 
Unsuitable in a valley used for low flying. 
Turbines have been known to collapse or catch fire and are potentially dangerous. 
No turbine should be constructed so close to a property that it reduces its value. 
The hilltop position of the proposed turbines would increase their visual dominance.

1.36 David Mundell MP objects to the proposal. He states that local people deserve the right to decide what is best for their area, and confirms that he has heard time and time again from constituents that they are fed up with the wholesale industrialisation of the countryside. He regards this as totally unfair on people who have moved to this part of the world for a bit of peace and quiet, and yet find the landscape blotted by gigantic wind turbines. In his constituency, he says it is becoming a challenge to find a hill without a wind turbine, so he has every sympathy with local residents who very simply do not want this development.

1.37 Mr Mundell calculates that the number of wind farms in operation, in construction or which have planning consent means that Scotland is already two thirds of the way towards meeting its total electricity needs from renewable sources. If all those in the planning stages are given consent, total output could reach a staggering 134 per cent, or 34 per cent more than the Scottish Government’s stated target. He states that the figures are quite stark – the thousands of turbines in operation, being built or in the planning stage, mean that Scotland will easily overshoot its electricity target. He says that this exposes the folly of covering large swathes of our cherished countryside with turbines, in many cases against the will of local communities. His rural constituency includes some of the UK’s largest wind farms, and he urges Ministers to reject what he regards as a wholly inappropriate proposal to further industrialise this part of the countryside.

Council consideration

1.38 The council resolved to object to the proposal for the following reasons:

1. The proposed development would be contrary to Policies G1, EP2 and D4 of the Scottish Borders Local Plan 2011 and Policy 10 of the South-East Scotland Strategic Development Plan (SEPlan) 2013 in that, taking into consideration the following factors, it would unacceptably harm the Borders landscape:

- Significant impacts on the perception, setting and qualities of identified wild land (Area 2 Talla Hart Fell) to the south and east of the site in an area with high fragility to change.

- Significant impacts on the designated Tweedsmuir Uplands Special Landscape Area and contrary to the management recommendations seeking to maintain wildness and limit impacts of tall developments, both in relation to the higher summits / wild land to the south and to the more localised intimate landscapes centred around the reservoirs to the east and north-east.

2. The proposed development would be contrary to Policies G1, D4, BE2 and H2 of the Scottish Borders Local Plan 2011, Policy EP8 of the Strategic Development
Plan (SESplan) 2013 in that, taking into consideration the following factors, the development would give rise to unacceptable visual and amenity effects:

- Low containment within the 5 kilometre range and consequent significant visual impacts from sensitive receptors including public roads (such as the main tourist route of the A701 and the Fruid minor road), a right of way, hill summits and dwelling houses. In respect of the identified residential receptors, the developer has failed to demonstrate that the impacts would not be overbearing and significantly adverse.

- Significant cumulative and scale impacts on sensitive receptors and on a unique landscape character type and capacity to the east of the A701 corridor, inappropriately extending the existing Clyde/Clyde Extension/Glenkerie cluster into previously undeveloped land, bridging a strong visual boundary between landscape character types and setting precedent for further inappropriate incursion.

- Significant detrimental impacts to two archaeological sites of national significance, Asset HA5 and the Scheduled Hawkshaw Castle.
CHAPTER 2: POLICY CONTEXT

2.1 Proposals for wind farms which have an installed capacity of more than 50 megawatts are required to be assessed in accordance with the terms of Schedule 9 of the Electricity Act 1989. This requires regard to be had to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest. It also requires the applicant to undertake reasonable mitigation of any effect which the proposal would have on the natural beauty of the countryside or on any flora, fauna, features, sites, buildings or objects.

2.2 In assessing the proposal against the requirements of The Electricity Act, important factors that must be taken into account include UK and Scottish Government energy policy, Scottish Government climate change and planning policy, relevant provisions of the development plan and the views of statutory consultees and interested parties.

2.3 The Scottish Government has recently published draft documents that will, once adopted, update its energy, climate change and onshore wind energy policy statements. These include: the draft Climate Change Plan 2017; the draft Scottish Energy Strategy 2017; and the draft Onshore Wind Policy Statement 2017. As these were published for consultation after the close of the inquiry, we invited the parties to comment on these draft documents. We have taken into account the existing policy documents (which remain Scottish Government policy at this time), the emerging documents and all of the parties’ submissions.

2.4 We also sought further submissions from the parties on a description of the Talla-Hart Fell Wild Land Area and draft technical guidance for assessing impacts on Wild Land Areas, which were published by SNH after the close of the inquiry and about draft supplementary guidance that the council has also recently published for consultation. All of this material, including the views expressed about it by the parties has been taken into account in preparing this report.

United Kingdom energy policy

2.5 Energy is not a devolved matter. It is necessary therefore to take account of UK policy on this matter. Such policy is influenced by binding European Union (EU) targets and by other international agreements with which it must comply.

Scottish energy and climate change policy

2.6 UK energy policy recognises the important role that must be played by the devolved administrations, and the Scottish Government has adopted its own policies on energy matters. These are closely linked to its policies on climate change and greenhouse gas emissions reduction. Its approach to decarbonising the economy is generally more ambitious than the UK Government’s position. This has resulted in targets being set for reductions in greenhouse gas emissions and for the proportion of electricity and energy being generated from renewables that are more challenging than elsewhere in the UK.

2.7 The parties agree on the renewable energy and greenhouse gas targets that apply in Scotland, but disagree on the weight they should be given in the consideration of this proposal. There is also disagreement over the significance of the recently published draft policy documents, which will replace current policy.
Scottish Government planning policy

2.8 Scottish Government planning policy is set out in the Third National Planning Framework 2014 (NPF3) and in Scottish Planning Policy 2014 (SPP). Subject-specific advice and guidance is also provided on a range of matters including on renewable energy.

2.9 NPF3 seeks to provide the spatial expression of the Scottish Government’s economic strategy and a long term strategy for development across the country. Its planning vision includes a commitment to low carbon energy and an aspiration to reducing emissions. It is also confirmed that the planning system should make Scotland a low-carbon place. The Scottish Government’s ambition to be a world leader in low-carbon energy generation, both onshore and offshore is stressed. However, there is also a commitment to respecting natural and cultural assets.

2.10 NPF3 confirms the Scottish Government’s commitment to achieving at least an 80% reduction in the emissions of greenhouse gases by 2020 and confirms the value of onshore wind energy in achieving that target.

2.11 The Scottish Government’s aim to meet at least 30% of overall energy demand from renewables by 2020 and to generate the equivalent of at least 100% of gross electricity consumption from renewables are also confirmed.

2.12 National planning policy for Scotland is set out in SPP. Of particular relevance to this application are the commitments to reducing carbon emissions, while protecting natural and cultural assets.

2.13 As with NPF3, SPP refers to the Climate Change (Scotland) Act 2009 target of reducing greenhouse gas emissions by at least 80% by 2050, with an interim target of reducing emissions by at least 42% by 2020.

2.14 SPP sets out a presumption in favour of development that contributes to sustainable development. This does not amount to unqualified support for such development. However, if the proposal is found to contribute to sustainable development, this is a matter to which a degree of positive weight should be given.

2.15 Paragraphs 152 to 174 of SPP set out national planning policy on delivering heat and electricity as part of a low-carbon place. The targets listed above are restated and specific expectations are set out for both the development plan preparation and development management processes.

2.16 For development plans, SPP requires planning authorities to set out a spatial framework identifying those areas that are likely to be most appropriate for onshore wind, and those where such development will not be acceptable (the latter only applying to National Parks and National Scenic Areas). Areas must also be identified where significant protection will be required – these include nationally and internationally designated land, Wild Land Areas, areas of carbon-rich soils and sites within an identified area which may be up to two kilometres from a settlement. Outside these areas, SPP confirms that wind farms are likely to be acceptable, subject to detailed consideration against identified policy criteria.
2.17 Table 1 of SPP sets out the overall spatial framework for on-shore wind energy development, with which any local spatial frameworks must be consistent. The application site would fall within Group 2 “Areas of significant protection” on account of the carbon rich soils and deep peat it contains. In such circumstances, SPP requires that further consideration is given to demonstrating that any significant effects on the qualities of these areas can be substantially overcome by siting, design or other mitigation.

2.18 For the development management stage, paragraph 169 of SPP requires the content of any spatial strategy to be taken into account. In addition, it sets out 19 factors that should (where relevant) be taken into account when considering a wind farm proposal. We have taken these into account in reaching our conclusions on the proposal.

2.19 SPP contains specific policy on wild land. Paragraph 200 confirms that wild land character is displayed in some of Scotland’s remoter upland, mountain and coastal areas, which are very sensitive to any form of intrusive human activity and have little or no capacity to accept new development. However, paragraph 215 confirms that development within Wild Land Areas may be appropriate in some circumstances and that further consideration will be required to demonstrate that any significant effects on the qualities of these areas can be substantially overcome by siting, design or other mitigation.

2.20 SNH has recently published draft technical guidance on assessing impacts on Wild Land Areas. Once adopted, this will replace the 2007 interim guidance note entitled Assessing the Impacts on Wild Land (2007, updated 2014). SNH has advised that the revised draft guidance should be the starting point for those undertaking an assessment of impacts on a WLA. It has also published descriptions of each of the 42 Wild Land Areas in Scotland, which are not the subject of consultation and must therefore be regarded as the settled view of SNH.

The development plan

2.21 In an application for consent under The Electricity Act 1989, section 25 of the Town and Country Planning (Scotland) Act 1997 is not engaged. This means that the primacy that is given to the development plan in the 1997 Act does not apply. Nevertheless, relevant provisions of the development plan are material considerations in deciding whether consent under The Electricity Act should be given.

2.22 In this instance, the development plan comprises the Edinburgh and South East Scotland Strategic Development Plan (SESPlan) 2013 and the Scottish Borders Local Development Plan 2016 (the LDP).

2.23 The council has recently published for formal consultation, draft supplementary guidance on renewable energy. One this is adopted it will become part of the development plan. Appended to the proposed supplementary guidance is an updated Landscape capacity and cumulative impact study, which will replace the existing study of 2013 that is referred to below.

2.24 On adoption, the draft supplementary guidance will replace existing supplementary planning guidance entitled Wind Energy (2011), which is not part of the development plan and is accepted by the council to be largely out of date.

The main points for Scottish Borders Council
2.25 The council accepts that national energy targets seek to promote renewable energy. However, it contends that these do not override other national sustainability requirements such as safeguarding the environment and landscape, or the consideration of social issues, as are identified in NPF3 and SPP.

2.26 In relation to the 2020 target to generate the equivalent of 100% of Scotland’s electricity requirement by renewable means, the council referred us to a study, which calculated that, in 2014, existing and consented turbines had the capacity to provide 98% of the 2020 target. It states that a 2015 update of the figures in that report shows that existing and consented capacity was at 124% of the 2020 target. The council recognises that targets are not caps. However, it considers that there is no justification for approving unsuitable sites such as Whitelaw Brae when more acceptable and less contentious sites exist within the Scottish Borders. It also notes that, of the schemes within Scottish Borders that have consent and are yet to constructed, it is unaware of any constraint that would prevent them being developed. The council notes that a reporter gave weight to the availability of alternatives in the Barrel Law appeal decision within the Scottish Borders.

2.27 Although the council recognises that NPF3 and SPP are supportive of renewable energy, it points out that this support is not at any cost. It notes that SPP gives no extra weighting to promoting renewable energy above other sustainable principles and considerations.

2.28 The council notes that the spatial framework approach that is required by SPP takes no account of capacity issues. It points out that this is recognised in a Scottish Government’s publication that provides answers to frequently asked questions about onshore wind. This states that capacity studies can establish a better view of local landscape sensitivities, identify acceptable levels of landscape change, identify cumulative effects, set objectives and guidance to managing those effects and identify scope for further development. It goes on to recognise the value of cumulative impact assessments in identifying limits of acceptable cumulative impact or change.

2.29 The council also notes that the strategic development plan (SESPlan) recognises concerns over cumulative impact and instructs LDPs to undertake an assessment of such impact.

2.30 In response to these issues, the council commissioned a Landscape capacity and cumulative impact study in 2013. This considered the inherent capacity for further wind energy development in all 30 landscape character types across the council’s administrative area. It then considered the effect of existing development to consider whether the potential for cumulative effects would further constrain the capacity for additional development.

2.31 The study found current levels of wind farm development have led to a ‘landscape with wind turbines’ in part of the Southern Uplands on the western boundary with South Lanarkshire. This is primarily a consequence of the Clyde Wind Farm in South Lanarkshire, which lies close to the boundary with Scottish Borders. The council concludes that in this area (where the application site is situated), current cumulative impact limits further development and that the proposal is significantly at odds with the study with regard to its findings in respect of the Broadlaw Group Landscape Character Area.
2.32 The council recognises that, as a strategic study, the *Landscape capacity and cumulative impact study* should not form the basis for site-specific conclusions. Instead, it recognises that proposals should be considered on their own unique locational and design characteristics as well as their strategic context, while taking account of the strategic guidance. Nevertheless, it points out that LDP Policy ED9 states that the assessment of landscape and visual impacts should use the study as an initial reference point. For that reason, it is argued that it should be given additional weight.

2.33 The council finds the proposal to be contrary to SESplan Policy 10 – Sustainable Energy Technologies, with reference to paragraph 125 of SESplan, which recognises that concerns have been expressed about cumulative impacts within the Scottish Borders and other areas.

2.34 The council’s formal objection to the proposal referred to policies in the now superseded Scottish Borders Local Plan. In its submissions to the inquiry, it updated its evidence to refer to the LDP, which has now been adopted, and it confirmed that the adoption of the LDP did not alter the basis for its objection to the proposal.

2.35 The council finds the proposal to be contrary to LDP Policy ED9, which is the principal policy on renewable energy development. This offers broad support to such proposals, but requires assessment against a series of criteria. Where a proposal would cause unacceptable significant adverse impacts or impacts that cannot be mitigated, which the council contends this proposal would, the policy requires it to be demonstrated that wider economic, environmental and other benefits outweigh the potential damage arising from it. The council’s view is that the benefits of this proposal are insufficient to outweigh the harm it would cause.

2.36 In August 2012, the Council approved supplementary planning guidance on local landscape designations. This reviewed existing Areas of Great landscape Value and amended and re-titled them Special Landscape Areas (SLAs). The appeal site is located within the Tweedsmuir Uplands SLA. LDP Policy EP5 expects particular care to be taken when assessing proposals within designated Special Landscape Areas (SLAs). The council accepts that, falling within an SLA does not automatically rule out the possibility of turbine development. It notes that some SLAs within the Scottish Borders have turbines within them. However, it finds that the effect on the Tweedsmuir SLA would be unacceptably harmful, contrary to this policy.

2.37 The council has recently published for consultation, draft supplementary guidance on wind energy. This sets out detailed assessment criteria, based on those set out in SPP paragraph 169, and an onshore spatial strategy that identifies areas with potential for wind energy development, those where such development would not be welcomed and those where significant protection is required. It is intended to provide greater detail and guidance on the operation of LDP Policy ED9. The council points out that production of supplementary guidance was a requirement of Scottish Ministers when the LDP was examined.

2.38 The appeal site is located within an area of significant protection in the draft guidance.

2.39 The draft document provides updated guidance on the Talla–Hart Fell Wild Land Area, where it is stressed that effects on that area not only from development within them, but also from development nearby, need to be carefully assessed.
2.40 Appended to the draft supplementary guidance is an updated Landscape capacity and cumulative impact study 2016. This takes account of SPP, which was published after the original study, and of wind energy development that has obtained consent since January 2013. The turbine height categories in the guidance have been revised to reflect the increasing size of the machines. As with the original study, the turbines proposed for Whitelaw Brae would be of the largest typology.

2.41 In respect of the Whitelaw Brae proposal, the council does not regard the 2016 landscape capacity study as altering the assessment framework. It notes that the study states “Capacity for the largest turbines only exists to the west of the A701 where these would be seen as an extension to the existing Clyde windfarm cluster within South Lanarkshire. The remaining area has very limited capacity for smaller size turbines as individuals or small groups associated with lower ground at farmsteads, individual properties and small groupings of properties.”

2.42 The council contends that the proposal is contrary to Policies ED9 and EP5 of the LDP, its adopted supplementary planning guidance on local landscape designations and its draft supplementary guidance on renewable energy. Although it accepts that there is broad support to the principle of renewable energy in Scottish Government policy, this does not amount to unconditional support and when the proposal is assessed against the detailed requirements of national policy, it can, in fact, be shown to conflict.

2.43 The council generally views the Scottish Government’s draft policy statements as making little change to the existing policy position. It remains the case that Scottish Government does not welcome onshore wind development at any cost and that any adverse environmental and other implications of such development will continue to be important considerations. Its view is that these draft documents should not have a significant influence on the outcome of this appeal. The council notes that the documents refer to the Planning White Paper, which confirms a commitment to upholding the public interest. The council regards the opposition to this proposal from the community council and the absence of any letter of support from the local community as confirmation that the public interest would not be served by approving this proposal. The council notes that the draft Onshore Wind Policy Statement makes reference to house prices, which the council interprets as an indication that any predicted adverse house price effects from a proposed wind farm could be material when assessing its acceptability.

The main points for the Mountaineering Council of Scotland (MCoFoS)

2.44 The MCoFoS states that the total renewables capacity required to meet the Scottish Government’s electricity generation target for 2020 is now consented.

The main points for Ettrick and Yarrow Community Council

2.45 The community council believes that the government’s targets for wind farms have already been met therefore there is no need for further wind farm development.

The main points for others

2.46 Representations highlight concerns that the applicant has played down the significance of the steady progress being made towards reaching the 2020 target. Reference is made to the Barrel Law appeal decision and the fact that since that decision in 2014, further schemes
have been consented. In spite of this, the applicant insists that the only figure relevant to the target is the level of operational schemes. This is argued to be simplistic and fails to address a scenario where consented schemes greatly exceed the target. It also assumes that adverse effects must be accepted to meet the target. The data submitted show that this scheme is not needed to meet the 2020 target.

The main points for the applicant

2.47 The applicant stresses the importance of international agreements and obligations that bind the UK and Scottish Governments. It notes that, even after the UK has left the European Union (EU), when binding EU targets will no longer apply, it will remain bound by other international decarbonisation obligations including the Paris Agreement. And in the meantime, the binding EU targets remain in force.

2.48 The applicant notes that the council made no reference, in its inquiry submissions, to UK or Scottish Government policy documents on renewable energy. Instead, the council referred to a report by Professor Ponton, a member of what the applicant describes as an anti-wind farm group, which has a track record of criticising Government policy on renewable energy. The applicant also states that the Barrel Law decision to which the council has referred, is unique in giving less weight to the renewable energy benefits of a wind farm due to progress against targets. The appellant states that there has been no other decision in a planning appeal or section 36 consent application where that approach has been followed.

2.49 The applicant accepts that there is a reasonably healthy pipeline of consented schemes that might contribute towards the 2020 target. However, there is no certainty that these will all be delivered, particularly given recent changes in subsidy. Consequently, it argues that there remains a strong need for the proposed development and that its predicted 50.4 megawatt renewable energy output, while not representing an overriding consideration, would make a valuable contribution to unmet UK and Scottish requirements. It argues that significant weight should be given to this benefit of the scheme.

2.50 The appellant referred us to a letter of 11 November 2015 from the Scottish Government’s Chief Planner to all Heads of Planning in Scotland. This refers to a statement made in Parliament on 22 June 2015 by the then UK Government Secretary of State for Energy and Climate Change to the effect that there was enough onshore wind in the pipeline to meet the 11-13 gigawatts requirement by 2020. The purpose of the Chief Planner’s letter was to reiterate the Scottish Government’s commitment to renewable energy including onshore wind and to advise that this commitment will continue even when targets have been reached.

2.51 The applicant argues that NPF3 and SPP set out a strong position of support in relation to renewable energy and renewable energy targets and recognise the significant energy resource that can be realised by onshore wind.

2.52 Under the terms of the spatial framework that is set out in Table 1 of SPP, the application site would fall within Group 2 – Areas of Significant Protection. However, this is argued to be a consequence only of the presence of peat and carbon-rich soils within the site. The applicant argues that it has designed the proposal to avoid the deeper areas of peat and that, consequently, there would be little effect on this resource. On this basis, it is argued that the site is, effectively, a Group 3 site where SPP confirms wind farms are likely to be acceptable, subject to detailed consideration against identified policy criteria. The applicant
notes that neither inclusion within an SLA or proximity to a WLA are factors that would place a site within Group 2 rather than Group 3.

2.53 The applicant regards the presumption in favour of development that is set out in SPP (from paragraph 28 onwards) as an important consideration. It accepts that, in this case, the development plan is up to date. However, it argues that the proposed development can, nevertheless, draw support from this policy principle. It referred us to several decisions in section 36 applications and planning appeals where this position was accepted.

2.54 With regard to wild land, the applicant notes that paragraph 200 of SPP does rule out development within such areas, but highlights its sensitivity and potentially limited capacity. No part of the application site falls within the Talla-Hart Fell WLA. Therefore, the provisions of paragraph 215 of SPP do not apply. However, it is argued that SPP recognises that, even within Wild Land Areas, development is not necessarily unacceptable under that paragraph. The applicant contends that it is the development management criteria in paragraph 169 of SPP (which include a requirement to assess effects on wild land) that are relevant to this proposal.

2.55 The appellant argues that the site’s inclusion within a SLA (which is a local landscape designation) need not be an impediment to wind energy development. It referred us to SNH’s Spatial Planning for On-shore Wind Turbines 2015. This confirms that “Within local landscape designations and Wild Land Areas, the degree of landscape protection will be less than for National Scenic Areas. In these areas, an appropriate objective may be to accommodate wind farms, rather than seek landscape protection.”

2.56 Scottish Government policy guidance in relation to community ownership is also cited in support of the proposal. The applicant notes that this brings certain forms of community socio-economic benefits within the range of material considerations in a planning decision. The applicant proposes to offer an opportunity for community ownership and states that this is a matter that Ministers can take into account that weighs in favour of the proposed development.

2.57 While the applicant notes that there is no primacy of the development plan in this case, it remains an important consideration. The applicant’s conclusion is that the proposed development is consistent with relevant policies and with the development plan when it is read as a whole.

2.58 With regard to the draft supplementary guidance, the applicant notes that this refers to a number of Scottish Government renewable energy and climate change targets, but only up to 2020. The applicant points out that targets extend well beyond that deadline. The applicant notes that the draft supplementary guidance recognises that community shared-ownership of the development (as is proposed here), is a material consideration when assessing the acceptability of a proposal. It also acknowledges the benefits of on-site energy storage, which the applicant is also proposing. The applicant points out that, as with SPP, the appeal site would fall within an “area of significant protection” in the draft supplementary guidance’s spatial strategy, only because it contains some carbon-rich soils and deep peat in parts of the site. The draft supplementary guidance proposes no change to policy in relation to effects on wild land areas or any other change that would require the applicant to re-visit the evidence it has already presented on such effects.
2.59 With regard to the 2016 landscape capacity and cumulative impact study, the applicant notes the 2016 study does not differ materially from the 2013 study in finding there is no capacity to accommodate turbines of the size the applicant proposes within the “Central Southern Uplands” regional landscape area where the application site is situated. However, as with the 2013 study, the appellant notes that the council accepts that the 2016 study should not inform site-specific conclusions. Overall, the applicant contends that the 2016 study does not materially alter the policy basis for the consideration of its proposal.

2.60 The applicant does not regard the recently published description for the Talla-Hart Fell Wild Land Area or the draft SNH technical guidance “Assessing impacts on Wild Land Areas” 2017 as altering or undermining the conclusions it reached about Wild Land effects in the environmental information that accompanied its application. It states that the material difference brought about by the latest SNH publications is that the published description for the Wild Land Area now provides baseline information to inform an assessment of impact, whereas before, the baseline needed to be identified from first principles. As it considers that the baseline identified in the description accords with its own findings, the applicant concludes that there is no need for any further assessment.

2.61 The applicant notes that the draft guidance confirms that “the strength to which the wild land qualities are expressed will vary in different parts of the WLA” and “In general, they will strengthen progressively as a person moves into a WLA.” It also points out that the draft guidance explicitly recognises that “A wild land assessment should only consider effects on the qualities of the WLA as they are experienced within it, not from outwith it.” The applicant regards these points as consistent with the arguments it has made in support of this application.

2.62 The applicant notes that the consultation period for the three Scottish Government draft policy documents does not expire until May 2017. It recognises that there may be changes to the content of documents, but argues that Scottish Government’s policy direction is clear and that significant weight can be given to the clear policy direction that is set out in these draft documents.

2.63 The draft Climate Change Plan sets out how the Scottish Government intends to meet targets for greenhouse gas emission reduction between 2017 and 2032. The applicant notes that the importance of electricity as a power source is made clear and the role of onshore wind in meeting these targets is clearly set out.

2.64 The draft Scottish Energy Strategy commits the Scottish Government to being at the vanguard of the international move towards a low carbon future. The applicant points out that the draft strategy notes the withdrawal of UK Government funding for renewable energy, but sets out a continued commitment on the part of the Scottish Government to support the sector for both socio-economic as well as environmental reasons. A commitment to almost complete decarbonisation of the energy sector by 2050 is also confirmed. The applicant states that its scheme is not reliant upon subsidy and can therefore draw support from the draft energy strategy’s commitment to onshore wind in a post-subsidy era.

2.65 The applicant notes that Chapter 1 of the draft Onshore Wind Policy Statement, includes the statement: “The Scottish Government will continue to support further development of onshore wind in order to achieve the targets set by the Climate Change (Scotland) Act at the lowest cost. Onshore wind offers low carbon renewable electricity at scale and sustains growth and employment in the Scottish supply chain.” The appellant
states that this part of the statement is not subject to consultation and must therefore be regarded as finalised Scottish Government policy. On this basis, it states that significant support for its proposal can be found in this document.

Reporters’ conclusions on policy matters

2.66 In subsequent chapters of this report we assess the proposal against the requirements of Schedule 9 of the Electricity Act 1989. Natural beauty, flora, fauna and geological or physiographical features of special interest (insofar as those matters are in dispute), are considered in Chapters 3, 4 and 8. Effects on sites, buildings and objects of architectural, historic or archaeological interest are considered in Chapter 5. Throughout the report, we assess whether the applicant has undertaken reasonable mitigation of any effect which the proposal would have on the natural beauty of the countryside or on any flora, fauna, features, sites, buildings or objects.

2.67 In carrying out our assessment of these issues, we have had regard to the requirements of a wide range of policy considerations. In this chapter we provide a summary of these and set out the role they should play in the determination of this application.

Energy and climate change policy

2.68 The context within which a decision on this proposal must be made is provided for in UK and Scottish, energy and climate change policy. Although energy is a reserved matter, the UK Government expects the devolved administrations to take a leadership role in achieving binding EU targets. The Scottish Government has published policies on energy and climate change, which are more ambitious than elsewhere in the UK.

2.69 There have been changes in UK Government policy towards energy, with an increasing desire for the industry to be market- rather than subsidy-driven. This had led to the withdrawal of subsidy for many onshore wind energy schemes, although we have seen no evidence that this amounts to a formal change in policy towards the implementation of that technology, merely towards how it is funded. The Scottish Government has expressed disappointment with the UK Government’s position and has restated its commitment to onshore wind as part of its drive to decarbonise energy supply.

2.70 Although we note the progress that has been made towards meeting the targets for renewable energy generation and greenhouse gas emissions, the fact remains that the Scottish Government’s targets have not been met. Given the complexities and expense of developing a consented wind farm development, we accept the applicant’s argument that it would be unreasonable to assume that consented schemes will progress towards implementation. We conclude therefore that it would be inappropriate to give any significant weight to the pool of consented but not constructed wind energy schemes. The Scottish Government Chief Planner’s letter confirms that the level of Scottish Government support for further onshore wind development is undiminished and that this will remain the case even when existing targets have been reached. Therefore, we conclude that positive weight should be given to the proposal’s installed capacity of up to 50.4 MW, in the planning balance.

2.71 The Scottish Government’s Energy Policy in Scotland 2016 sets out an overview of policy and a compilation of statistics on energy in Scotland. It confirms a commitment by the Scottish Government to showing strong leadership in the transition to a low carbon economy and to achievement of the most ambitious emissions reduction targets in the world. It
explains that progress in Scotland towards decarbonising energy supply has been good, but that challenging new targets will be required in order to meet the challenges set by the United Nations Paris Agreement, which sets out the first global legally-binding agreement to limit greenhouse gas emissions. The 2015 update to the 2020 Routemap for Renewable Energy in Scotland describes renewable energy as one of Scotland’s most important industries and confirms a commitment to onshore wind as the cheapest way of producing large-scale renewable electricity in the UK.

2.72 We conclude that this proposal can draw considerable support from existing energy and climate change policy.

2.73 Emerging Scottish Government policy on the subjects of energy, climate change and on-shore wind can be found in the draft Scottish Energy Strategy 2017, the draft Climate Change Plan 2017 and the draft Onshore Wind Policy Statement 2017. These have recently been published for consultation. It is possible that these documents may have been adopted by the time Ministers determine this application, in which case, it would be necessary to investigate the nature of any changes made prior to adoption, and then to afford greater weight to these documents to reflect their adopted status.

2.74 We discuss the implications of each of the draft policy documents in turn below.

2.75 The draft Scottish Energy Strategy 2017 confirms an on-going commitment to renewable energy including onshore wind. We agree with the applicant that it offers particular support to proposals that do not require public subsidy.

2.76 The draft Climate Change Plan 2017 sets out the Scottish Government’s preferred approach to meeting legally-binding emissions reduction obligations, taking into account socio-economic as well as environmental factors. It deals with the period 2017 to 2032 and sets ambitious targets for emissions reductions including that, by 2030, the generation of electricity in Scotland will be carbon-negative. This would be secured by a combination of non-emitting technologies such as wind energy and applying carbon capture and storage technology to biomass generation. Again, we agree with the applicant that this draft plan is supportive of the principle of onshore wind energy generation.

2.77 The draft Onshore Wind Policy Statement 2017 confirms the Scottish Government’s view that onshore wind development is essential to Scotland’s transformation to a fully decarbonised energy system by 2050 and that it brings opportunities which underpin its vision to grow a low carbon economy and build a fairer society. It confirms that the draft document does not seek to change existing Scottish Government policy, which is to support deployment of onshore wind, whilst protecting the environment (landscape and visual, ecological and other environmental impacts); protecting residential amenity; and maximising local benefits, including through promoting shared ownership and community benefits.

2.78 The draft statement notes that there is a significant pipeline of consented onshore wind projects that may not proceed unless the UK Government provides a viable route to market. It undertakes to liaise with the UK Government on this issue. The draft statement also seeks submissions on whether the efficiency of a proposed wind farm (which is highly reliant upon wind availability) should be a material consideration in a section 36 application, with the aim of maximising contributions to energy targets and enabling schemes to proceed without subsidy. In that context, it also highlights the potential benefits to viability of including on-site energy storage, as is proposed in this case.
2.79 Having regard to all of the draft documents, it is clear that the Scottish Government intends its future policies to remain fully committed to decarbonising the energy sector and to setting more challenging targets for greenhouse gas emissions and renewable energy use. It is also clear that the Scottish Government intends onshore wind energy to play a key role in achieving those objectives. As the documents are in draft at this stage, they should be given less weight than statements of existing Scottish Government policy. However, they are of assistance in suggesting that the future direction of Scottish Government policy in respect of wind energy development is unlikely to be less supportive than at present.

2.80 As set out above, if these draft documents are finalised and published before Ministers take a decision on this application, the weight they should be given should be increased. However, as they do not represent a significant departure from existing Scottish Government policy, we do not consider that formal adoption of these policy statements would require any further submissions from the parties unless their content was significantly amended.

Planning policy

2.81 The parties generally agree that Scottish planning policy is very supportive of the principle of renewable energy including on-shore wind. It requires the planning system to support the transformational change to a low carbon economy, with which this proposal would undoubtedly assist. However, there is also general agreement that such support does not extend to proposals that would have unacceptable environmental consequences.

2.82 The site falls within Group 2 - Areas of Significant Protection in SPP’s spatial framework for wind farm development, as a result of the presence of peat within the site. We note that the appellant has sought to mitigate effects on peat by locating the turbines, roads and other built development, so far as is practicable, in areas of the site where deep peat is absent. The response to this proposal from the Scottish Government’s consultant on peat matters acknowledges that the layout of the development, including the associated infrastructure, avoids the main areas of peat. We also note the absence of objections on peat effect grounds from any statutory consultee including the council. Against that background, while the site must be regarded as falling within Group 2, we have sympathy with the applicant’s argument that it is reasonable to approach an assessment of its suitability for wind energy development on the basis of detailed consideration against the detailed policy criteria that are set out within SPP, as would typically be the approach for a site within a Group 3 location.

2.83 We agree with the applicant that the SPP presumption in favour of development that would contribute to sustainable development is a matter to which we must have regard. Although this policy presumption is likely to have particular significance where the development plan is out of date (which is not the case here), it is also engaged where there is an up to date development plan.

2.84 With reference to paragraphs 28 and 29 of SPP, which set out matters that are relevant to an assessment of sustainability, we find that the development is of a type that can reasonably be characterised in those terms, provided that its environmental and socio-economic effects are acceptable. We address those matters in the remainder of this report and, with those findings in mind, reach a conclusion, in Chapter 10, on the sustainable development presumption. In carrying out that assessment, we also consider the provisions
of paragraph 169 of SPP, which identifies 19 assessment criteria for energy generation proposals.

2.85 We do not agree with the council that the proposal is contrary to Policy 10 of SESplan. This sets requirements for LDPs rather than for individual development proposals. LDPs are required to set a framework for the encouragement of renewable energy proposals that aims to contribute towards achieving national targets for electricity and heat, taking into account relevant economic, social, environmental and transport considerations. This is consistent with the expectations of national policy to support renewable energy projects that do not cause unacceptable effects. Paragraph 125, to which the council has referred us, recognises that concerns have been expressed about cumulative impacts and requires LDPs to undertake an assessment of the impact of development. We find that this simply recognises that parties have raised concerns over cumulative effects and that this needs to be taken into account in LDPs.

2.86 The Scottish Borders LDP is an important material consideration. The council accepts that LDP Policy ED9 offers broad support to renewable energy proposals. However, it points out that this is subject to a number of assessment criteria being satisfied. Its view is that the proposal does not satisfy all of these and is therefore contrary to this policy. Where concern has been expressed over matters that this policy covers, we address these in subsequent chapters of this report. We set out our conclusion as to compliance with this policy in Chapter 10.

2.87 We agree with the council that LDP Policy EP5 requires particular care to be taken to the consideration of landscape and visual effects within designated Special Landscape Areas (SLAs). However, as the council accepts, this does not amount to a presumption against wind energy development within them. As already stated, unlike a national designation or some other recognition of national importance, such as inclusion within a wild land area, a local landscape designation does not affect the position within SPP’s spatial framework that a particular location would occupy. The policy presumes against proposals that would have a significant adverse landscape impact unless that impact would clearly be outweighed by social or economic benefits of local or national importance. We assess the balance of benefits against harm in Chapter 10 of this report.

2.88 LDP Policy EP8 seeks to protect archaeological sites and their settings. For sites of national significance, proposals which would destroy or adversely affect the appearance, fabric or setting of the asset will not be permitted unless the development offers substantial benefits, including those of a social or economic nature, that clearly outweigh the national value of the site. The scheduled Hawkshaw Castle is of recognised national importance and the council believes that asset HA5 is similarly important. We consider that issue in Chapter 5. For nationally significant sites, it must also be demonstrated that there are no reasonable alternative means of meeting the development need. Once again, the policy requires an assessment of benefit against harm, which we carry out in Chapter 10. In doing so, we have regard to the significance of the affected historic assets. We also address the requirement to demonstrate no reasonable alternative.

2.89 We agree with the parties that the recently published SNH description of the Talla-Hart-Fell WLA does not recognise as important any feature that was not already assessed in the applicant’s environmental information. We also agree that the draft SNH technical guidance on assessing impacts on Wild Land Areas and the council’s draft supplementary guidance on wind energy and its accompanying 2016 landscape capacity and cumulative impact study do
not materially alter the required approach to the assessment of this proposal or require reassessment of the conclusions that the parties have set out in relation to the earlier guidance and studies.
CHAPTER 3: LANDSCAPE AND VISUAL EFFECTS INCLUDING EFFECTS ON WILD LAND

The evidence on landscape and visual effects

3.1 Landscape and visual effects were considered at an inquiry session. Evidence was heard from witnesses on behalf of the applicant, Scottish Borders Council, Tweedsmuir Community Council, the Mountaineering Council of Scotland (MCofS), Mr and Mrs Stevens and Mrs Billingham (all local residents).

The main points for Scottish Borders Council

3.2 The council’s concerns cover both landscape and visual effects. They can be grouped under the following four headings:

- Effects on the Tweedsmuir Uplands Special Landscape Area.
- Visual effects on a range of receptors including roads, a right of way, hill summits and houses.
- Cumulative landscape and visual effects with existing wind energy development nearby.

3.3 The council notes that the Talla-Hart Fell Wild Land Area (the WLA) is one of only two such areas in the south of Scotland and the only one in the Scottish Borders. It covers an area of over 9,000 hectares and the council calculates that from approximately 25% of that land, there would be visibility of the proposed turbines at range of no more than 7.5 kilometres. The council predicts that the proposed development would be a prominent feature in views to the north west from the WLA, removing any perception of remoteness. It points out that the proposed development would be closer, and therefore more harmful, to the WLA than existing turbines in the locality.

3.4 The council notes that the national importance of WLAs is recognised in NPF3 and SPP. The nearest proposed turbine would be 760 metres from the WLA boundary and the most distant would be three kilometres away. In comparison, the nearest turbine in the Clyde wind farm is 4.1 kilometres from the WLA and 4.2 kilometres for the Clyde extension. Glenkerie and its extension are approximately 9.8 kilometres away. The potential for significant adverse effects on the WLA is therefore considered to be much greater for the proposed scheme.

3.5 The council regards the applicant’s sub-division of the WLA into areas of higher and lower wildness to be inconsistent with SNH’s approach. In the council’s view, the experience of the wildest core of a WLA depends on areas of the WLA that have lower wildness. Such areas do not provide a buffer to the core area but are intrinsic to the area as a whole.

3.6 As an example of the greater effect this proposal would have on views from the WLA (and therefore on visitors’ experience of the WLA) than is experienced at present, the council’s referred us to the applicant’s visualisation for viewpoint 10 at Firthope Rig. In this view, the Clyde and Glenkerie wind farms can already be seen. However, the council contends that the proposed Whitelaw Brae turbines would be far more intrusive in the middle distance and would not appear as an extension to the existing developments.
3.7 The council referred us to the applicant’s visualisation for viewpoint 9 (Hartfell Rig) to demonstrate its point that the Fruid Reservoir, although a man-made feature, would not, to most visitors to the WLA, detract from the sense of naturalness. Indeed, it is argued that the reservoir is likely to increase the attractiveness of the view from this point in the WLA. In contrast, the proposed Whitelaw Brae turbines would be a harmful, moving and clearly artificial new element in this view.

3.8 The council accepts that the proposal would not affect the WLA’s challenging terrain or its relative inaccessibility. However, it contends that it would significantly undermine the other three key attributes of the WLA – perceived naturalness, the lack of modern artefacts and the absence of evidence of human activity. The council notes that SNH did not object to the proposal. However, it believes that SNH would only object on wild land grounds to a proposal that was within a WLA, and points out that it did make extensive comments in criticism of the proposal.

3.9 The council accepts that the key considerations in SPP are set out in paragraph 169, read in the context of paragraph 200, and that paragraph 215 does not apply, as the application site is outside the WLA.

3.10 The council points out that all of the site lies within the Tweedsmuir Uplands Special Landscape Area (the SLA). Referring to the SLA designation statement, the council describes the SLA as ‘a highly scenic area of dramatic landform’, and having ‘a significant degree of wildness’. "The large reservoirs are the only substantive human incursion, but add variety rather than reducing remoteness.” The council predicts that the introduction of 14 large, vertical, man-made structures into the landscape of the SLA would reduce its remote character and have a significant adverse landscape and visual effect. Management recommendations for the SLA in the council’s supplementary planning guidance on local landscape designations 2012 specifically seek to maintain the wildness character of the great majority of the hills and to consider the visual effect of tall development proposals.

3.11 The council regards the SLA landscape as a contained landscape of high landscape quality and with a sense of remoteness. It states that the applicant’s visualisation for viewpoint 4 (Fruid Dam) demonstrates that the proposed turbines would be visually dominant within the relatively subtle landform of the SLA.

3.12 The council considers that the landscape around and within the appeal site would not significantly restrict views of the proposed development. As a result, the proposed turbines would be seen clearly within a radius of approximately five kilometres, where they would be prominent and harmful elements of the view. Receptors within this radius of the site include the A701 tourist route to Edinburgh, the quiet Fruid reservoir road, right of way BT100 to the south of the site and eight residential properties.

3.13 The council notes that the applicant accepts that users of the A701 are highly sensitive receptors. It also notes the concerns raised by SNH over the visibility of the proposed turbines from the A701.

3.14 In the applicant’s visualisation for viewpoint 2, the council identifies a landscape with nine turbines seen prominently from the A701. It contends that this would significantly harm the view from this point on the A701.
3.15 From the applicant’s viewpoint at the Tweedhope layby on the A701, the council points out that four turbines would be seen breaking the skyline. The council believes that this would give the impression of the wind farm landscape, which is at present confined to the west of the A701, encroaching onto the eastern side of that road, to the detriment of the visual amenity of users of that sensitive tourist route.

3.16 The council contends that visual effects on residents within the Fruid valley would be increased by the sense of seclusion and intimacy that those residents currently enjoy on account of the valley containing only six properties and being served by a no through road.

3.17 For some of the affected residential properties, the degree of visual effect would be so significant, in the council’s view, that these would become unattractive places in which to live.

3.18 Concern is raised over cumulative landscape and visual effects from developing the appeal site close to existing wind turbine development in the locality. This includes the Clyde wind farm and its extension, to the west and the Glenkerie wind farm and its extension, to the north. A particular concern arising from the combined effect of existing / approved turbines and the proposed turbines being seen together is the impression that the appeal proposal would cross the River Clyde / A701, which run north – south through the study area. At present, all wind farm development is to the west of this corridor and the proposal to extend such development to the east would be particularly harmful. The council notes that the 2013 landscape capacity and cumulative impact study found that there is no capacity for turbines exceeding 50 metres in height to the east of the A701.

3.19 The council regards the A701 as a clear point of transition between the wind farm landscape containing over 250 turbines to the west and the turbine-free landscape to the east. By bringing turbines closer to the core of the southern uplands and by crossing the A701, the council believes the proposal would have significant harmful cumulative effects with existing turbine development.

3.20 From the applicant’s viewpoint at the summit of Broadlaw, approximately 7.5 kilometres to the north of the site, the council states that the proposed development would not be seen as an extension of the Clyde wind farm, as it would appear completely separate from those turbines and closer to the foreground hills. When seen with the more distant Clyde turbines, this would give the impression of such development encroaching much closer to a core area of greater wildness.

The main points for Tweedsmuir Community Council

3.21 The community council is concerned that the proposal would set a precedent for other turbine development to the west of the A701 / River Tweed and, even if it did not, would create a wind farm corridor through the valley.

The main points for local residents

3.22 Local residents point out that it is not just effects from their properties that are important and that the ‘glad to be home’ effect occurs when they enter the Tweed Valley and increases as they first see their home. Therefore, views of the proposed turbines would have a greater effect on their amenity than might be predicted from an analysis solely of the effect on views from their properties.
3.23 Residents state that the Fruid road is well visited at weekends by kayakers and walkers and therefore has value not only to a small number of residents, but to a wider group of sensitive receptors.

**The main points for SNH**

3.24 SNH did not object to the proposal and did not take part in the inquiry. However, it did express concern over the general adverse landscape and visual impacts, and, in close proximity, significant adverse impacts, on the Talla- Hart Fell Wild Land Area, significant and adverse impacts on local landscape character and visual amenity as experienced in the areas around the Fruid Reservoir, and adverse landscape and visual impacts, including cumulative impacts, that would be experienced from the A701.

**The main points for the applicant**

3.25 As the application site lies outside the WLA, the applicant points out that the requirements of paragraph 215 of SPP do not apply. This was confirmed in the Limekilns report. The reporters in that case also considered it appropriate to analyse effects on the WLA in the way the applicant has assessed this proposal (by considering effects on different parts of the WLA).

3.26 The applicant notes that, in the case of the proposed Glenmount wind farm in Ayrshire, SNH objected on wild land grounds despite the site being 6.5 kilometres from the WLA. It therefore does not accept the council’s suggestion that SNH would not object to a proposal on such grounds unless it were within a WLA. It also points out that the SNH publication Spatial Planning for Onshore Wind Turbines 2015 does not rule out the possibility of such development being located within a WLA.

3.27 The applicant points out that SNH’s Assessing the impacts on Wild Land (updated 2014), recognises the appropriateness of looking at different parts of a WLA when considering impacts from a development proposal. This is the approach that the applicant followed in its assessment of likely effects on the WLA.

3.28 Following this approach, it found that those areas of the WLA that have the highest levels of wildness are those where effects from the proposal (if any) would be of the lowest magnitude. For those parts of the WLA where effects would be greatest, there is argued already to be visibility of man-made artefacts including roads, other wind farms, forest plantations and the reservoir. In those locations, other indicators of wildness such as a sense of risk, terrain that is difficult to cross or which requires navigational skills, and a sense of solitude, are either absent or significantly less important than in the heart of the WLA. The applicant refers to the nearest edge of the WLA to the application site as a transitional area, which follows the approach taken by the reporters in the Limekilns report. It also argues that there is no evidence that this part of the WLA is well visited (there being no evidence of a worn track along the line of the right of way for example).

3.29 Turning to the SLA, the applicant points out that other wind farms, including some of significant scale, have been approved within the SLA. It also points out that its proposal would improve opportunities for recreation and could improve habitat management, both of which are management objectives for the SLA. Such positive contributions to the SLA need to weighed against any landscape or visual harm.
3.30 The applicant points out that the nearest Scottish Borders settlement that is identified in the development plan (Broughton) is over 12 kilometres away and that Moffat (within Dumfries and Galloway) is further. It also notes that the number of residential receptors that would have a view of the proposed turbines is remarkably low and that the nearest property is 1.4 kilometres away, considerably further away than the separation distance that has been accepted in other wind farm proposals.

3.31 Although the applicant accepts that users of the A701 should be regarded as highly sensitive receptors and that visual effects on the layby would be significant, this is argued to be very much a worst-case scenario that is not representative of effects on this route as it passes through the valley. The applicant notes that, as this is a winding route, there are locations when travelling south along this road, from which the Clyde wind farm appears to be the viewer’s left. As such, when assessing the significance of visual effects on road users, it must be borne in mind that from some locations along the route, the road is not perceived as a landscape feature that marks a point of transition from a landscape with many turbines to one where such development is absent.

3.32 The applicant accepts that some tree felling has taken place recently and that more is proposed locally. However, none of this would significantly increase the prominence of the proposed turbines or require any adjustment to the conclusions reached in the environmental statement and further environmental information.

3.33 The applicant criticises the council’s assertion (in its second reason for objection) that the landscape to the east of the A701 is unique, as it is, in fact, of the same landscape character type (Southern Uplands with Scattered Forest) as extensive areas of land on both sides of the A701 / River Tweed. It also argues that the council’s fears of this proposal setting a precedent for other development should be given no weight, as each case must be judged on its merits.

3.34 The applicant considered cumulative effects by plotting a series of cumulative zones of theoretical visibility (ZTVs) for the proposed development and other wind farms that are operational, consented or in the consenting process. The consideration of such effects was updated in the 2016 further environmental information to update the status of developments proposed since the ES was published.

3.35 The applicant predicts that there would be moderate (significant) cumulative landscape character effects within the Southern Uplands with Forest LCT, the WLA and the SLA in combination with the approved extensions to the Clyde and Glenkerie wind farms and the proposed Earlshaugh wind farm (the application for which has now been withdrawn). Such effects would be limited to certain locations within a six kilometre radius of the site.

3.36 Cumulative visual effects were assessed for nine viewpoints and for the A701, Fruid reservoir road and the BT100 right of way.

3.37 From Hartfell Rig (VP 9) and Broad Law (VP 11), significant cumulative visual effects are predicted due to the development extending the coverage of turbines over a greater area and siting them closer to the viewpoints. From the Fruid reservoir road, cumulative effects are predicted to be substantial and significant because, although the proposed turbines would be seen in the context of existing wind farms and their consented extensions, they would be significantly more prominent and therefore give the impression of such development
spreading across the view. From right of way BT100 such effects would also be significant. From the other assessed locations, no significant cumulative visual effects are predicted.

3.38 The applicant states that the scheme evolved over a series of six iterations, each designed to minimise landscape and visual effects while maintaining operational efficiency of the development.

Reporters’ conclusions on landscape and visual effects

3.39 Our conclusions on landscape and visual effects are broken down below into effects on landscape character, effects on views and visual amenity, cumulative landscape and visual effects, and finally, effects on wild land.

Landscape effects

3.40 Any development proposal has the potential to affect directly, the landscape fabric of the site on which it is proposed and, indirectly, to affect the character of other locations from where it might be seen.

3.41 Direct effects to the fabric of the application site would arise from the formation of construction compounds, borrow pits, access tracks and other ancillary development, the erection of the proposed turbines and the removal of 52 hectares of commercial forest. Some of these effects would be temporary effects of relatively short duration. Others would be long term effects (albeit reversible in the case of the turbines).

3.42 As is likely to be the case with any commercial-scale wind energy development, the proposed works would significantly affect the landscape fabric of the application site itself. However, when judged in the wider landscape context, we are satisfied that the scale of the effect on landscape fabric would not be significant. We also note that the landscape fabric implications of replacing 52 hectares of plantation with native replacement planting would be positive.

3.43 In our assessment of effects on landscape character, we have had regard to landscape character assessment and classification work that was carried out on behalf of SNH in the late 1990s. This included the Borders Landscape Assessment (1998), the Dumfries and Galloway Landscape Assessment (1998), and the Glasgow and Clyde Valley Landscape Character Assessment. We have also had regard to more recent studies, specifically the Dumfries & Galloway Wind Farm Landscape Capacity Study (2011) and the South Lanarkshire Landscape Character Assessment (2010). We have taken account of the landscape designations that apply to the site and the surrounding land, and have considered the extent to which the proposal might affect those designations.

3.44 All of the site lies within the Broadlaw group of the Southern Uplands with Scattered Forest LCT, as identified in the Borders Landscape Assessment. This LCT is characterised by a range of large-scale, steep, rounded and cone shaped hills, up to 800 metres in height, separated by deep, steep-sided valleys. Land cover is mainly grass and heather moorland, although there are also quite extensive coniferous plantations, which, along with the A7, A701 and A708 roads, exert a human influence over the landscape. Away from the visual influence of such features, the absence of man-made artefacts gives an impression of remoteness and some degree of wildness. Generally, the landscape has a large scale and open character,
although this is not the case in some of the valleys, where the valley sides restrict view distances and give a more intimate feel to the landscape.

3.45 The applicant accepts that the development would have moderate (significant) effects on landscape character within approximately six kilometres of the site. However, it argues that the locations within this LCT where the proposed development is likely to be most visible, are already affected by visibility of existing wind farms (particularly the very extensive Clyde Wind Farm).

3.46 For most locations within the LCT that would have clear views of the proposed turbines, we agree with this finding, as the prominence of the Clyde Wind Farm and (to a lesser extent) forest plantations, reduces the sensitivity of the landscape to this form of development. However, from the Fruid Valley, where the valley sides screen views of the Clyde Wind Farm but would not successfully screen all of the much closer appeal proposal, we find that landscape character effects would be substantial, as despite the presence of man-made features such as the reservoir, dam and forest plantations, the proposed turbines would significantly increase the dominance of man-made development over the relatively small-scale landscape of the valley.

3.47 We agree with the applicant that the proposed development would be significantly less visible from the parts of this LCT where there is a more remote character and a more distinctive landform and that the effect on the character of those parts of the LCT would not be significant.

3.48 Adjacent LCTs from where the applicant’s ZTV suggests the proposal could be visible, include the Upland Valley with Pastoral Floor LCT within the Scottish Borders administrative area, the Foothills with Forest and Southern Uplands LCTs within Dumfries and Galloway and the Southern Uplands LCT within South Lanarkshire.

3.49 We agree with the applicant that the existing wind farms and commercial forest plantations within the Foothills with Forest and Southern Uplands (South Lanarkshire) LCTs have such an influence over the landscape character of those LCTs that the proposed turbines (where visible) would have minimal effect on landscape character.

3.50 For the Upland Valley with Pastoral Floor LCT, which lies to the north of the site and includes the settlement of Tweedsmuir, there are likely to be views of turbine blades or blade tips to a distance of approximately four kilometres. Such views would be intermittent due to topography and tree coverage within the valley. This is a smaller-scale landscape than the Southern Uplands with Scattered Forest where the site is situated. However, the character of this landscape is already influenced by existing wind turbine development, which reduces its sensitivity to what is now proposed. Overall, we agree with the applicant that effects would be slight and not significant.

3.51 The North Moffat and Louthers units of the Southern Uplands (Dumfries and Galloway) LCT lie to the south of the site. These include important landscape features such as the Grey Mare’s Tail waterfall and the 150 metre deep hollow known as the Devil’s Beef Tub. The landform of this LCT tends to be steep and dramatic and the absence of settlements gives it a relatively wild character. The applicant accepts that this LCT has high sensitivity to this form of development. However, because in the locations where the proposed turbines would be seen, the Clyde Wind Farm is already clearly visible, it predicts that the magnitude of change to landscape character would be low and that, consequently, there would be no significant
effect. We accept that conclusion and note that from the most sensitive locations (the important landscape features mentioned above) there would be no visibility of the proposed development.

3.52 In order to analyse landscape effects at a finer grained level of detail and to avoid potential inconsistencies arising as a result of LCT-level analyses having been conducted in accordance with administrative boundaries, the applicant subdivided the LCTs into 10 smaller “local landscape zones” (LLZs). It found that in three such zones (LLZ4 Fruid, LLZ6 Craigmaid (where the site is located) and LLZ9 Hart Fell Uplands) there would be significant effects on landscape character (moderate for LLZ6 and 9 and moderate to substantial for LLZ4 Fruid). All three significantly affected LLZs are within the Southern Uplands with Scattered Forest LCT.

3.53 This analysis accords with our conclusion that the Fruid valley would experience greater effects on landscape character than would typically be experienced by the Southern Uplands with Scattered Forest LCT. The Hart Fell Uplands LLZ, where moderate effects are predicted, corresponds with the Tall Hart Fell WLA, which we discuss later in this report.

3.54 Turning to effects on landscape designations, the applicant assessed the significance of likely landscape character effects on the Upper Tweeddale National Scenic Area (the NSA), the Tweedsmuir Uplands Special Landscape Area (SLA), the Leadhills and the Lowther Hills SLA (in South Lanarkshire) and the Moffat Hills Regional Scenic Area (RSA) within Dumfries and Galloway. The extent of these designations is shown in figure 4.1 of the ES.

3.55 The NSA is a landscape of recognised national importance whereas the SLAs and RSA are of regional importance.

3.56 The NSA comprises a section of the Tweed valley, approximately nine kilometres to the north east of the application site at its closest point. This is a relatively small-scale valley landscape containing woodlands and historic buildings and is of national importance. The applicant’s 35 kilometre ZTV (figure 4.5 in the ES) demonstrates that there would be very little visibility of the proposed development from the NSA. We accept the applicant’s conclusion that from any location where the proposed turbines might be seen as part of the distant backdrop to the valley, there are likely already to be views of the Clyde Wind Farm. Accordingly, we also accept the applicant’s conclusion that effects on the landscape character of the NSA would be insignificant. The council has raised no objection to the proposal on NSA grounds.

3.57 The boundaries of the Tweedsmuir Uplands SLA essentially correspond with those of the Southern Uplands with Forest LCT, where we have concluded that there would be significant effects on landscape character within a radius of up to six kilometres of the site. The designation of this landscape as an SLA confirms that, in a regional context, this landscape has particular importance and value. Its distinctive upland, relatively empty landscape containing woodlands and historic buildings and of national importance, and the proposed erection of 14 large wind turbines with associated development would be incompatible with those attributes. However, as we confirmed in our assessment of effects on the landscape of the Southern Uplands with Forest LCT, for most of the locations within the SLA where such qualities are most pronounced, the proposed development would either be screened by topography or would be seen against a backdrop of extensive wind turbine development and commercial forestry. The applicant predicts a locally moderate and significant effect on landscape character up to a distance of five to six kilometres and an
insignificant effect beyond that. For reasons we have already stated, our conclusion is that
effects on the character of the Fruid valley landscape within this SLA would be of substantial
rather than moderate significance. In other respects we accept the applicant’s predictions.

3.58 The nearest edge of the Leadhills and the Lowther Hills SLA lies approximately 10
kilometres to the west of the site, beyond the M74 motorway corridor. With reference to the
applicant’s ZTV, we accept the applicant’s conclusions that there could potentially be rare
glimpses of some of the proposed development from summits within this SLA, but that any
such views would have the far more extensive Clyde Wind Farm in the foreground, leading to
a negligible magnitude of change to the character of the SLA and a neutral effect.

3.59 The Moffat Hill RSA is essentially a continuation of the Tweedsmuir Uplands SLA to
the south, across the boundary with the administrative area of Dumfries and Galloway
Council. It covers the distinctive upland area north of Moffat and the valleys of Moffat Dale
and Annandale. Effects on this designation would be similar to those we have assessed
above for the Southern Uplands (Dumfries and Galloway) LCT, which is coincident with most
of the RSA designation. From much of this designated landscape, views of the proposed
development would be screened by the undulating topography. However, from higher ground
along its northern edge, there would be clear views of the application site from a distance of
approximately five kilometres. The applicant quantifies this as a slight (and not significant)
effect due to the small extent of the RSA that would be affected and the existing presence
of wind turbines in any views of the proposal.

3.60 Our conclusion is that the closer proximity of the proposed turbines to locations at the
northern edge of the RSA from where the site would be seen would tend to give the
impression of such development encroaching towards the designated land, despite the
presence of numerous existing turbines (further away) within the view. From a small portion
of the RSA we predict that the character of the landscape would be affected to a moderate
(and significant) degree. We agree that effects on the majority of the RSA would not be
significant. That would not necessarily guarantee that the integrity of the designated area was
not undermined. However, in this instance we find that the locations at which landscape
class effects would be experienced are sufficiently few in number and of lesser
importance to the qualities of the RSA as a whole, that the integrity of the designation would
not be threatened.

Effects on views and visual amenity

3.61 The applicant found that from eight of its 22 viewpoints, there would be significant
visual effects. All of these are within 7.5 kilometres of the site. We agree that this covers the
full extent of locations from where significant visual effects are likely to be experienced.

3.62 The authority’s objection raises concerns over adverse visual amenity effects for the
following receptors: users of the A701; users of the Fruid reservoir road; users of the right of
way BT100; hill walkers and local residents. We agree that this covers all potentially affected
visual receptors and have considered each in turn.

3.63 The A701 is a designated tourist route where at least some users are likely to be
interested in, and focussed upon, their landscape surroundings. Although other road users
such as commercial drivers would be less susceptible to visual intrusion, we consider it
appropriate to regard travellers along the route as having high sensitivity to this form of
development.
3.64 The applicant carried out a sequential route analysis for the A701. This is set out in Technical Appendix 6.7 of the ES and FEI. Ignoring the screening effect of forest plantations, this reveals that there would be theoretical visibility of the proposal for an overall length of 15.8 kilometres. The analysis suggests that from almost all locations where views of the proposed turbines would be possible, there are already views of existing turbine development. For this reason, it is argued that the proposed development would not introduce an unacceptable degree of change to the views available from the A701.

3.65 The applicant’s visualisations from between Glenbreck and Hawkshaw (VP 2) and the Tweedhope lay-by (VP 3), show that, at certain points along the A701, which are 1.4 and 1.8 kilometres from the nearest turbine respectively, the proposed development would be seen prominently. From both of these nearby viewpoints, the development would be partially screened by the foreground topography, and the visible turbines would be seen in the context of existing forest plantations and other man-made features. Nevertheless, at this point on the A701, we find that the development would have a significant effect on the visual amenity of road users.

3.66 From elsewhere on the A701, the development would be much less prominent. From the source of the River Tweed (VP 6) looking north, there is a clear but distant view of the Glenkerie wind farm and, much closer to the viewpoint at a distance of 4.5 kilometres, glimpses of some of the blade tips of the proposed development emerging from behind a plantation-covered foreground hill. From the Crook Inn (VP 12), approximately 6.8 kilometres to the north of the site, the hubs of two turbines and the blade tips of five others would be seen far behind a foreground of residential buildings, forest plantation and other man-made features. From 6.1 kilometres to the south of the site, there would be no visibility of the development from Devil’s Beef Tub lay-by (VP 7), an important local viewpoint.

3.67 Overall, having regard to the sensitive nature of this road, being an identified tourist route, but also to the visual baseline that is already experienced by users of the route, which includes the Clyde and Glenkerie wind farms and extensive plantation forest coverage, we conclude that the proposed development would only significantly affect visual amenity at a limited number of points within approximately four kilometres of the site. Elsewhere along the route, the proposal would not significantly affect visual amenity and we conclude that the overall experience of users of this route would not be significantly harmed by the proposed development.

3.68 We address concerns raised by objectors that the development, when seen in conjunction with the Clyde and Glenkerie wind farms, would appear to encroach into land to the east of the road, in our consideration of cumulative effects, later in this chapter.

3.69 The minor road that runs along the Fruid reservoir would experience the most significant visual amenity effects. This can be seen in the applicant’s visualisations from Fruid Dam (VP4) and Fruid (VP 5). From these locations, which respectively are 1.4 and 2.2 kilometres from the nearest turbine, the proposed turbines would be very prominent in views across the reservoir to the south west and west. The prominence of the reservoir and dam, which from close range are very clearly man-made features, would not significantly reduce the visual dominance of the proposed turbines.

3.70 This minor road is not identified as a tourist route, has no specific tourism or recreation facility and is a no through road serving a small number of properties. Traffic levels could
therefore be expected to be very low and road users would not typically be regarded as sensitive visual receptors. However, the road will be used by hill walkers, visitors to Hawkshaw Caste and those using the reservoir for recreation, who would all be sensitive to development of the type proposed. In addition, we accept that local residents may have a sense that the road is part of their property, due to it being so quiet and the fact that it carries no through-traffic. On that basis, we agree with the applicant that receptor sensitivity would be high and that the effect on the visual amenity of those receptors would be substantial. When feeding this into our overall assessment of the proposal we have borne in mind that this substantial effect is likely to be experienced by a small number of people.

3.71 Right of Way BT100 links the southern end of the Fruid reservoir with the Annandale Way, a long distance path linking Moffat with Annan. The applicant’s visualisation from this location (VP 21) shows the likely view towards the proposed turbines. At this point the nearest turbine would be approximately 2.2 kilometres distant and would form a clear middle-distance focal point in views to the north west.

3.72 Receptor sensitivity would be high, as footpath users would be focussed upon their surroundings, and we agree with the applicant that they would experience a substantial visual effect, as the proposed turbines would be a dominant feature in the middle distance. When weighing this adverse consequence of the scheme in the planning balance we have had regard to the fact that clear views of the Glenkerie and (especially) the Clyde wind farms are already available from this right of way, together with extensive forest plantations and other man-made features. We have also had regard to the absence of any wear marks in the grass to suggest that this route is well used, which supports the observations of the applicant’s landscape team, who observed no party using this route on any of their site inspections.

3.73 In views from the summit of Broad Law (VP 11), approximately 7.5 kilometres to the north of the nearest of the proposed turbines, the proposed development would be seen clearly in the middle distance. This is a popular summit with walkers who would have the highest visual sensitivity. However, the existing view from this summit features extensive plantation forestry at close to middle distance and a very significant sweep of turbines in the far distance but below the horizon, which is the Clyde wind farm. The introduction of the proposed development into this view would increase the coverage of turbines within the view (albeit in a direction that already features a significant number of such machines) and would bring the development closer to the viewer (albeit still 7.5 kilometres away). We conclude that this would have a moderate (and significant) effect on visual amenity.

3.74 The applicant undertook a detailed assessment of effects on views from residential properties in Technical Appendix 6.8 of the ES and Technical Appendix 6.8 of the FEI. There are no settlements that could be significantly affected by views of the proposed development so there was no analysis of such potential effects. The applicant predicts there would be significant visual effects for the occupiers of eight residential properties. Two of these are in the Tweed Valley on the A701 (Badlieu and two dwellings at Hawkshaw) and five within the Fruid valley: Blacklaw Cottage; Craiglaw Cottage; Fruid Cottage; Waterend; and End Cottage. No significant effects are predicted for Blacklaw Bungalow. The council agrees with that conclusion and we concur. We have considered each of the affected properties in turn.

3.75 The applicant contends that the planning system (and by implication the Electricity Act consenting regime) does not exist to protect the private interests of any particular individual. For that reason, it argues that effects on the views from individual properties are only likely to be a material consideration where they would be so significant that there would be an
overbearing impact on those properties, such that they came to be regarded as a undesirable places in which to live.

3.76 We understand the applicant’s argument that Ministers’ role in determining this application will be to act in the public interest rather than to protect the private interests of individual residents against those of the proposed developer. However, we believe that effects on private interests require to be taken into account in the planning balance, where the nature and extent of such effects are such that it becomes a matter of public interest that they should be avoided. Our view is that this point may be reached before such effects are so severe as to overwhelm an individual property or make it an undesirable place in which to live. Our assessment of this issue has had regard to both the number of properties affected and to the severity of the predicted effects.

3.77 Badlieu is situated approximately 75 metres to the east of the A701, approximately 1.36 kilometres to the west of the nearest visible turbine. This property faces south and is on the valley floor at an elevation approximately 100 metres below the turbine bases. Views of the proposed development from the property would be from east facing windows, which we agree are unlikely to be the most important views from the building. The view from this property is shown in the Figure 5, Viewpoint F the FEI Technical Appendices. This shows the hubs of three turbines and the blade tips of two more rising above the foreground valley side.

3.78 We agree with the applicant that the turbines would be sufficiently far away from this property that they would not have an overbearing impact on it and that it would remain an attractive place in which to live. Nevertheless, we find (and the applicant accepts) that the effect on visual amenity would be significant, both from the house and from its private driveway from the A701, as the two most prominent turbines would be dominant features in the view to the east.

3.79 Hawkshaw Farm and Cottage are a pair of two-storey semi-detached houses. A fudge making business is also operated from the property. These buildings are situated to the north of the site, approximately 1.7 kilometres from the nearest visible turbine. The properties lie to the south east of the A701 and are accessed from that road by a 200 metre long private drive. The properties face south, towards the application site and are approximately 100 metres below the base height of the proposed turbines. However, due to local landform, clear views of the proposed turbines are only likely to be obtained from upper floor windows. From ground floor windows and from much of the curtilage, views would be partially obstructed. Where visible, the hubs of five proposed turbines and the blade tips of a further four would be seen on the southern horizon, framed by the valley of the Hawkshaw Burn. A visualisation from the garden of this property is shown in Figure 5, Viewpoint E of the FEI Technical Appendices.

3.80 We find that the proposal would significantly affect views from this property down the Hawkshaw valley as it would introduce a rather cluttered arrangement of turbines on the skyline within an important view from the property. However, the separation from the property is such that the effect could not reasonably be described as overbearing.

3.81 Blacklaw Cottage is one of a group of three properties at the northern end of the Fruid reservoir. It is 1.8 kilometres from the nearest visible turbine and about 120 metres below the turbine base height. Due to the orientation of the property, only oblique views of any of the proposed turbines would be available from within the cottage. Clearer views would be
available from its garden (albeit partially filtered by trees within the garden) and from the access track.

3.82 Three turbine hubs would be visible from this property, along with the blade tips of two others. The turbines would be seen beyond the dam, which is a very prominent man-made structure. We predict that, despite this visual context, the turbines would be prominent and intrusive elements in the view from the garden and driveway to this property. However, we agree with the applicant that the effect on views from the property itself would be less significantly affected. We also agree that the overall effect on the property would not be overbearing. Figure 3C in the FEI Technical Appendices shows a wireline of the view from this property.

3.83 A visualisation for the road that approaches the driveway serving Blacklaw Cottage, Blacklaw Bungalow and Craiglaw Cottage is at Figure 5, Viewpoint D of the FEI Technical Appendices. We observed on our site inspection that the roadside trees in this visualisation have been felled. However, this does not affect the visibility of the proposed turbines from any of the affected properties or from the Fruid Road, except from a position immediately adjacent to the former plantation, where tree screening would have obstructed the view. We are satisfied that the removal of these trees has no material effect on the applicant’s ES and FEI assessment.

3.84 Craiglaw Cottage is adjacent to Blacklaw Cottage and is a similar distance from the development and at a similar elevation to its neighbour. Due to its orientation, only oblique views of the turbines would be available from within the property. However, from its rear garden and particularly from the access track to the property, clear views of five turbine hubs and one blade would be available. As with the neighbouring property, there would some filtering of views from the garden and, in views towards the proposed turbines, the dam would be a prominent foreground feature. Nevertheless, we conclude that views from the garden and access driveway would be significantly affected, although not to such an extent that the property could reasonably be said to be an undesirable place in which to live. The applicant’s visualisation for the view from the garden of this property is Figure 5 Viewpoint G in the FEI Technical Appendices.

3.85 Fruid Cottage, Waterend and End Cottage lie at the opposite end of the reservoir, approximately 2.2 kilometres from the nearest visible turbine and at an elevation approximately 65 metres lower. Views of the development site would be available from these properties’ rear gardens and from windows in their rear walls, which directly face the site. The hubs of five turbines and blade tips of four more would be visible on the skyline above the hills that form the western valley side, beyond the reservoir that dominates the foreground. Although most of the turbine towers would be screened behind Whitelaw Brae and Glengonnor Hill, the visible extent of the machines would appear large in relation to these hills, and the moving blades would tend to draw the eye. Visual effects on these receptors would be of major significance, although we agree that the properties would not be dominated by the development such that they became undesirable places in which to live. Viewpoints A, B and C in Figure 5 of the FEI Technical Appendices show the views from these properties.

3.86 The residents of Blacklaw Bungalow, which is adjacent to Blacklaw Cottage, raised objections to the proposal. No views of the proposed turbines would be available from that property and the planning authority has no concerns over potential effects on the amenity of its residents. However, as with its two neighbours, there would be views of the development from the Fruid Road and from the access track from that road to the property, which we have
taken into account in weighing the overall harm arising from the development against the benefits it is likely to bring.

3.87 Overall, we find that the proposal would have a significant effect on views from the gardens of all eight properties from where the turbines would be seen. From all but two of these, (Craiglaw Cottage and Blacklaw Cottage) there would also be significant effects on views from within the properties. We are satisfied that the site is far enough away from all residential neighbours that none would experience an overbearing effect from the development or be so affected by views of the proposal that it would no longer be an attractive place in which to live.

Cumulative effects

3.88 SNH contends that the positioning, scale and design of the proposal are such that, when seen in conjunction with the Clyde and Glenkerie wind farms, it would fail to accord with its publication *Siting and designing wind farms in the landscape 2014*. Chapter 4 of that document provides advice on designing a wind farm development in a landscape where there are existing wind farms. This calls for the consistent application of design objectives and stresses the importance of maintaining adequate separation between different developments so that they appear clearly separate.

3.89 The existing pattern of wind farm development in this location is of large developments of turbines arranged around the contours of the upper slopes of hills. That is the approach taken in this proposal. The closest other development to the appeal site is the Clyde wind farm and its extension. At its closest point that development would be approximately two kilometres from the current proposal. We are satisfied that there is sufficient separation between that development and the turbines now proposed for there to be no impression of the two schemes merging or of the landscape becoming dominated by turbines.

3.90 It is inevitable that from certain viewpoints, a proposed development will be seen in the foreground of, and will therefore appear more prominent than, an existing wind farm. That is not in itself a cause for concern; our view is that such an effect would only be objectionable if it led to confusion over scale and distance in the landscape or a clear conflict between the layout or scale of the two developments. In this instance, our conclusion is that such adverse effects do not arise. The scale and layout of the proposed turbines are complementary to existing developments, and the smaller scale of the overall scheme (in terms of turbine numbers) appears appropriate to the slightly smaller landscape scale that is found at the application site when compared with that at the Clyde wind farm site.

3.91 We do not share the planning authority’s concerns that the proposal, when seen in conjunction with the Clyde and Glenkerie developments would create the impression of turbine development encroaching from a landscape where wind farms are very apparent into a different landscape where they are absent. On a map, the River Tweed and, particularly, the A701, appear as significant landscape features. However, from our inspections of the site and its surroundings we conclude that, in reality, there is no impression that these features form a delineating feature in the landscape. On the contrary, the landscape appears very similar on either side of the valley.

3.92 From many hill top locations, the applicant points out that the A701 cannot be seen and cannot therefore be said to provide any dividing line between landscapes with and without turbine development. On the contrary, from such locations, the Southern Uplands landscape
of hills, moorland and plantation forest, washes across the valley with no discernible
distinction occurring within the Tweed valley.

3.93 Both sides of the A701, where it passes the application site, fall within the same
landscape character type (Southern Uplands with Scattered Forest). Further to the west, in
South Lanarkshire, the Southern Uplands LCT has a very similar character. Both sides of the
road feature extensive forest plantations. There are larger breaks in the plantation coverage
to the east of the valley (for example at the application site) but these do not, in our view,
materially distinguish the character of the landscape to the east from that to the west.

3.94 It is clearly factually correct that there are no turbines at present to the east of the road
and river, whereas there is extensive turbine development to the west. However, our site
inspections confirmed the findings of the applicant's route analysis of the A701 (referred to
above), which found that although opportunities to view the proposed turbines from that road,
were available from most of the 15.8 kilometre section studied, locations from where the
proposed turbines would be seen prominently, or where they would introduce such
development into a location where there was not already a view of turbine development, were
infrequent. Due to the winding nature of the route, we also accept that it is not always
apparent that all existing turbines lie to the west of the road.

3.95 Due to the screening effect of topography, which means that views of the proposed
turbines would be intermittent, and to the separation between the wind farms, we also find
that fears expressed by some local people of the proposal leading to the impression of a
canyon of turbines on either side of the road, are unfounded.

3.96 We are satisfied that there would be no sense of a marked change in the character of
the landscape to the east of the valley if this application were approved, when viewed either
from the road or from the hills. Consequently, we are confident that there would be no
impression of turbine development encroaching harmfully into an area not currently affected.

*Effects on wild land*

3.97 The proximity of the site to an identified WLA and the inherent sensitivity of such land
to large-scale man-made development, makes the consideration of effects on the WLA a
particularly important consideration.

3.98 The applicant’s consideration of wild land effects was originally undertaken as part of
the ES. This took account of the then current SNH guidance (originally from 2007 and
updated in 2014). Following the publication in 2017 of draft revised guidance and a formal
SNH description for the Talla-Hart Fell WLA, the applicant updated its assessment of wild
land effects. We have had regard to all of the assessment work and to the responses to it
from all parties.

3.99 Within the north western part of the WLA, within a radius of up to six kilometres from
the site, the applicant accepts there would be moderate (significant) effects on two of the
attributes of wild land: ‘sense of sanctuary or solitude’; and ‘absence of modern artefacts’.
However, with reference to a categorisation of the WLA it has undertaken in which the relative
wildness of the WLA was mapped according to eight degrees of wildness, it finds that the
areas that would be affected by views of the proposed turbines are already those of lower
wildness due to their location at the edge of the WLA and the views they already have of other man-made features including existing wind farm development.

3.100 The 2017 draft SNH guidance confirms that WLAs have the following physical attributes:

- A high degree of perceived naturalness;
- The lack of modern human artefacts or structures;
- Little evidence of contemporary land uses;
- Landform which is rugged, or otherwise physically challenging; and
- Remoteness and / or inaccessibility.

The perceptual responses evoked by these physical attributes include:

- A sense of sanctuary or solitude;
- Risk or, for some visitors, a sense of awe or anxiety;
- Perceptions that the landscape has arresting or inspiring qualities; and
- Fulfilment from the physical challenge required to penetrate into these places.

3.101 SNH’s description of the Tall-Hart Fell WLA (2017) identifies the key attributes and qualities of this particular wild land area. We undertook a number of site inspections within the WLA, both in the north western corner that is closest to the site and in other areas. Based on what we observed and on the evidence we have heard, we set out below our assessment of the degree to which the WLA would be affected by the proposed development, making reference, where relevant, to the attributes and qualities identified in the WLA description.

3.102 The first attribute of this WLA that is identified in the SNH description is “Rounded moorland hills, deeply incised by glens and deceptively challenging to traverse.” We found that this description of the topography accurately describes the landform of the entire WLA. However, we conclude that its reference to the challenging nature of the terrain is only applicable to the valley bottoms where the ground is wet and to the steeper valley sides. The summits of the hills within the WLA are smooth and not difficult to traverse, either in terms of the terrain or with regard to any navigational challenges (despite the absence of visible tracks on the ground). In any event, the proposal, lying outside the WLA, would not have any effect on this attribute.

3.103 The second identified attribute is “A strong perception of naturalness that contrasts with the surrounding forest plantations.” The WLA description notes that within the WLA itself there are many features that contribute to a perception of naturalness including the vegetation cover, exposed rock outcrops and fast flowing burns and waterfalls. It identifies a few reminders that the area is farmed including the presence of sheep, some stretches of fencing and the occasional sight of quad bike tracks. However in general it notes that there is a contrast between the perceived naturalness of the WLA itself and the surrounding terrain where there are visible features that are clearly man-made.

3.104 From our visits to the WLA we would agree with the SNH description. We observed that, once within the central valleys of the WLA, reminders of human land management, while still present, are far less obvious than can be seen from its periphery. In contrast, on the south side of the WLA, clear detractors from any sense of naturalness include the obviously engineered track that follows the Grey Mare’s Tail up to Loch Skeen and the prominent forest
plantations on hillsides above the Moffat Water. Similarly, on its northern edge, there is clear visibility of the forest plantations near Tweedsmuir, very extensive coverage in the middle to far distance of wind turbines and in the foreground, the Fruid reservoir and the adjacent road and cottages. These all detract significantly from the perception of naturalness within the peripheral areas of the WLA.

3.105 We predict that the proposed wind farm would detract further from the sense of naturalness on the northern edge of the WLA than is already the result of the visibility that one has of the forest plantations, reservoir and roads. This is due to its vertical scale, its proximity to the WLA, its clearly modern and man-made form, and the fact that its movement would tend to draw the eye. However, although closer to the viewer than the Clyde and Glenkerie wind farms, the significantly smaller number of turbines and the reduced horizontal spread of the proposed development would, despite its closer proximity, not significantly increase the harmful impact of such development on the already limited sense of naturalness that is experienced when looking north from the north-facing hill slopes, the summits closest to the northern edge of the WLA and those of the tallest hills within the WLA including Hartfell Rig (VP 9) and Firthope Rig (VP 10) from where there are views out of the WLA, across the wider landscape.

3.106 In such locations, the existing visibility of prominent man-made features means that, regardless of the physical attributes of land at the viewpoint itself, there is a greatly reduced perception of solitude and a clear sense that man-made development and contemporary land uses are not far away. This is reflected in the SNH description where it states “From the tops and upper slopes there are longer, more widespread views to more distant forest plantations. Those on the Ettrick Hills and to the south of Tweedsmuir are noticeable, with extraction tracks and areas of clear fell visible. Even where seen at a distance, these extensive plantations can diminish the sense of remoteness and sanctuary of the interior.”

3.107 The next identified attribute of the WLA is “A well-defined area of wild land that contrasts with the surrounding glens, but with strong visual links to adjacent hills.” We agree with the SNH description, there is a clear contrast in landscape character between the larger glens that surround the WLA, which contain roads, improved fields and other signs of human activity, and the simpler, more rugged and open moorland scenery of the WLA itself. We also accept that, when looking south from a few higher locations within the WLA, it is possible to view other upland areas without being fully aware of the man-made land uses that occupy the settled lower land between. This gives some impression that the extent of the wilder landscape is greater than is actually the case. However, when looking north, such as from the summits of Hartfell Rig and Firthope Rig, any views of other upland areas contain extensive evidence of man-made development including many wind turbines. In that direction therefore, which is where views of the proposed turbines would be available, we find that any visual link with nearby hills does not add to any positive perceptual response.

3.108 During our inspections of the WLA, we observed the final attribute that SNH identified: “few human artefacts, mostly historic settlements that are restricted to sheltered glens”. We found that there is wide variation in the physical attributes of the WLA and in the presence of human artefacts. In the valleys within its central area, where views to land outside the WLA are restricted by the topography, we found there to be a lack of human artefacts or structures and a reasonably strong perception of naturalness along with some degree of remoteness and inaccessibility. As a consequence of this, we found that, in those central areas of the WLA there was a sense of sanctuary and solitude and that there could be, in poor weather, a sense of risk and a degree of difficulty in navigating the terrain.
3.109 In contrast, we found that in locations closer to the edges of the WLA, it was possible to see clear evidence of man-made features such as roads, reservoirs and plantation forestry. These greatly reduced the physical attributes and the perceptual responses that we have set out above.

3.110 The applicant's analysis of this issue, which was unchallenged at the inquiry, estimates that of the highest quality areas of the WLA, only 3% of the Class 7 and only 0.15% of the Class 8 areas would have views of the proposed turbines. And only 0.23% of the WLA would have visibility of the Whitelaw Brae turbines without existing visibility of wind energy infrastructure once the Clyde Extension and Glenkerie Extension turbines are constructed. Of this area, none is located in the highest Classes of relative wildness (7 and 8).

3.111 When travelling south towards the north western corner of the WLA (with one's back to the site), there is an impression of the land becoming progressively more wild and dramatic. In SNH's description of the WLA it states "From the north, the Talla, Fruid and Megget reservoirs form obvious human elements, but allow striking views across the water towards the moorland hills." However, from such locations at the northern edge of the WLA, in order to see the proposed turbines one would need to turn away from the WLA and face in a north westerly direction, which would reveal not only the application turbines but also extensive evidence of other man-made development and a significantly less dramatic landscape.

3.112 This is in clear contrast to the impression one has when one descends in a southerly direction from these northern WLA hilltops into the secluded valleys beyond, where the impression of wildness and remoteness is much stronger. The SNH description states "From the glens and corries and within some lower-lying parts of the flatter tops, there is a stronger sense of enclosure and a focus on nearby detail, such as the hummocky topography formed by fluvio-glacial deposits, giving a greater sense of remoteness and sanctuary."

3.113 We agree with the planning authority and SNH that, due to its closer proximity and the fact that it would occupy lower-lying rather than predominantly skyline land, as existing and approved turbine development does, the proposed development would have increased prominence when seen from the northern edge of the WLA. However, we acknowledge that the Clyde and Glenkerie developments occupy a very wide arc in views of the application site, which would tend to counterbalance the fact that the proposed turbines would be closer to the viewpoint and more prominent.

3.114 We agree that the visual intrusion caused by views of the reservoir and forest plantations is less harmful to a visitor's experience of views from these locations than the proposed turbines. This is because such features, while man-made, are visually more recessive and have a more natural form than a wind farm. Nevertheless, when considering how the proposed development would affect the perception of wildness of visitors to this part of the WLA, we agree with the applicant that such features require to be taken into account.

3.115 Our conclusion is that, from all locations within the WLA where views of the proposed turbines would be available, there is already a significantly lower perception of many of the qualities that contribute to an impression of such locations being wild land. Furthermore, from locations within the heart of the WLA that exhibit the strongest physical attributes of wildness and invoke the clearest perceptual response of being within a relatively wild landscape, the proposed development would be virtually undetectable and would have no material effect.
3.116 We do not agree with the authority that the applicant’s approach to identifying areas of the WLA that have stronger and weaker wild land qualities undermines the concept of wild land or effectively reduces the status of those parts of the WLA that are less wild to a buffer zone around the core wild area. We note that SNH recognises that the perception of wildness varies significantly across the WLA and the applicant’s approach is consistent with that finding.

3.117 We also disagree with the authority that views into the WLA from other locations (for example from the summit of Broad Law (VP 11) are relevant to the consideration of wild land effects. The effect of the proposal on such views requires consideration in terms of its effect on visual amenity (as we have examined earlier in this report), but does not affect the wild land qualities of the WLA, which rely on the perceptual response of visitors to the WLA itself.

3.118 Overall, we agree with the applicant that the proposal would have a moderate and significant effect on perceptions of wildness within locations at the northern edge of the WLA and from a small number of peaks within the WLA where views of the development would be available. However, those affected parts of the WLA are almost exclusively already affected by views of other man-made development and we are satisfied that enough of the WLA and, in particular the parts that invoke the strongest perceptions of wildness, would either be entirely unaffected or would only be affected to an insignificant degree. As such, we find that the overall effect on the WLA would not be significant and that there would be no threat to its integrity.

3.119 Development plan policies of particular relevance to an assessment of landscape and visual effects include LDP Policies ED9 and EP5.

3.120 Policy ED9 commits the council to supporting renewable energy proposals that can be accommodated without unacceptable significant adverse impacts or effects, giving due regard to relevant environmental, community and cumulative impact considerations. It follows the assessment framework set out in SPP and also refers to wind energy supplementary guidance.

3.121 The supplementary guidance (which includes the council’s proposed onshore spatial framework as is required by SPP) is currently in draft and must therefore be given less weight than policies of the adopted LDP itself. The proposed spatial framework within that document would not rule out the development, although we note that the accompanying Landscape Capacity and Cumulative Impact report would not support the proposal, finding only limited capacity for further turbine development within this landscape character area.

3.122 Development management considerations within the supplementary guidance that do not essentially re-state existing policy objectives, appear to seek to impose more onerous requirements on prospective wind energy developments than is expected in by the LDP or SPP. These include an expectation that significant (rather than unacceptable) detrimental visual impacts are avoided. Overall, we find the proposal to be in conflict with the draft supplementary guidance. However, its draft status and the apparent conflict between some of its provisions and the LDP / SPP, lead us to conclude it should be given limited weight in our consideration of this proposal.

3.123 LDP Policy EP5 only permits proposals that would have a significant adverse impact on an SLA where this would be clearly outweighed by social or economic benefits of local or national importance. We are satisfied that the proposal would not have a significant impact
on the SLA except at a localised level where landscape quality is already reduced. Our conclusion is that, in accordance with this policy, any harm to the SLA would be clearly outweighed by the proposal’s positive socio-economic effects.

3.124 We have had regard to the various ministerial decisions on other wind energy proposals to which we have been referred and to the submissions the parties made about these. These include the Sallachy and Glencassley decisions, where wild land issues contributed to consent being refused, and Creag Riabhach, where consent was granted (although subject to a current court challenge) to a wind farm partly within a wild land area.

3.125 Our conclusion is that the facts of those earlier decisions differ in a number of respects from those of the current proposal. Such differences include the fact that none of the turbines proposed in this appeal is within the WLA, different levels of visibility, differently sized wild land areas and the fact that wild land is a more scarce resource in southern Scotland than it is in the Highlands. As such, none offers any directly applicable template for how the issue of wild land effects should be addressed in considering this proposal. Our approach to considering this proposal has been to assess it on its own merits, having regard to the unique set of circumstances that apply to this proposal and this location.
CHAPTER 4: FORESTRY EFFECTS

The evidence on forestry effects

4.1 It was originally anticipated that an inquiry session would be required for the consideration of forestry effects. However, parties subsequently agreed that these could be considered on the basis of written submissions. The written submissions included Chapter 17 of the ES, responses to that statement, and the submission of a Compensatory Planting Plan dated March 2016. This plan was subsequently updated with the submission of a Native Riparian Woodland Creation Proposal dated July 2016.

The main points for Scottish Borders Council

4.2 None of the council’s reasons for objecting to the proposal refers to forestry effects.

4.3 The council requires that any compensatory planting should be subject to the Scottish Government’s Policy on Control of Woodland Removal and the policies of the Scottish Border’s Woodland Strategy. In accordance with Policy EP13 Trees, Woodlands and Hedgerows of the local development plan and the woodland strategy Technical Advice Note, due to the pressure from wind farm development, appropriate compensatory planting in association with woodland removal is a priority issue for the Central Southern Uplands. The latest proposal provides for the replacement of felled areas and is in accordance with Policy EP13 and consistent with the council’s draft supplementary guidance on renewable energy.

4.4 As a separate issue, the council considers that in order to comply with Policy EP3 Local Biodiversity of the LDP, woodland creation measures to enhance habitat for black grouse should be provided. A package of compensation measures specifically to address impacts on black grouse is required over and above any requirement to compensate for loss of forestry on the site.

4.5 With regard to the general support by Forestry Commission Scotland (FCS) given to the applicant’s July 2016 planting proposals, the council agrees that the matter can be suitably dealt with by planning condition or legal agreement as appropriate. A similar view is reached with regard to securing compensation measures for impacts on black grouse.

Representations and responses by consultees and others

4.6 The position of Forestry Commission Scotland was initially one of objection due to the lack of sufficient information in the ES on the compensatory planting proposal. The initial compensatory planting plan was considered to have a poor fit with the woodland strategy technical advice note and also tensions around landscape fit of the proposed design. Therefore, FCS was unable to conclude that the proposed approach was sufficient to meet the requirements of Scottish Government policy. Following the submission of a revised scheme in July 2016, FCS responded confirming that it was confident that a suitable plan was deliverable on the site and that the matter could be dealt with by condition.

4.7 SNH has not objected and supports the native woodland and open ground content of the initial compensatory planting plan. However, it questions whether greater natural heritage benefits could be achieved through more naturalistic planting or woodland regeneration within the valleys of Hawkshaw and Fingland Burns. SNH also requires a commitment that the broad aims for management of the site to enhance blanket bog habitat, for compensatory
woodland planting and to plant woodland to benefit black grouse is subsequently worked up into a Habitat Management Plan which should be a condition on any permission granted.

4.8 Tweedsmuir Community Council is concerned over the loss of habitat through woodland removal which cannot be mitigated by compensatory planting.

The main points for the applicant

4.9 Located at the centre of the site is an area of privately owned, Sitka spruce-dominated commercial forestry known as Fingland Forest, planted between 1983 and 1986. This is not currently subject to an approved felling or management plan but, in the absence of the proposed development, the forestry would be felled over a 14 year period commencing 2018.

4.10 The applicant states that the iterative design process has resulted in the removal of three wind turbines, approximately 3.95 kilometres of access track, one borrow pit and the substation within the forested area. After assessing the different options of “key-holing”, total clear-felling and clear-felling of particular compartments, the proposal is for approximately 52 hectares of the existing 91 hectares of Fingland Forest to be clear felled. The remaining compartments (around 39 hectares) would be managed as commercial forestry and, where located above the Fingland Burn, would help to reduce run-off. A small area of forestry would also be retained to temporarily screen the proposed substation.

4.11 The applicant confirms that trees felled from the site would be sold commercially and the final end use would depend on the quality, with there being a mix of saw logs and chip wood. The remaining brash would be reused on site. All forestry operations would be carried out in accordance with Forestry Commission Scotland’s good practice and guidelines and would adhere to strict pollution prevention protocols. This is particularly relevant given that the forestry is within the catchment of the River Tweed SSSI/SAC. The removal of forestry within the catchment of Fingland Burn, a tributary of the River Tweed, is likely to reduce acidification over the longer-term.

4.12 Approximately 56 hectares of compensatory planting of native riparian woodland is proposed within three separate areas across the site, along with one small area of Scots pine. In choosing the areas of woodland creation, consideration was given to the conservation status of the River Tweed and the scheduled monument Hawkshaw Castle as well as other archaeological features present in the wider landscape. The locations chosen, on the lower slopes and riparian corridors along the Upper Tweed, Fingland and Hawkshaw Valleys, are classified as preferred for native riparian woodland expansion in the woodland strategy. The landscape has been carefully considered, based on key vantage points along the A701, the access route from Fruid Dam to Hawkshaw Reservoir and the Hawkshaw Castle scheduled monument site.

4.13 A large area of open ground has been retained to the northeast of the site as having the potential to create a suitable habitat for black grouse. The micro-siting and intensity of the key habitat features could be agreed in consultation with the Southern Uplands Partnership and/or RSPB at point of implementation. Elsewhere, lower-density planting is proposed to provide a desired graduation and mosaic of habitats favoured by black grouse including a smaller area of Scots pine. The corridor through Hawkshaw Glen has been designed to enable pedestrian access towards the Hawkshaw to Fruid Dam track.
4.14 The replanting scheme would lead to a net gain in the amount of woodland created and a greater diversity of broadleaf species being planted than would be the case without the proposed development. This approach is consistent with the woodland strategy. A proposed replanting scheme would be agreed with FCS, the details of which could be secured by a planning.

Reporters’ conclusions on forestry effects

4.15 We are satisfied that the proposed development has been designed to minimise loss of woodland, through identifying particular areas for clear felling within the existing forestry. We also consider that the value of the woodland to be removed, would be adequately compensated for elsewhere on the site through the proposed compensatory planting and improved public access. Indeed, we regard the proposed replanting proposal as offering a net public benefit in terms of habitat diversity, improved public access and a benefit to the character of the local landscape.

4.16 We consider that a number of conditions should be attached in the event of consent / permission being granted.

4.17 FCS seeks a condition requiring the applicant to provide a compensatory planting plan, including a timeframe for implementation. This would be consistent with the terms of the Scottish Government policy on woodland removal. There do not appear to be any outstanding matters raised with regard to compensatory planting which could not be covered within a planning condition. Furthermore, we note that SNH is satisfied that the River Tweed SAC/SSSI has been considered in the design of the planting proposed.

4.18 The applicant’s July 2016 proposal may still be subject to change. Given that there is also a need to identify the phasing and timescales for implementation and ensure that the compensatory planting is delivered in parallel with the construction and before the wind farm is operational, we consider that a condition on this matter is still required. The applicant is also agreeable to the inclusion of a planning condition as indicated by FCS.

4.19 The detail surrounding the Habitat Management Plan would be a matter for a separate planning condition.
CHAPTER 5: CULTURAL HERITAGE EFFECTS

The evidence on cultural heritage effects

5.1 Cultural heritage effects were considered in Chapters 9 of the ES and the FEI. The assessment highlights that there is the potential for the development to have direct effects on cultural heritage through the disturbance of archaeology and indirect effects on the setting of nearby historic assets.

5.2 The assessment considers effects on heritage assets within the site including archaeological remains and effects on the setting of the scheduled monuments Hawkshaw Castle (HA1) and Grange Hill Platform Settlement (HA2). Undesignated heritage assets within the site include Asset HA5, an unenclosed platform settlement. As a result of concerns from Historic Environment Scotland (HES) regarding Hawkshaw Castle (HA1), the applicant relocated turbine 11 and submitted Further Environmental Information that assessed the impact of this revised turbine layout. Consequently, HES withdrew its objection to the proposed development.

5.3 Evidence was heard at an inquiry session from witnesses on behalf of the applicant and Scottish Borders Council. Written representations by local residents were also made on these matters.

The main points for Scottish Borders Council

5.4 The council objects to the proposal on the grounds that it would have significant detrimental impacts on two archaeological sites of national significance, namely heritage asset Fingland Burn Platform Settlement (HA5) and the scheduled monument Hawkshaw Castle (HA1). The council’s specific concerns relate to turbines 1 to 6 and turbine 11, together with associated infrastructure. It considers these turbines should either be removed from the proposal or relocated to the south of the application site.

Fingland Burn Platform Settlement (HA5)

5.5 Asset HA5 is a well-preserved unenclosed hut platform settlement comprising six platforms on a slope overlooking Fingland Burn with a further three on the lower slopes that may be related. It is comparable with a scheduled settlement on Grange Hill (HA2) within the application site boundary and with other scheduled features in the Tweed Valley and present in South Lanarkshire. Despite acknowledging that the asset is a well-preserved example of its type, within a locally important area of prehistoric activity, the ES has not assessed its national significance.

5.6 This currently undesignated asset is argued by the council to meet the criteria for cultural significance and national importance, based on both its intrinsic and contextual characteristics. In the council’s view, it is at the very least of regional significance.

5.7 The valley setting formed by the Fingland Burn and its confluence with Cleuch Head Burn is considered integral to the appreciation, experience and understanding of the asset. The confluence of the burns and the valleys that feed them are a key element of the settlement’s setting. The platforms have the potential to contain important information on prehistoric domestic and farming practices and their relationship with the valleys allows for the understanding and appreciation of landscape exploitation in the period.
5.8 Although the council and applicant are largely in agreement on those features that are an important part of the setting of the Asset HA5, there is disagreement as to the asset’s cultural significance and to its national importance. In this respect the council has asked HES to consider scheduling Asset HA5 and considers it necessary for the applicant to identify and consider impacts to nationally significant assets regardless of whether these are scheduled.

5.9 There is also disagreement that certain topographical constraints (namely Peat and Glengonnor Hills) contribute to the asset’s setting – the council does not agree that these provide merely long distance views. It argues that both hills are integral to the topographic setting of the platform settlement. Furthermore, the council wishes to make clear that its concerns regarding the impact of visual dominance is on the appreciable setting from the asset itself and not from other viewpoints in the valley or from the proposed development.

5.10 The council accepts that modern intrusions comprising of a twentieth century reservoir and access track, post and wire fences and forestry blocks, impact upon the setting of Asset HA5. However, it believes they do not significantly detract from the sense of place and deep time afforded by the platforms and their interconnected relationships between each other and the topography.

5.11 The council considers that the presence of infrastructure and turbines on the tops and ridgelines of Peat Hill (turbines 1, 2 and 3) and Glengonnor Hill (turbines 4, 5 and 6) and the new infrastructure (access tracks, a borrow pit and a substation) in Fingland valley below, would dominate this key setting relationship and introduce a new kinetic element. The development would distract from this relationship and be incongruous with the asset’s current setting. The siting of turbine 11, on the lower slope of Peat Hill within the valley setting, would also be incongruous and would significantly detract from, and diminish, the appreciation of this key setting.

5.12 The council, similar to HES’ views on this matter, is also critical of the assessment methodology set out in the ES (paragraph 9.35). While there are nationally significant intrinsic qualities of Asset HA5, it is argued that by placing emphasis only on the intrinsic values and marginalising its associative and contextual qualities, the applicant presents an incomplete assessment. Therefore, the council does not accept that the impacts from the operational wind farm would be negligible as concluded in the ES (paragraph 9.128) and considers that setting impacts would be major and significant.

**Hawkshaw Castle (HA1)**

5.13 The council does not agree that the setting of Hawkshaw Castle is restricted to key views of setting elements from within the site itself. The setting of the castle is appreciated and experienced through its relationship with the later enclosure in which it sits, the Porteous family monument (cairn), the Hawkshaw Burn valley (including constraining hills), the historic land-use features and the predominance of rough grazing and woodland on Glengonnor Hill.

5.14 The council supported HES’s original objection concerning adverse impacts upon the setting of the castle. Although the council supports the removal of turbine 11 from its original location, this has only benefitted the setting to a small degree. There are continued concerns that turbines 5 and 6 and the associated access track would dominate the view of the castle’s setting as approached by most visitors. The council is also of the view that HES’s original
concerns, that the proposed development will have significant adverse impacts, still stand but these were not sufficient to warrant an SNH objection.

5.15 From Benner Dod, the council argues that there is a clear view of the asset’s location and setting including its elevated position, relationship with the Hawkshaw valley, other more recent features of the historic landscape and cultural associations. It is not accepted that this view should be downplayed due to any original intent by the builders of the castle to conceal views of it or due to its current lack of architectural prominence. The proposed development would diminish and distract from this key view and significantly affect the cultural significance of the castle’s setting.

5.16 The council believes the proposal would significantly affect the experience and appreciation of Hawkshaw Castle, particularly from the Benner Dod track. The view from this track is considered to be the first and best place to appreciate the castle (including the Porteous Cairn), its landscape context and wider setting, and the associative value for visitors. When seen from this viewpoint (FEI Figure 9.10), the experience of Hawkshaw Castle would be dominated by the turbines along the ridgeline of Glengonnor Hill and would diminish the castle’s location and setting context. This would be out of keeping with the castle’s current setting. The council does not agree that the existing Porteous Cairn would detract from this dominant effect - the castle’s setting and cultural significance is accentuated by the Porteous Cairn through association; support for which is given in HES Managing Change guidance on setting.

Mitigation

5.17 In commenting on mitigation, the council is of the view that the package of measures proposed, which focuses on promotion and interpretation, does not constitute mitigation which should consist of visual enhancement.

5.18 Should Scottish Ministers consider approval of the scheme as it stands, then conditions, a legal agreement and off-set mitigation would be necessary to improve setting understanding and cover the issues of unknown archaeology.

The main points for Historic Environment Scotland (HES)

5.19 HES’ (formerly Historic Scotland) original position was one of objection to the proposed development on the basis that it would have a significant adverse impact on the setting of the scheduled monument Hawkshaw Castle.

5.20 HES describes the monument as a tower or bastle house built in the fifteenth century. It is a well preserved archaeological site consisting of a central stone building probably surrounded by a ditch, beyond which are extensive traces of settlement, field systems and other agricultural remains. Other than modern sheep installations, dykes and forestry in the area, the essential elements of the landscape remain unchanged. The site was the main residence of the Porteous family who have been in the area since the fifteenth century. Although ruined, the location is still valued by the Porteous’ who erected a cairn on the site to honour the family in 1990.

5.21 HES describes the setting of the monument characterised as being on an elevated position above Hawkshaw Burn within a bowl formed by the hills of Little Dod, Benner Dod, and Glengonnor Hill. The monument is located in such a location to have a full view down the
Hawkshaw Burn to the main River Tweed valley. The monument appears to be located to utilise the local topography as defence and to dominate the Hawkshaw Burn access route. Although there is modern forestry, dykes, sheepfold and a water management system in the area, the landscape is relatively unchanged. The location of the memorial cairn on the site emphasises the value of the site in this setting.

5.22  HES believes the key element of the site’s setting is its inconspicuous location. The result of being overlooked by such large scale development would detract from this sense of discretion. HES was critical of the assessment methodology set out in the ES (paragraph 9.35) which, in the assessment of sensitivity, includes relative weighting of intrinsic, contextual and associative characteristics of heritage assets. HES advised that it would be more appropriate to consider levels of intrinsic and contextual value independently.

5.23  HES comments at pre-application stage on a 16 turbine scheme resulted in the earlier siting of turbines 5 and 7 being removed. HES further indicated that appropriate mitigation would be to remove turbine 11 (originally turbine 13) which would appear in the view from Hawkshaw Castle to Hawkshaw Valley - a key characteristic of the setting of the monument. This would reduce the impact to a level at which HES would be able to remove their objection. Following a final alteration to the turbine layout by the applicant and the relocation of turbine 11 to the foot of Peat Hill, HES withdrew its objection. Although HES maintain that there would be an adverse impact on the setting of Hawkshaw Castle, this does not raise issues for their remit.

The main points for others

5.24  Objections were received highlighting concerns that the wind farm would detract from the historic and cultural site of Hawkshaw Castle and have an adverse impact on the setting of a number of Bronze Age archaeological sites. There are also visual and cultural associations between the Porteous Cairn and Hawkshaw Castle, the ancestral home of the Porteous family. The presence of the turbines and their visual impact would affect the quiet enjoyment of the area and deter future visitors.

The main points for the applicant

5.25  There are two scheduled monuments within the site: HA2 Grange Hill Platform Settlement and HA1 Hawkshaw Castle. HA1 Hawkshaw Castle remains the primary concern of the council and others, along with the unscheduled HA5 unenclosed platform settlement. Further undesignated assets including platform settlements, cairns and burial mounds exist with the inner study area and are considered to be of low sensitivity.

Grange Hill Platform Settlement (HA2)

5.26  Asset HA2 comprises a group of five prehistoric hut platforms on the lower slope of Grange Hill overlooking the River Tweed at its confluence with the Fingland Burn. As an unenclosed platform settlement, the key characteristic of its setting comprises its intrinsic value as an archaeological resource and its morphology and location represented by sub-circular house platforms, cut into the slopes of valleys, normally above the upper limits of medieval and later cultivation. In general terms, such platforms do not appear to have been constructed with defence, or views from and toward them in mind.
5.27 The applicant states that, of the five nearest visible turbines to Asset HA2, only turbine 1 would be visible in full and turbine 4, one kilometre away would be mostly hidden behind the shoulder of Grange Hill. Given the relative distances, no turbines would be a visually dominant feature in outward views. The clearest views inward towards the platforms are from the west and north-west but details of their form and distribution cannot be discerned. Views from the south, south-east and east are severely restricted. From the southern bank of the River Tweed, the platforms are visible in the foreground and can be discerned more immediately.

5.28 The applicant’s assessment concludes that the characteristics of Asset HA2’s setting would not be altered by the proposed development resulting in an impact of negligible effect that is not significant.

Fingland Burn Platform Settlement (HA5)

5.29 As with Asset HA2, the key characteristic of the setting of this unenclosed platform is considered to be its intrinsic value as an archaeological resource, as well as its morphology and location, rather than having a prominent visual presence within the landscape. The applicant’s assessment concludes that it is of medium sensitivity.

5.30 The applicant states that, as a small subsistence agricultural settlement, Asset HA5 is understood in a purely local setting on the steep valley side above the Fingland Burn. All 14 turbines would be visible from Asset HA5 with the closest (turbine 11) at 540 metres to the south east. The key views are those of the banks of the Fingland Burn, as well as north east along the valley, and south east towards the confluence of the two burns. These middle and short-distance views are likely to encompass the lands potentially grazed and farmed by the inhabitants of the settlement. The applicant agrees that Asset HA5 has a setting relationship with the Fingland Burn valley and the local topography. However, as the wind farm would lie beyond the valley and has no direct impact on topography or the ability to appreciate the topography, this relationship would not be affected. The applicant believes visual impacts with regard to views from the asset have been wrongly interpreted by the council as impacts on the setting of the asset.

5.31 In the applicant’s opinion, the contribution that setting makes to the cultural significance of the asset does not include associations with the wider landscape. Asset HA5 does not have a prominent visual presence within the landscape and views towards it are of limited relevance to an appreciation of its setting. Long-range views, either out from or towards the asset make no material contribution to its cultural significance. The presence of the operational wind farm in the setting of Asset HA5 would constitute an impact of negligible magnitude and would not lead to any appreciable reduction in its cultural significance.

5.32 The applicant does not accept that the Fingland Burn can be characterised as a well-preserved prehistoric landscape. It contains archaeological sites dating from at least the Bronze Age up to pre-modern. Other examples of platform settlements in the valley cannot be appreciated from Asset HA5 and therefore do not contribute materially to its setting. The only component of the wind farm infrastructure that lies within this supposed prehistoric landscape is an access track and this would follow the route of an existing track.

5.33 Asset HA5 is assessed in the ES as having regional importance. The applicant interprets the lack of action by HES to consider Asset HA5 as a candidate for scheduling indicates that they do not share the council’s concerns regarding its national importance.
Even if it was assumed it was of national importance, thereby increasing its sensitivity and therefore the significance of any impact, the applicant states that the magnitude of the impact would still be negligible.

**Hawkshaw Castle (HA1)**

5.34 Hawkshaw Castle, a medieval tower house, was built in the mid-fifteenth century by William Porteous, a notorious Border Reiver. HES’ description of Hawkshaw Castle is considered by the applicant to overstate the preservation and prominence of the remains of the tower house. The central stone building of the castle has been reduced to its foundations, of which only one section of exposed stone wall surviving to 1.3 metres high is visible. The remainder of the building footprint is represented by grass-covered banks and mounds. No ditch is evident around the remains. The upstanding traces of Hawkshaw Castle cannot be discerned from a distance as they are lost within the rough ground and landscape of post-Improvement stone-built agricultural remains.

5.35 The cultural significance of the castle lies primarily in the evidential significance of the archaeological deposits that are believed to survive in and around the remains of the tower. As a scheduled monument, the site of the castle is considered to be of high sensitivity.

5.36 The site is surrounded by a later drystone wall forming a large livestock enclosure, within which several mature trees are growing. Earthen banks and enclosures nearby may represent activity associated with the tower house. In commenting upon HES’ assertion that the essential elements of the landscape remain unchanged, the applicant highlights a dam and building associated with Fruid Reservoir, which are located approximately 180 metres north-east of the castle. A tarmac track leading from the reservoir is also visible from the castle along with a number of commercial forestry plantations.

5.37 While accepting that the surroundings to the castle do contribute to how the feature is understood, appreciated and experienced, the applicant states that the asset is neither a well-preserved medieval building that conjures up a sense of the past, nor a prominent feature in the landscape. Also, the wider landscape includes modern features and is not considered to be a well-preserved historic landscape. Consequently, the setting of the castle is argued to be less sensitive to change than if the monument were a prominent, well-preserved feature within a related and historic landscape.

5.38 In the applicant’s opinion, the key characteristics of the monument’s setting are its inconspicuous location and the wide, largely unrestricted views out to the north-west along the valley of the Hawkshaw Burn, to the north and north-east of the slopes of Whiteside Hill, and east and south-east across and down the Fruid Valley. Views to the west are limited by the steep slopes of Glengonnor Hill and the commercial forestry plantation on the crest of the hill.

5.39 From the monument, turbines would be visible towards the west, south-west and south although views towards turbines 4, 5 and 6 in the west would be restricted by rising ground. Turbine 5, located on the summit of Glengonnor Hill, would be closest at 700 metres. An access track would also run along the eastern flank of Glengonnor Hill but this is unlikely to be visible.

5.40 The applicant states that the monument is located on a typical site for such a building and it is highly likely that it was sited and built in this location with discretion in mind or to be intentionally unobtrusive. Views towards Glengonnor Hill and Little Dod are of limited
relevance to the castle's strategic location or its primary function as an inconspicuous, defensive retreat and do not contribute to an understanding or appreciation of the castle's setting. It is argued that the presence of wind turbines on these hills will not make the remains of Hawkshaw Castle more conspicuous, nor will they hinder any appreciation or understanding of the castle's inconspicuous location.

5.41 Views toward the monument are argued to be less relevant in understanding and appreciating it, as the remains of the tower house cannot be discerned in most inward views, even from a relatively close range. From the east bank of the reservoir, the upper slopes of Glengonnor Hill are visible but the site of the monument is hidden in a dip. The clearest view is from Little Dod where the mound (but not the masonry atop it) can be seen as well as views along the length of Hawkshaw Burn. In the views from Whiteside Hill the dam and pump house are prominent features and the site of the monument is lost on the undulating slopes of Glengonnor Hill behind it and adjacent hills to the south.

5.42 The applicant believes the council has overstated the relevance of the view illustrated in FEI Figure 9.10 from the Benner Dod track. It is accepted that this is the route most likely to be used by any visitors to Hawkshaw Castle and turbines 5 and 6 would dominate the view towards the west. However, this change in the setting of the castle would not considerably degrade the ability to appreciate and experience the castle's relationship with the Hawkshaw Valley. As the remains of the castle cannot be easily discerned from this distance, visual competition or distraction from turbines 5 and 6 would not arise.

5.43 In responding to the concerns of HES (and the council) with regard to the methodology, the applicant states that the assessment has not weighed the intrinsic, contextual and associative characteristics against one another. Rather it has described the setting of an asset in terms of various characteristics, which contribute to differing degrees to the overall significance of the asset. This is considered to be the correct approach.

5.44 The applicant’s assessment concludes that the key characteristics of the castle’s setting would remain substantially unaffected and the operational impacts would result in a minor effect that is not significant and would not affect the integrity of the setting of the scheduled monument, consistent with paragraph 145 of Scottish Planning Policy. Although some inconsistency between Policy EP8 of the local development plan and Scottish Planning Policy is highlighted, overall, no conflict is identified with Policy EP8.

5.45 The Porteous Cairn, built in 1990 in memory of William Porteous, and located immediately north of the structural remnants of the castle, is not scheduled and does not form part of the asset. Whilst symbolising the associative value of the monument and its setting by virtue of its connection with a known historical figure, in the applicant’s opinion the cairn contributes nothing to either the intrinsic or the contextual characteristics of the monument and its setting. It concludes that the associative values attached to Hawkshaw Castle would not be adversely affected by the presence of the wind farm and the physical remains of the tower house (the symbolic ancestral home) and the commemorative cairn would be unchanged.

5.46 The applicant argues that it is possible that the construction of the cairn has obscured or damaged potential buried archaeological remains, therefore impacting upon intrinsic characteristics. Its presence in the immediate foreground of one of the key views from the castle also detracts from contextual characteristics relating to the relationship of the monument with its wider landscape and setting. On balance the applicant considers that the
presence of the cairn, whilst evidence of the Hawkshaw’s associative value, is an unwelcome visual intrusion upon the fabric and setting of Hawkshaw Castle, and consequently does not contribute to the cultural significance of its setting.

Mitigation

5.47 The applicant states that potential adverse impacts on the local cultural heritage resource identified during the application process have been mitigated wherever possible as described in the ES/FEI. The layout of the wind farm has been refined through a series of design iterations and all known historic assets will be avoided by construction works with the exception of HA9 – a nineteenth century farm track. Compensation for construction-phase impacts on Asset HA9 and any currently unrecorded archaeological features, would be achieved through a programme of archaeological works to be approved by the council.

5.48 A programme of archaeological enhancement in collaboration with the Biggar Archaeology Group would serve to offset any unavoidable operational impacts on the setting of historic assets. These include publication and dissemination of results of archaeological surveys and excavations, and providing local interpretation information.

Reporters’ conclusions on cultural heritage effects

5.49 Schedule 9 of the Electricity Act 1989 requires regard to be had to the desirability of protecting sites, buildings and objects of architectural, historic or archaeological interest. It also requires the applicant to undertake reasonable mitigation of any effect on such assets.

5.50 The cultural heritage assets within the site boundary are identified within FEI Figure 9.1. These include two scheduled monuments; Hawkshaw Castle (HA1) and Grange Hill Platform Settlement (HA2). There are also non-designated assets within the site including Fingland Burn Platform Settlement (HA5) and there is the potential for previously undiscovered archaeological remains to experience direct effects during the construction period. The applicant’s conclusions with regard to Grange Hill Platform Settlement (HA2) are not disputed by the council or others and we agree with this position. Potential adverse impacts on the scheduled Hawkshaw Castle (HA1) and undesignated Fingland Burn Platform Settlement (HA5) are the primary concern of those objecting.

Hawkshaw Castle (HA1)

5.51 SPP states that development which will have an adverse impact on scheduled monuments or the integrity of their setting should not be permitted unless there are exceptional circumstances. We agree that there would be no direct impact on the scheduled monument Hawkshaw Castle. The key matters in dispute relate to the extent to which the setting of the monument would be adversely affected.

5.52 Defining the setting of an historic asset is a case-specific process that ultimately relies upon informed judgement. HES Managing Change Guidance on Setting sets out the principles to consider. We are satisfied that the applicant has appropriately followed the three-stage methodology set out in the guidance in assessing the impact on setting. The disagreement between the main parties arises primarily from the relative importance given to particular viewpoints, historical associations and the appreciation and experience that contribute to the setting of the monument.
5.53 The council considers the principal view of the castle’s location, its landscape context and its associative value for visitors, is from the Benner Dod hill and the Benner Dod track (viewpoint FEI 9.10). This location and context is argued to be accentuated by the Porteous cairn. The applicant regards the views from the monument along Hawkshaw valley and towards Fruid Valley, along with the monument’s inconspicuous location, to be key characteristics of its setting; less importance is given to inward views.

5.54 The scheduled area of the castle is centred on a low, flat-topped mound approximately 30 metres in diameter. The central stone building of the castle has been reduced to its foundations, of which only one section of exposed stone wall is visible. The remainder of the building footprint is represented by grass-covered banks and mounds.

5.55 As characterised by HES, the setting of the monument comprises an elevated position above Hawkshaw Burn within a bowl formed by the hills of Little Dod, Benner Dod, and Glengonnor Hill. The potentially unscrupulous activities of the castle's occupiers, provides a context as to why the castle was located in such a location. The intentional siting of the castle building - up a side valley, close to, but out of sight of, the main route along Tweeddale, but with a view down the Hawkshaw Burn, enabled the occupiers to fully observe the Hawkshaw valley access route and utilise the local topography as cover.

5.56 In views from the Benner Dod track, the full blade and upper parts of towers of turbines 4, 5 and 6 would be visible with a further nine turbines visible beyond. We agree with the council that in particular, turbines 5 and 6 would dominate the ridgeline. However, it is only at very close range (as you approach the monument from the north) that the castle remains become evident and can reasonably be experienced. Although we recognise, from the HES setting guidance, that sites need not be visually prominent to have a setting, we have also had regard to the historical context that for surveillance purposes the castle was deliberately placed here so as not to be easily seen. Overall, we regard the viewpoint from the Benner Dod track as less important in order to appreciate and understand the castle’s relationship with the Hawkshaw valley.

5.57 Given the restricted views towards Glengonnor Hill to the west and little need historically for surveillance to the south, we accept that views in these directions do not contribute to an understanding or appreciation of the castle's setting. In our opinion, views to the north-west, as represented by Figure 9.7C, along with the associated landscape features, are important factors in contributing to the understanding and appreciation of the castle’s setting and its cultural significance.

5.58 More modern features such as dykes, sheepfolds and the small reservoir and its associated structures currently feature in the north-west view. No turbines are proposed within the Hawkshaw valley between Glengonnor Hill and Benner Dod. The hub of turbine 5 and the blade tips of turbine 4 would be visible, however these would not be overly prominent from this aspect or detract from the key characteristics of the monument’s setting. Therefore, we do not consider that the proposed development would have a detrimental impact on the monument’s cultural significance or have a significantly adverse effect on its setting.

5.59 The unscheduled (and modern) Porteous cairn lies immediately to the north of the scheduled monument. As the cairn attracts a distinct type of visitor to the castle (members of the Porteous family), we accept that they will identify with, and attach historical associations with, the scheduled monument. However, we do not regard evidence of visitors to a monument as a measure of its intrinsic value. Regardless of whether the cairn was in place...
or not, the castle would continue to have historic importance as a scheduled monument. We accept that the cairn contributes to the cultural understanding of the former castle and that it helps identify its location in the landscape. However, we would argue that it does not directly contribute to its wider setting.

5.60 As we have concluded above, we do not consider that views towards the castle are crucial in understanding and appreciating its cultural significance. Rather, we regard views out towards the Hawkshaw valley as integral to the appreciation and experience in the setting of the monument. For a visitor, approaching from the Benner Dod track, the cairn simply orientates them to the correct location in which they can then experience and appreciate the features of the castle and the views of the wider landscape. We do not consider that this experience would be impeded by the proposed development.

**Fingland Burn Platform Settlement (HA5)**

5.61 Asset HA5 is a well-preserved multi-dwelling platform settlement on the slopes of Big Dod. Currently undesignated, the council argues that it is of national significance with high sensitivity, and merits scheduling. This contributes to the council’s conclusion that the development would have a major impact on this asset. A counter position of medium sensitivity and negligible impact is reached by the applicant in the ES.

5.62 We note that asset HA5 is one of 17 platform settlements within 5 kilometres of the proposed development, of which seven are scheduled. Those in the vicinity (HA4, HA6, HA8 and HA10) are unscheduled with the exception of Grange Hill Platform Settlement (HA2).

5.63 As the remains of a small agricultural settlement from the Bronze Age, the cultural significance of Asset HA5 is represented by its intrinsic archaeological deposits assumed to survive on the platforms. The ES also describes the key characteristics generally of platform settlements, in terms of their morphology and location, as groups of sub-circular platforms cut into the slopes of the valleys with enclosure banks and possible areas of cultivation normally in close proximity.

5.64 There is no dispute that these features contribute to the cultural understanding and appreciation and therefore the key setting characteristics of Asset HA5.

5.65 The council also regards Glengonnor Hill and Peat Hill as forming significant constraints on the topographic setting of Asset HA5 and therefore integral to its setting. The applicant considers that Asset HA5 is appreciated in an entirely local topographic setting on the valley side above the Fingland Burn and long-range views, either out from or towards the asset make no material contribution to its cultural significance.

5.66 As the Fingland Burn valley encompasses the lands potentially grazed and farmed by the inhabitants of the settlement, there are clearly contextual links with this area, important in understanding Asset HA5’s location and purpose. However, how far these worked areas extended is unclear. Any association with the surrounding peaks, moorland and areas of rough grazing is now more difficult to verify.

5.67 Views from Asset HA5 toward the west and south are largely restricted by the slopes of Big Dod. Views to the north east are of the Fingland valley and Glengonnor Hill and include the reservoir and associated structures, the access track and woodland plantation. To the east, the flatter valley floor of Fingland Burn and the watercourse is visible with the plantation
beyond. To the south east are views of Peat Hill where the Fingland Burn is also visible but a block of forestry obscures views of the confluence with the Cleuch Head Burn. Towards Glengonnor Hill, six turbines would be visible as represented by FEI Figure 9.11a. Towards Peat Hill, a total of 12 turbines would be visible as represented by the visualisation FEI Figure 9.11b.

5.68 We consider that the key views from Asset HA5 are generally contained to the following extents: out towards the banks of the Fingland Burn; north east along the valley; and south east towards the confluence of the two burns. Clearly there will be views of the turbines that extend beyond this, as far as the surrounding peaks. However, we do not regard these views as fundamental to the appreciation and understanding of Asset HA5. We accept the argument that platform settlements were not sited or appreciated with reference to wider views. Had this been the case they would have been sited quite differently.

5.69 We also consider that views toward Asset HA5 are of limited relevance to an appreciation of its setting. There would be no visual competition with the turbines given that the platforms themselves are difficult to distinguish in the landscape.

5.70 We do not consider that the placement of turbines on Glengonnor Hill and Peat Hill, and the creation of new infrastructure in the Fingland Burn valley, would detract from the ability to appreciate and understand Asset HA5 and its associations with the local landscape. Overall, we agree with the conclusions within the ES in that there would be a negligible impact on the setting of Asset HA5.

Mitigation

5.71 The proposed mitigation measures are outlined with the ES and FEI and summarised in Chapter 19.

5.72 With regard to Hawkshaw Castle (HA1), the primary focus in terms of proposed mitigation is in terms of avoidance and reduction through the removal and moving of turbines. No further proposals of avoidance or reduction are submitted by the applicant although appropriate micro-siting is proposed in relation to construction and Compensatory Planting Plan impacts on unknown archaeological remains.

5.73 The compound at the site entrance was relocated and redesigned to avoid any direct effects on the scheduled platform settlement HA2. A programme of archaeological works is proposed in relation to Asset HA9 and any unrecorded archaeological features. Off-set mitigation to compensate for any residual impacts is proposed in the form of a programme of works in collaboration with the Bigger Archaeology Group. Excavation and dissemination of the results are considered to represent enhancement measures. Wider dissemination and interpretation is also proposed in association with a proposed walking trail and investment in local enterprises.

5.74 Overall, we consider that the various mitigation measures outlined in the ES and FEI fully address the requirement under Schedule 9 of the Act.
CHAPTER 6: SOCIO-ECONOMIC EFFECTS

The evidence on socio-economic and tourism effects

6.1 Socio-economic and tourism effects were considered in Chapters 13 and 18 of the ES, in written submissions and at an inquiry session. Evidence was heard from witnesses on behalf of the applicant, Scottish Borders Council, Mountaineering Council of Scotland, Tweedsmuir Community Council and local residents. Written representations by ScotWays, John Muir Trust, Dumfries and Galloway Council, Upper Tweed Community Council, Ettrick and Yarrow Community Council and local residents were also made on these matters.

The main points for Scottish Borders Council

6.2 Although the council has not objected on socio-economic and tourism grounds and did not lead a witness specifically on these issues at the inquiry session, its planning policy witness made reference to an issue of relevance to the topic: the Scottish Government’s guidance on good practice principles for community benefits from onshore renewable energy developments.

6.3 The council states that, while an offer of community ownership has been made, no contractual arrangements are in place to deliver it, nor a willing partner identified. The council notes that the guidance is clear that unless a willing partner has been identified, then only very limited weight can be attributed to such an offer. Accordingly, while community ownership is a material consideration in this case only very limited weight should be given to this matter.

6.4 In its closing submission, the council highlighted that in respect of the landscape and visual impacts, some of the visual receptors will be tourists. Accordingly, this should be borne in mind when considering the landscape and visual impacts and the potential socio-economic effects of such impacts. In the council’s view, the potential economic benefits do not outweigh the significant negative landscape and visual effects.

The main points for the Mountaineering Council of Scotland (MCoFoS)

6.5 MCoFoS notes that much of the evidence on tourism is based on views from accommodation, roads, and marketed attractions with visitor counts. None of these is relevant to the MCoFoS case, which is concerned with hill ‘destinations’. Proposed investment and employment in the wind farm itself, which cannot be constrained to the local area is also not relevant. These benefits are obtained from development in any location and do not require this particular development for their achievement.

6.6 MCoFoS believes that the increased visibility of turbines since 2008, is now impacting more strongly upon visitor intentions with regard to being discouraged from visiting an area with the presence of a wind farm. The MCoFoS 2016 survey of 970 respondents, which included MCoFoS and British Mountaineering Council (BMC) members, confirms that a substantial majority believe that wind farms are having an adverse effect on Scotland’s mountains and the majority of mountaineers are discouraged from visiting areas with wind farms. These results could affect Scottish landscape-based tourism activities and local economies that rely upon the reputation of Scotland’s mountains.
6.7 MCofS’ conclusion is that there is a very high likelihood that there is an impact from wind farms on particular types of tourism in certain landscapes. This is considered a more balanced and objective view of the totality of the limited available evidence than the applicant’s (and the industry’s) rigid denial of any effect in any location where wind farm construction is proposed. If such an effect is accepted, then it is difficult not to see it applying to the proposed development, sitting beside the largest and highest upland area in southeast Scotland. The proposed development would diminish the attractiveness of the Tweedsmuir Hills as a recreational destination and tourist resource, with a sustained adverse economic impact on local businesses including the nearby towns of Moffat, Peebles and the wider area.

6.8 Caution is urged on the extent to which theoretical estimates of the economic effects translate into real income in the local area, other than short-term demand for temporary accommodation. The minor putative benefits offered by the development do not justify the long-term damage to landscape and local reputation that it would cause.

The main points for Tweedsmuir Community Council

6.9 The Tweedsmuir Hills are an easily accessible recreation and tourist destination and the community council is keen to develop tourism in the area with consequent advantages for the local economy. The community council believes that wind farm proposals have a negative impact on the area’s appeal, making it less attractive to visitors and those who wish to enjoy the wild outdoors and visual amenity of the area. As a number of local businesses rely on tourism, their continued viability and the success of the community-led Crook Inn project would be jeopardised if the proposed development were approved.

6.10 The community council disputes the extent of the stated local occupational benefits to community residents and notes that whilst a fund is to be established, it offers only money, not compensation to negate the harmful impacts of the development on tourism and the local economy. Although the community council was previously unaware (until the inquiry session) of the proposal of funding towards the provision of a café at Hawkshaw, it maintains the position that the proposed wind farm would damage the ability of the area to attract visitors.

The main points for Kirsty Stevens

6.11 It is argued that the local community would be highly unlikely to be able to utilise a fraction of the community benefits package offered, estimated at £100,000 per member of the local community. The creation of 13 long-term jobs claimed by the developer is also misleading. These are likely to be part-time and would not be new or local jobs with most involved in off-site activities.

6.12 The proposed development, in combination with the Clyde and Glenkerie wind farms, would lead to a corridor of wind turbines along the A701 tourist route. The economies of Tweedsmuir and the Scottish Borders rely significantly on tourism. The community is already adequately served by wind farms. Degrading the landscape would have a detrimental impact on the economy and local community.

6.13 The proposed development would have an adverse impact on property values and have devastating socio-economic impacts for families unable to sell their homes blighted by noise and loss of amenity.
The main points for Eric Stevens

6.14 Mr Stevens cites a recent study by the London School of Economics 2014, which concludes that wind farms reduce house prices in post codes where the turbines are visible. In this case, this a large scheme with six turbines visible from existing housing and therefore there is potential for a greater drop in value. He also cites a valuation tribunal decision, in which a change in the physical state of a property resulting from noise pollution, reduced its value and resulted in a reduced council tax banding. Mr Stevens regards it as inevitable that the over-bearing presence of wind turbines in such close proximity would reduce the potential market for local properties and consequently their value.

6.15 The developer’s offer of funding to the community and the establishment of a community fund, is argued to have no relevance to the proposed development and would not address the negative impacts of the scheme. Furthermore, the community fund has no prospect of being spent in full, as the community already benefits from community funds set up in respect of Clyde and Glenkerie wind farms, both of which are under-utilised.

The main points for Mrs Samantha Billingham

6.16 The small number of shops and amenities within the area may not be sustainable if tourists choose not to visit the area because of the presence of wind turbines. The closure of local amenities would leave the community isolated. The applicant’s offer of local financial community benefit would not compensate for the loss of amenity and lack of local community support for the proposed development.

The main points for ScotWays

6.17 ScotWays notes that certain turbines would be visible, in varying numbers, from Annandale Way, the right of way BT100 and from Hartfell Rig and Broad Law which are popular walks in the area. Given the importance of tourism and walking to the area, ScotWays remains concerned about the adverse impact of the proposed development on recreational amenity.

The main points for The John Muir Trust

6.18 JMT cites examples of YouGov polls it commissioned, which provide evidence that as the number of wind farms and turbines increases, so does the negative view of these developments by residents and visitors. The proposed development would be visible from key recreational and tourist routes including the A701 where visitors along this route are already exposed to the Clyde wind farm. It is argued that the approval of the proposed development would contribute to the further degradation of the landscape resulting in a negative socio-economic impact and the potential downgrading of the VisitScotland tourism view of Moffat and the Scottish Borders.

The main points for Upper Tweed Community Council

6.19 The proposed development would be environmentally detrimental and very noticeable from the main A701 road, which is signposted as a scenic tourist route into Edinburgh. Tweedsmuir has plans to attract more tourists to the area by renovating the historic Crook Inn. As there are already many wind turbines in Tweeddale, installing more would be likely to reduce the attractiveness of the area for visitors.
The main points for Ettrick and Yarrow Community Council

6.20 As the development site is close to the gateway to the Ettrick and Yarrow valleys, where the community is trying to foster tourism trade, another unsightly wind farm would affect the tourist trade.

The main points for others

6.21 The community already has access to funds from existing wind farms but these are hardly used. Any further funds will not be spent on projects, which could compensate those most affected by the proposals. The proposed development would result in economic disbenefit for local people. Property values would be affected. The visual impact on the landscape for both locals and visitors would be extremely negative. A drop in tourist visitors would affect the community’s plans for future investment in Crook Inn and other attempts to boost tourism. This would have an adverse impact on the local economy and nearby communities such as Moffat. The applicant’s claim that 13 jobs would be created after construction is not substantiated and in any case is negligible over a period of 25 years. The number of jobs created by the wind farm would be insignificant compared to those in tourism, which is the main source of income in the area.

The main points for the applicant

6.22 The applicant estimates that the 20 month construction period for the proposed development could support 52 job years of employment and £6.7 million gross value added (GVA) in the Scottish Borders and support 264 job years and £32.6 million GVA in Scotland. Wherever possible, local contractors and employees would be used in all aspects of the proposed development. During its operation and maintenance, the proposed development could support six jobs and £0.8 million GVA in the Scottish Borders and 19 jobs and £2.4 million GVA in Scotland. The inclusion of battery storage and an inverter transformer unit are argued to provide additional economic opportunities.

6.23 The applicant states that the positive impact of wind farms on the economy of the Scottish Borders is supported by the report produced by BiGGAR Economics in 2013 and commissioned by the council. This study analysed official tourism employment statistics in the local area of 18 wind farms commissioned in 2011 and 2012, before and after their construction. Based on a review of literature and this report, the conclusion reached in the ES is that there is no reasonable basis to expect significant, negative impacts on the tourism economy from wind farm development.

6.24 The applicant claims the MCofS 2016 survey, as with its earlier 2014 survey exhibited bias in various questions, which affected the potential responses. Those responding to the survey, as members of the MCofS or the BMC and therefore supporting the campaign role to ‘protect mountain landscapes’, were also more likely to be resistant to wind farm development than non-members. Notwithstanding the above, the applicant states that the survey finds that wind farms encouraged more respondents to visit the mountains than those that were less likely to visit.

6.25 In response to the MCofS, JMT, ScotWays and Tweedsmuir Community Council, the appellant accepts that there would be some visibility of the wind farm from routes utilised by tourists, including the A701 where views would be intermittent, passing and limited. However,
it argues that this does not automatically translate into effects on tourism numbers. The location of the proposed development is not a tourism area; rather it is a tourist route or interconnector. There are no rights of way or core paths within the site boundary, no cycle routes within a five kilometres radius, the Fruid Reservoir is only used on occasion for fishing and there is limited accommodation for tourists to stay overnight in the Tweedsmuir area. It is therefore unreasonable to consider the location of the proposed development, approximately three kilometres to the south of Tweedsmuir, as an area for tourism.

6.26 An annual community benefit fund of £252,000 is offered which would support the equivalent of four full-time jobs in the local community and voluntary sector. The fund is limited to within 10 kilometres of the site and suggestions for its use include local infrastructure projects such as the Crook Inn, a discounted electricity scheme or delivery of superfast broadband. Separate to this, the applicant has offered community representatives the opportunity to obtain a financial stake in the proposed development which has the potential to generate income for the local community. An illustrative example would be upfront investment of £2 million in return for a 10 percent stake in the company, with an internal rate of return at 7.5 percentage suggesting an annual payment of £227,000. Again, this could support four full-time equivalent jobs.

6.27 Funding is also offered to assist Biggar Archaeology Group with two aspects of its Upper Tweed Project, including analysis, publication and on-site interpretation in association with Biggar Museum Trust. The funding proposal is supported by the Group and details are included within the draft section 75 unilateral undertaking.

6.28 A further proposal, positively received by the owners, is made to the Campbells Fudge business based at Hawkshaw Farm. The owners have expansion plans that include the provision of a building to house new production facilities and a cafe intended to attract passers-by and draw wider visitors. The proposal is to provide a display area within the cafe, highlighting the wind farm and the cultural heritage of the area, and provide and fund car parking and a network of footpath and cycle routes including a footpath from Hawkshaw Farm to the turbines and Hawkshaw Castle. A one-off grant payment of £10,000 towards the cost of the new building is also proposed and there is support for a network of tracks in the area by the British Horse Society.

6.29 The applicant states that, overall, the socio-economic impacts of the proposed development would be positive, contributing to renewable energy targets and providing an opportunity to transform the rural economy by directly and indirectly creating jobs.

6.30 Assessment of visual effects is detailed within Chapter 6 (Landscape & Visual) of the ES. Recognised route ways and popular viewpoints used by the public are assessed including the public right of way BT100, the popular Hart Fell horseshoe ridge walk, and two long distance walking routes – the Southern Upland Way and the Annandale Way. The likely perceived value of the particular view to the viewer is considered, taking into account the nature of the receptor and the potential activity they may be involved in, and factors such as elevation, extent and key features or attractions, which may feature in the view.

6.31 The assessment finds that there would be some visibility from locations and routes used by visitors to the area. Substantial and significant visual effects would be experienced on the A701 (between Glenbreck and Hawkshaw) during construction, at Fruid Dam and at Fruid, from Hart Fell Rig and from the BT100. In terms of recreational routes, from the Annandale Way, views of the turbines would be intermittent and seen in the context of the
Clyde Wind Farm. For users of the BT100, an unmarked but mapped right of way linking Fruid Reservoir with Annandale Way, the development would appear close and prominent along 50 percent of its route.

6.32 Although some localised significant visual effects would be experienced, overall effects on recreation and access are predicted to be negligible and not significant. The significant effects identified would be fully reversible upon decommissioning of the proposed development.

Reporters’ conclusions on socio-economic and tourism effects

6.33 SPP paragraph 169 is clear that net economic impact including local and community socio-economic benefits such as employment, associated business and supply chain opportunities, are relevant material considerations. This is re-stated in Policy ED9 of the LDP.

6.34 We have considered the relevant economic information submitted, including the potential number of jobs that could be created and levels of predicted economic activity associated with procurement, construction, operation and decommissioning of the proposed development. We have also assessed the evidence that there could be negative socio-economic consequences from the proposal.

6.35 The economic profile of the area is set out in the ES. In general terms, the percentage of economically active people in the Scottish Borders is lower than the average for Scotland as a whole. There are also fewer jobs per head of working population. We find that it is reasonable to expect some modest economic benefits to the local area and the wider Scottish economy during the construction, operational and decommissioning phases of the development, arising from contracts secured from businesses in these areas, jobs supported by these contracts and spending on accommodation and dining in the local area. We also accept the potential for similar (albeit smaller scale) benefits to accrue from the proposed battery storage facility.

6.36 The applicant indicates that it intends to source the turbine towers from a Scottish supplier, subject to reasonable commercial safeguards, as set out in the draft section 75 unilateral undertaking. If this were not achievable, then the proportion of contracts that could be secured in Scotland would fall. Although we note the applicant’s intention, the outcome of this approach is uncertain and it would not be possible to oblige the applicant only to use Scottish suppliers. Therefore, we find that we can give this potential benefit minimal weight in our assessment.

6.37 The applicant’s assessment recognises that recreation and enjoyment of the landscape are relevant to the tourism industry and important to the economic prosperity of the region. This view is also supported by the Scottish Borders Tourism Partnership in its Scottish Borders Tourism Strategy 2013-2020. The strategy seeks to grow tourism visits and spend in the Scottish Borders by making the region a year-round destination and capitalising on its geography, heritage, natural environment, and people. We can appreciate the applicant’s assertion that the site is not in a ‘tourism area’, with most of the popular tourist attractions some distance away and few accommodation and tourism providers in the immediate area. However, visitors clearly pass through the area on the A701 road and we heard evidence at the Inquiry session that the surrounding area is also a popular destination for outdoor recreational purposes. We also acknowledge the community’s desire not only to protect existing visitor numbers, but to invest in the local tourism economy and to revive the former
tourism establishment known as the Crook Inn. However, we also note the applicant’s proposal to provide interpretative facilities and access tracks, that could also offer the potential to attract visitors to the area.

6.38 The applicant’s offer of financial support to the Biggar Archaeology Group and for the expansion of the Campbells Fudge business, and the proposals for information boards and a network of circular walking and cycling routes, it is argued, would attract visitors and retain more of the tourists passing through the area. As detailed business plans relating to the scale of these operations is not yet known, we cannot know the extent to which these proposals would be successful. However, we accept the possibility that these proposals would have some positive socio-economic benefits and could attract passers-by, bringing additional spend to the area and helping to support local businesses including the community led Crook Inn project.

6.39 In addition, the applicant proposes two additional sources of economic benefit to the local community. The first would take the form of a community benefit fund and the second would provide an opportunity for community ownership of part of the proposed scheme.

6.40 In accordance with the Scottish Government’s Good Practice Principles for Community Benefits from Renewable Energy Developments 2015, the community benefit fund is not a matter to which Ministers should have regard when considering this proposal. We have given it no weight in our assesment of this proposal.

6.41 In contrast, the potential for shared-ownership of a wind energy scheme is a material consideration. The Scottish Government’s Shared Ownership Good Practice Principles provides guidance on how shared-ownership might be secured and administered. It confirms that the Scottish Government is very keen to see communities get the chance to invest in local developments so that they have a direct stake in the energy being generated locally and that shared-ownership should become the standard.

6.42 The applicant has provided details of the community ownership offer and an illustrated example. Tweedsmuir Community Company has confirmed in writing that the form of investment put forward by the applicant is not supported at this time. In accordance with the Scottish Government’s good practice principles, the applicant’s offer is a matter to which we must have regard. However, as the offer has been initially declined, there is considerable uncertainty as to whether it will be concluded. On this basis, we can give no weight to this matter.

6.43 Turning to potential adverse socio-economic effects, a number of parties have raised concern over the potential for this development to discourage tourism and recreational visits to the area.

6.44 We note that the 2016 MCofS survey of wind farms and mountaineering behaviour found that the presence of wind farms had no impact on most respondents' walking and climbing habits (75 percent) but was a disincentive to a significant minority (23 percent). We also note that in comparison with the earlier 2014 MCofS survey, the 2016 survey asked about current behaviour rather than expected future behaviour, which is likely to give a more helpful impression of potential socio-economic effects. We agree that, if these survey results could be assumed to apply to all potential visitors to this area and if the deterrent effect of the proposed development would be as strong as MCofS and others fear, then a 23 percent
reduction in visitor numbers (if not offset by any positive socio-economic effects) would be an important negative implication of this proposal to weigh in the planning balance.

6.45 However, we have also borne in mind that those who were surveyed in the MCofS surveys may not be representative of all visitors to this area or even of all visitors who enjoy hill walking. We note from other 2016 survey question responses that survey respondents appear to have a particular level of concern with wind turbine development and with the protection of mountain landscapes that, from the evidence we have seen, is not reflected in the general population. In particular, we note that 10 percent of respondents were opposed to all wind farms, 89 percent support the MCofS campaign activity to protect mountain landscapes and 87 percent want to protect mountain landscapes from insensitively-sited wind farms.

6.46 We note the finding of the 2013 BiGGAR Economics report that despite the increase in deployment of onshore wind in the Scottish Borders since 2008, tourism related employment in the area has increased by significantly more than any other local authority area in Scotland over this period. That could suggest (as the applicant believes) that fears of a connection between wind turbine deployment and tourism decline are unfounded. However, there could also be other factors at play including the displacement of tourism from one part of the Scottish Borders with turbines, to locations within the Scottish Borders that have fewer or none, and the general economic recovery that has taken place since 2008. These might be masking the true effect of such development.

6.47 The research undertaken by Glasgow Caledonian University in 2008, research commissioned by VisitScotland in 2012 which included 3,000 interviews, and evidence given to the Scottish Parliament Economy, Energy and Tourism Committee in 2012, all found no relationship between the development of onshore wind farms and tourism employment at the level of the Scottish economy, at local authority level, or in the areas immediately surrounding wind farm development. The date of some of this research means it must be interpreted with a degree of caution, as the rate of turbine deployment has increased significantly in recent years. However, it all requires to be taken into account when considering this issue.

6.48 Taking all matters into account, we find that we have been provided with no convincing evidence of a link between turbine deployment and detrimental impacts on tourism. We find that the proposal would be likely to have some positive, but not significant, socio-economic benefits at the national, regional and local levels, as a result of direct employment and spin-off benefits, particularly during the construction phase. However, we have given no weight to the offer of a community benefit fund or the offer to allow the community to acquire a share of the ownership in the proposed development, the latter on account of the lack of certainty over the details and the apparent unwillingness of the community to engage. Overall therefore, we predict that the development would have a slight positive net socio-economic effect at the national, regional and local levels.
CHAPTER 7: BATTERY STORAGE

7.1 The proposal would incorporate an element on on-site energy storage in the form of a battery storage system. No party raised objections to this element of the proposal. However, at the applicant’s request, we held a short inquiry session to enable its witness to explain this element of the scheme and to answer any questions that we or inquiry participants might have.

7.2 We were advised that, as a consequence of the move away from large, conventional power stations to a decentralised network of energy production that is increasingly reliant upon intermittent sources such as wind and tidal energy, there is an increased need for the energy that is generated to be stored for later use.

7.3 The applicant’s proposal does not seek to incorporate large-scale energy storage that could be released at times of low wind speed. Instead, it seeks to respond to a UK Government request for energy storage capacity that can help to stabilise the frequency of the electricity supply.

7.4 The UK electricity network operates at a frequency of 50 hertz, but this can fluctuate during times of increased or reduced energy demand and when affected by unpredictable events such as storm damage to overhead lines. Various forms of energy storage can provide various types of frequency management. At the Whitelaw Brae site, the applicant hopes to contribute to the National Grid’s requirement for Enhanced Frequency Response (EFR), which is a fast-reacting system to output electrical energy to, or absorb excess energy from, the grid in order to maintain a stable 50 hertz supply. In order to do this, it proposes to install a battery storage system comprising three storage containers, each measuring approximately 20 metres by four metres and four metres in height. The power rating of that system is predicted to be in the region of 4 megawatts.

7.5 National Grid Electricity Transmission’s (NGET’s) 2016 invitation to tender for the provision of EFR services provides confirmation of the value that is placed upon this technology at a UK level. We consider that this has potential relevance to the applicant’s proposal because any contribution the development could make to that service would add an additional degree of support for the proposal, which would need to be fed into the planning balance. However, we regard it as significant that, due to not having secured consent, the applicant did not put forward this proposal as a contributor to EFR provision in response to the invitation to tender. Although it seems likely that there will be subsequent opportunities to provide this service to the National Grid, the lack of any certainty that such a service will, in fact, ever be provided at this site means we are unable to afford it any positive weight.
CHAPTER 8: OTHER MATTERS

Effects on the River Tweed SAC

8.1 The site’s proximity to the River Tweed Special Area of Conservation (SAC) means it is vital that potential effects on this internationally important environmental asset are properly assessed. The Tweed is also designated a Site of Special Scientific Interest (SSSI), a designation of national importance.

8.2 Where there are potential effects on a SAC from a proposal (such as this) which is not directly connected to or necessary for the management of the site, it is necessary to consider whether these effects, alone or in combination, are likely to be significant. If they are, then an assessment must be carried out of the implications for the site, in view of its conservation objectives. This is known as an Appropriate Assessment.

8.3 The applicant investigated potential effects on the SAC (along with other ecological effects) in Chapter 7 of the ES. Technical Appendix 7 sets out the applicant’s background research into ecological effects including Technical Appendix 7.9, which contains its Habitat Regulations appraisal of the proposal. This concludes that the proposed development, both alone and in combination with other projects and activities considered as part of the assessment is not likely to have a significant effect on the River Tweed SAC. However, it acknowledges that, if SNH considers that significant effects are likely, then Ministers will need to undertake an Appropriate Assessment.

8.4 SNH’s view is that significant effects on the SAC are likely and that Ministers should carry out an appropriate assessment. However, it is confident (as are all other relevant consultees) that conditions could deal adequately with any potential adverse implications of the development on the SAC.

8.5 We recommend that Ministers carry out an appropriate assessment of the proposal in accordance with the Conservation (Natural Habitats, &c.) Regulations 1994.

Noise and shadow flicker

8.6 A number of local residents have expressed concern over the potential for the proposal to generate noise levels that would be detrimental to residential amenity or to introduce problems with shadow flicker that would be similarly detrimental.

8.7 These matters were addressed in the ES, which found that, subject to an appropriate noise condition, there would be no grounds for concern. The council’s environmental health service, which would be responsible for addressing any such concerns if they arose, did not disagree with this conclusion.

8.8 Our view is that the nature of the development and its separation from residential properties is such that there is no reason to suspect that these issues will have any material adverse effect on any local resident. Should Ministers accept our recommendation to grant consent and deemed planning permission, a condition restricting noise immission levels is recommended.
CHAPTER 9: PROPOSED CONDITIONS

9.1 Proposed conditions and a unilateral undertaking were discussed in a hearing session in which the applicant and council participated.

9.2 Prior to the hearing session, a list of proposed conditions was prepared, setting out comments from both parties on matters where they disagreed. A draft unilateral undertaking under section 75 of the Town and Country Planning (Scotland) Act 1997 was submitted by the applicant. This would give enhanced status to a Scottish turbine tower manufacturer in tendering for the provision of the towers to be used in the project. It would also commit the site developer to funding Biggar Archaeology Group to carry out post-excavation analysis of the Fruid unenclosed platform settlement assemblage and a subsequent public exhibition / outreach process.

9.3 There was no opposition from the council to the proposed unilateral undertaking, although it did not consider that it offered any significant benefit or adequate mitigation of adverse effects. Our recommendation is that, if Ministers are minded to grant consent, the applicant should be required to complete and register the proposed unilateral undertaking in order to provide the potential for an additional national socio-economic benefit and to compensate for any detriment to local archaeology.

9.4 Turning to the conditions, in respect of many, agreement between the parties was reached at the hearing session, which have reflected in the list of conditions we have set out in Appendix 10 to this report. Where there remained areas of substantive disagreement, we have set out our conclusions below.

9.5 In condition 7, which controls the design and operation of the approved turbines, we agree with the applicant that there is no need to specify noise and power outputs. The former would be adequately controlled by condition 20 and the power output is primarily a function of the site location, turbine positioning, hub height and blade length, all of which are already controlled.

9.6 In condition 9, which deals with micro-siting, we agree that there is no need for a stricter control over micro-siting near watercourses due to the control that is provided by other conditions. We also agree that there should be no requirement for micro-siting to be subject to the council’s approval, as that would effectively negate the benefit of this provision. Due to the separation distance between the proposed turbines and the nearest residential neighbour, we see no need to limit the scope for horizontal repositioning below the 50 metres proposed by the applicant. However, we do consider that, due to the elevated nature of the site repositioning that would raise the height of any turbine above that originally agreed should not be permitted under this condition.

9.7 We agree with the applicant that the required appointment of an Ecological Clerk of Works and an Archaeological Clerk of Works and the required production of, and adherence to, a Construction Environment Management Plan (as is required by other conditions) means there is no justification for a developer-funded council monitoring officer.

9.8 At the council’s request, we have added a requirement into condition 8 to remove the construction compound that will serve the construction of the proposed River Tweed bridge crossing within six months of that crossing being brought into use.
9.9 Also at the council's request, we have amended the provisions of the restoration scheme condition (condition 25) to require details to be provided prior to the commencement of the 25 year operational period rather than within the subsequent 12 months. This is to enable the council more easily to ensure that the restoration bond that is a requirement of condition 26, would be adequate to cover the approved restoration works. We appreciate the benefits to the developer of the site in leaving the submission of such details to a stage when they had fewer demands on their time. However, our view is that the public interest would be better served by an earlier submission of these details.
CHAPTER 10: OVERALL CONCLUSIONS AND RECOMMENDATIONS

The Electricity Act 1989

10.1 This proposal must be assessed under the terms set out in Schedule 9 to the Electricity Act 1989. This lists a number of environmental features to which regard must be had and specifies that mitigation of environmental effects must also be considered. It also defines the matters that the decision maker must take into account when considering an application for consent under section 36 of the Act.

10.2 Regard is to be had to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest.

10.3 Applicants for consent are required to do what they reasonably can to mitigate any effect which the proposals would have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings or objects.

10.4 In considering any relevant proposals for which consent is required under section 36, the decision maker is required to have regard to the desirability of the matters mentioned above and the extent to which the applicant has complied with his duty to incorporate reasonable mitigation.

10.5 We set out in the following paragraphs, our conclusions on the schedule 9 matters to which we have had regard. Following that we consider all of the positive and negative aspects of the proposal, including the extent to which it is compliant with policy, in what we have described as the 'planning balance'. Based on that assessment, we then make our recommendation.

10.6 The proposal's effects on natural beauty have been addressed in Chapter 3 of this report. We found that significant effects would be limited in geographical extent, would affect relatively few receptors and would not threaten the integrity of any landscape designation or the nationally important wild land area.

10.7 Flora, fauna and geological or physiographical features of special interest were addressed in Chapters 4 and 8. There was quite broad agreement that, subject to conditions, effects on the River Tweed SAC and other ecological receptors would be acceptable. Our conclusion in respect of the effects on forestry interests was that the proposals, to which FCS has no objection, would offer environmental benefits to the locality.

10.8 Sites, buildings and objects of architectural, historic or archaeological interest were addressed in Chapter 5. After careful consideration of the concerns raised by HES and the more wide-ranging objections of the council and, having visited the historical assets that would be affected by this proposal, our conclusion is that direct effects on buried archaeology could be controlled adequately by condition and that indirect effects on the setting of Assets HA1 and HA5 would not be of a significant magnitude.

10.9 With regard to the requirement for mitigation, we accept that the scheme that is before Ministers for determination contains in-built mitigation as a result of various iterations to its design in response to a number of factors including concerns that were expressed by
consultees. While we note that some parties remain dissatisfied with the proposals, we are satisfied that the applicant has met its Schedule 9 duty to incorporate mitigation into its proposal.

The planning balance

10.10 As with most large-scale development projects, this proposal would have both positive and negative effects on a wide range of interests. The significance of these effects would vary, but all need to be weighed in the planning balance so that a judgement can be made on whether the proposal should be supported.

Negative effects

10.11 On the negative side of the balance are the proposal’s landscape and visual effects including its effects on wild land. As we have stated earlier in this report, we are satisfied that adequate control could be exerted by conditions to ensure that other impacts of the development, including the full range of potential ecological effects and effects on cultural heritage, were acceptable.

10.12 Effects on landscape fabric would be relatively limited in extent and would not affect any fabric that has either especially high intrinsic value or is particularly rare.

10.13 Landscape character effects would be more significant and would include significant effects on parts of the Tweedsmuir Uplands SLA and the Moffat Hills RSA, which are landscapes that have been recognised to have regional importance. However, we have concluded that the integrity of both areas would be maintained, as the effects of the development would be confined to a radius of approximately five kilometres from the site, where there are already detracting influences in the landscape including extensive wind turbine development, and would not affect the more valuable parts of these extensive designated landscapes to any significant degree.

10.14 Setting aside the effects of the existing, extensive wind energy development to the west, we have found that the character of the landscape on either side of the River Tweed / A701 is not materially different and that, contrary to the impression one might gain from a desk-based analysis, those linear features do not, in reality mark a point of landscape transition or provide any sense of a defensible boundary at the edge of the wind farm landscape of the Clyde Wind Farm. It is self-evident that the proposal would extend the coverage of turbines in the landscape, but we have concluded that the effects of that on the character of that landscape would be geographically confined and would be acceptable.

10.15 The Talla-Hart Fell WLA is a resource of national importance, which, due to its relatively small size, is potentially very susceptible to harm from a proposal such as this. We are also conscious of the fact that wild land in southern Scotland is a scarce resource. However, the evidence we heard in the inquiry session and what we saw on our visits to the WLA confirmed that there is a marked difference in the degree of relative wildness between the central core valleys of the WLA and its northern slopes and certain summits, from where the proposed development would be visible.

10.16 Within most of the heart of the WLA, where wild land qualities and the associated perceptual responses are most clearly expressed, the proposal would not be visible. From the locations where it would be seen, there is already clear visibility of existing extensive man-
made development. Although the proposal would bring such development closer to the boundary of the WLA, its relatively limited scale when compared with other man-made features (particularly the nearby Clyde Wind Farm) means it would not significantly detract from the already limited sense of wildness in these locations. Our conclusion is that the WLA would continue to function as a viable resource of the most wild land in the area and would not be materially undermined by this proposal.

10.17 We have found that visual amenity within the Fruid Valley in particular, and from a small number of other locations including from limited points on the A701 tourist route, would be significantly affected by the proposals. This is a clear disbenefit of the scheme that must be weighed in the planning balance. Such adverse effects would be experienced by a number of residents, whom we consider should be regarded as the most sensitive of receptors.

10.18 With regard to cumulative effects, which were a concern for a number of parties, we are satisfied that these would not be unacceptable. We consider that there is sufficient separation between the application site and its nearest neighbour (Clyde Wind Farm) and sufficient consistency in the siting and design of the two developments for there to be no harmful visual interaction between the two. We are also confident that the intermittent visibility of the proposal from the A701, the similarity of the landscape to either side of the valley and the lack of any sense that the road forms a landscape boundary feature, means there is no likelihood that the proposed development, when seen in conjunction with the Clyde or Glenkerie developments would give the impression of turbine development encroaching from a landscape that is dominated by such development into one where it is absent.

Positive effects

10.19 Turning to potential positive effects of the proposal, the first issue to consider is whether it can reasonably be described as development that contributes to sustainable development. If it can, then it can benefit from the presumption in favour of such development in SPP.

10.20 In order to address this question, we have had regard to the 13 principles of sustainable development in paragraph 29 of SPP, which we consider to be the most important indicators of sustainability. We have also considered the 19 development management considerations listed in paragraph 169, which set out the factors that the Scottish Government considers important to an assessment of energy infrastructure proposals.

10.21 The first and second paragraph 29 principles are the requirements to give due weight to net economic benefit and to respond to economic issues, challenges and opportunities, as outlined in local economic strategies. We addressed these issues in Chapter 6, where we found that evidence of adverse effects on tourism was unconvincing and that it was likely that net economic effects, including at the local level, would be positive (albeit at a modest level).

10.22 The third is to support good design and the six qualities of successful places. To the extent that this requirement is relevant to this form of development, we addressed it in our consideration of landscape and visual effects in Chapter 3, where we found no unacceptable effects.
10.23 The fourth and fifth principles underpinning sustainable development relate to supporting town centre and regeneration priorities and delivering accessible housing, business, retail and leisure development. These are not relevant to a proposal of this nature.

10.24 We address the sixth and seventh principles, which support the delivery of infrastructure including energy infrastructure and support climate change mitigation and adaptation, in Chapter 2 and in this chapter, where we draw together our conclusions. Our conclusion on these aspects is that the development would have a positive effect.

10.25 Guiding principle eight seeks to improve health and well-being by offering opportunities for social interaction and physical activity including sport and recreation. Where relevant to a proposal such as this, potential effects on such issues were discussed in Chapter 3, where we identified some, spatially limited, detrimental effects on the enjoyment of those wishing to walk in the locality, but also, potentially some slight benefit if use was made of the proposed access tracks for recreational purposes.

10.26 The ninth principle requires the sustainable development principles in the Land Use Strategy to be considered. The Land Use Strategy is a Government commitment arising out of the Climate Change (Scotland) Act 2009. It seeks to ensure that land use decisions in Scotland recognise, understand and value the importance of the country’s land resources, and deliver improved and enduring benefits, enhancing the wellbeing of the nation. The issues it requires to be addressed, such as climate change, protection of biodiversity and care for the landscape, reflect matters that require to be addressed by other guiding principles in SPP.

10.27 We have assessed the issues covered by the land use strategy (and by this requirement of SPP) throughout this report.

10.28 The tenth principle requires cultural heritage including the historic environment to be protected and enhanced and for access to it to be promoted. We addressed these issues in Chapter 5 and found there to be no unacceptable effects.

10.29 The eleventh principle requires natural heritage, including green infrastructure, landscape and the wider environment to be protected and enhanced and for access to it to be promoted. We addressed these in Chapters 3 and 4 and found no unacceptable effects.

10.30 The requirements of the twelfth principle are largely inapplicable to this proposal, as they deal with waste minimisation, waste management and resource recovery.

10.31 The final guiding principle seeks to avoid over-development, protecting existing amenity and considering implications for water, soil and air quality. We addressed these issues in Chapter 3 and found that adverse amenity effects would be limited in extent and not unacceptable. Subject to conditions, we agree with statutory consultees that there would be no adverse implications for water, soil or air quality.

10.32 Overall, to the extent that these considerations are applicable to a proposal such as this, we conclude that the development should be regarded as development that would contribute to sustainable development.

10.33 Turning to the considerations listed in paragraph 169 of SPP, we have assessed the proposal against each in turn below.
10.34 The first consideration is the proposal’s net economic impact, including local and community socio-economic benefits such as employment, associated business and supply chain opportunities. Our conclusion, in Chapter 6 was that the net socio-economic impact would be positive.

10.35 With regard to the scale of contribution to renewable energy generation targets and to reductions in greenhouse gas emissions, we find that the proposal would make a valuable contribution to emissions reduction targets and to those aimed at increasing levels of renewable energy generation.

10.36 The next consideration relates to cumulative impacts. The only potential effect where concern has been raised in this regard was in relation to landscape and visual effects. As set out above, our conclusion is that there would be no unacceptable cumulative effects.

10.37 With regard to impacts on communities and individual dwellings, it is notable that the proposal would not result in significant effects on any defined settlement and would have significant effects upon only a small number of individual properties. Where there would be such significant effects, our view is that these would not be unacceptable.

10.38 With regard to landscape and visual impacts, including effects on wild land, we have identified some localised significant adverse effects. However, these would be contained to within a maximum radius of five to six kilometres from the site and would not affect the most sensitive core area of the Talla-Hart Fell WLA to an unacceptable degree.

10.39 The next consideration relates to effects on natural heritage, including birds. Relevant consultees are content with the proposal, subject to conditions and we concur with that assessment.

10.40 The proposal’s impact on carbon rich soils was assessed by the applicant in accordance with best practice and the appropriate calculator. No unacceptable effects were identified.

10.41 There are no core paths or other formally identified walking routes through the site that could be obstructed by the development proposal, but there would be some significant effects on views from a right or way to the south of the site and from the A701 tourist route to the west. Our conclusion is that, due to the localised nature of the effects and, in the case of the right of way, our impression that the level of usage is not high, the effects on views from these public access routes would be acceptable.

10.42 We considered impacts on the historic environment in Chapter 5. We concluded that the visibility of the proposed turbines within the setting of the nearby scheduled and unscheduled monuments would not impair visitors’ ability to understand or appreciate the cultural significance of the assets.

10.43 We considered impacts on tourism and recreation in Chapter 6. Based on an assessment of all of the submitted evidence, we found that effects on visitor numbers would be negligible at most.

10.44 Impacts on aviation and defence interests were addressed in the ES and in subsequent evidence. Subject to appropriate conditions, the proposal would have no
unacceptable effects. The appeal site is not affected by concerns relating to seismological recording.

10.45 There is no evidence to suggest that the proposal would have adverse impacts on telecommunications and broadcasting installations, or would compromise transmission links. No objections from relevant agencies were received on such grounds.

10.46 Impacts on road traffic including trunk road impacts would be acceptable, subject to conditions, as would effects on hydrology, the water environment and flood risk.

10.47 The need for conditions relating to the decommissioning of developments, including ancillary infrastructure, and site restoration was considered at the hearing session on conditions and is summarised in Chapter 9. Our finding is that these matters can all be addressed by conditions to which the applicant is agreeable.

10.48 The proposal incorporates an element of energy storage, as is encouraged in SPP paragraph 169. Although uncertainty over whether this part of the proposal would go ahead means we have not given it any weight in the planning balance, this is not an indication that, in this regard, the proposal should not be regarded as a sustainable form of development.

10.49 The final SPP paragraph 169 consideration relates to the need for a robust planning obligation to ensure that operators achieve site restoration. We considered this issue in Chapter 9 and concluded that planning conditions would suffice. The council did not dispute that conditions would address this issue satisfactorily.

10.50 Taking all of the considerations in SPP paragraph 169 into account, as well as the 13 principles of sustainable development that are set out in paragraph 29 of that document, we conclude that the proposed development can reasonably and accurately be described as “development that would contribute to sustainable development.” This means that there is a presumption in favour of the development, which, while not of over-riding importance, is a matter that requires to be taken into account in the planning balance.

10.51 The applicant estimates that the development would offset the carbon emissions of 27,000 homes. This is approximately half the number of homes in the Scottish Borders. Its contribution to renewable energy generation targets and the associated reduction in greenhouse gas emissions, is supported strongly in Scottish Government policy and would also assist the UK in meeting its binding international objectives. We regard these issues as important factors in favour of granting consent to this proposal.

10.52 We have found that the proposal would be likely to have a positive, if modest, beneficial effect on the economy - nationally, regionally and in the locality of the site. In accordance with SPP and LDP Policy ED9, this is matter that must be given some weight.

10.53 A further benefit of the proposal is the replacement of 52 hectares of Sitka Spruce plantation with 56 hectares of native riparian woodland in locations identified as “preferred” within the Scottish Borders Woodland Strategy.

Overall conclusion

10.54 We conclude that the negative effects of the proposal would be localised and would generally be limited in scale. Our principal concern is with effects on the visual amenity of the
Fruid valley, where the proposed turbines would be prominent and harmful additions to a landscape that is unexceptional and already strongly influenced by human development but nevertheless a quiet and attractive place. The sensitivity of this valley is increased by the presence of a number of residential properties, the residents of which would see many of the proposed turbines not only from their homes and gardens but from the approaches to their properties, which we acknowledge to be important to their residential amenity.

10.55 In assessing the weight to be given to this issue, we have had regard to the fact that, although clearly visible, none of the proposed turbines would be so close to, or would have such a visually dominant effect upon, the valley and its residents that it could reasonably be said to have an overbearing presence. There can be no doubt that the turbines would significantly change the experience of valley residents and of those who visit it for recreation or other purposes, as the proposed turbines would become the main visual focal point on the western horizon. However, the visual context within which they would be seen is one that already features a visually unexceptional valley side, a reservoir, dam and other man-made features.

10.56 The site lies within an area that would be included within Group 2 in Table 1 of SPP. Group 2 areas require significant protection from wind energy development. However, the site’s inclusion within Group 2 is on account of the presence of deep peat within the site, and SPP Table 1 confirms that subject to significant effects on the identified qualities being substantially overcome, wind energy development can still be supported.

10.57 As there is no evidence to support a conclusion that the proposal would have unacceptable effects on deep peat, we are content that the site’s inclusion within Group 2 of Table 1 is not a factor that should count against the proposal. And, overall, we are satisfied that the proposal can draw significant support from national policy.

10.58 We are also content that there is no conflict with relevant provisions of the development plan.

10.59 In conclusion, we find that the proposal’s adverse effects are outweighed by its positive contribution to very clear Scottish Government aspirations for increased renewable energy generation and reductions in greenhouse gas emissions. A limited degree of further justification for the proposal is provided by its likely net economic benefits, its contribution to native woodland creation, and its status as development that would contribute to sustainable development.

10.60 Accordingly, we recommend that, subject to the applicant completing and registering the proposed unilateral undertaking and the conditions set out in Appendix 9 to this report, Ministers grant section 36 consent and deemed planning permission.

David Buylla    Claire Milne
Principal Reporter    Reporter
Appendices

Appendix 1: Note of pre-examination meeting
Appendix 2: Schedule of documents

All of the documents for this case may be viewed on the Planning and Environmental Appeals Division [website](#).
Appendix 3: Appearances

For the applicant

- Mr Gordon Steele QC instructed by Fraser A B Gillies of Wright, Johnson & Mackenzie LLP
- Mr David Bell (policy and conditions)
- Dr Stephen Carter (cultural heritage effects)
- Mr Graeme Blackett (socio-economic issues)
- Mr Brian Denney (landscape and visual effects)
- Mr Simon Swiatek (battery storage)

For Scottish Borders Council

- Mr Graham Nelson, solicitor for the council
- Dr Richard Bowles (cultural heritage)
- Mr Charles Johnston (policy)
- Ms Siobhann McDermott (landscape and visual effects)
- Mr Craig Miller (conditions)

For Tweedsmuir Community Council

- Mr Paul Greaves (socio-economic and landscape and visual effects)

For Mountaineering Council of Scotland

- Dr David Gordon (socio-economic and landscape and visual effects)

Local residents

- Ms Kirsty Stevens
- Mr Eric Stevens
- Ms Samantha Billingham
Appendix 4: Inquiry session (Policy matters)

a. inquiry statements

The applicant

The council

b. precognitions

The applicant

The council
Appendix 5: Inquiry session (landscape and visual effects including effects on wild land)

a. inquiry statements

**The applicant**

**The council**

Tweedsmuir Community Council

The Mountaineering Council of Scotland

Kirsty Stevens

Eric Stevens

Samantha Billingham

b. precognitions

**The applicant**

The council

- Siobhan McDermott
- Craig Miller

Tweedsmuir Community Council

The Mountaineering Council of Scotland

Kirsty Stevens (not published)

Eric Stevens

Samantha Billingham (not published)
Appendix 6: Inquiry session: cultural heritage effects

a. inquiry statements

The applicant

The council

b. precognitions

The applicant

- Dr Stephen Carter
- David Bell

The council
Appendix 7: Inquiry session: socio-economic effects
a. inquiry statements

The applicant

Tweedsmuir Community Council

The Mountaineering Council of Scotland

b. precognitions

The applicant

Tweedsmuir Community Council

The Mountaineering Council of Scotland
Appendix 8: Inquiry session: battery storage
a. inquiry statement

The applicant
b. precognition

The applicant
Appendix 9: hearing session: conditions

a. proposed conditions

It is recommended that conditions 1, 2, 3 and 4 should apply to the section 36 consent and the remainder to the deemed planning permission.

Duration of the consent

1. The permission hereby granted will last for a period of 25 years from the earlier of: i) the date when electricity is first exported to the electricity grid network from all of the wind turbines hereby permitted; and ii) the date falling 18 months after electricity is generated from the first of the wind turbines hereby permitted.

Written confirmation of that date on which electricity is generated from the first of the turbines hereby permitted shall be provided to the planning authority within one month of it occurring. The consent will expire at the end of the 25 year period unless the planning authority has expressly approved an extension in writing.
(Reason: permission was sought on a temporary period only and requires to be reassessed if it is intended to endure beyond the 25 year period. In the interests of amenity.)

Commencement of development

2. The commencement of the development shall be no later than five years from the date of this consent, or in substitution, such other period as the Scottish Ministers may hereafter direct in writing. Written confirmation of the intended date of commencement of Development shall be provided to the planning authority and Scottish Ministers no later than one calendar month before that date.
(Reason: In accordance with section 58 of the Town and Country Planning (Scotland) Act 1997. To avoid uncertainty and ensure that the consent is implemented within a reasonable period.)

Non-assignation

3. The applicant shall not be permitted to assign this consent without the prior written authorisation of the Scottish Ministers. The Scottish Ministers may authorise the assignation of the consent (with or without conditions) or refuse assignation as they may, in their own discretion, see fit. The consent shall not be capable of being assigned, alienated or transferred otherwise than in accordance with the foregoing procedure. The applicant shall notify the local planning authority in writing of the name of the assignee, principal named contact and contact details within 14 days of written confirmation from the Scottish Ministers of an assignation having been granted.
(Reason: To safeguard the obligations of the consent if transferred to another party)

Serious incident reporting

4. In the event of any breach of health and safety or environmental obligations relating to the Development during the period of this consent, the Company will provide written notification of the nature and timing of the incident to the planning authority, including confirmation of remedial measures taken and/or to be taken to rectify the breach, within 48 hours of the incident occurring.
(Reason: To keep the Scottish Ministers informed of any such incidents which may be in the public interest.)

**Radar mitigation**

5. 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 Scottish Ministers 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.

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 the approved scheme.

For the purposes of this condition:

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

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

(Reason: in the interests of the safety and efficiency of air traffic control systems.)

**Implementation in accordance with approved details**

6. Except as otherwise required by the terms of this consent and deemed planning permission, the Development shall be undertaken in accordance with the application including the approved drawings listed at Appendix 1 to this decision statement (as supplemented or amended by any further or additional environmental information) and other documentation lodged in support of the application.

(Reason: to ensure that the Development is carried out in accordance with the approved details.)

**Design and operation of turbines**

7. Prior to commencement of development full details of the proposed wind turbines (including the size, type, external finish and colour which should be non-reflective pale grey semi-matt), any anemometry masts and all associated apparatus have been submitted to and approved in writing by the Planning Authority. The turbines shall be consistent with the candidate turbine or range assessed in the environmental statement, and the tip height shall not exceed 133.5 metres above ground level. The Development shall be constructed and operated in accordance with the approved details and maintained in the approved colour until such time as the wind farm is decommissioned. All wind turbine blades shall rotate in the same direction. None of the wind turbines, anemometers, power performance masts, switching stations or transformer buildings/enclosures, ancillary buildings or above ground fixed plant shall display any name, logo, sign or other advertisement (other than health and safety signage) unless otherwise approved in advance in writing by the Planning Authority.
(Reason: To ensure that the environmental impacts of the turbines forming part of the Development conform to the impacts of the candidate turbine assessed in the Environmental Statement and in the interests of the visual amenity of the area.)

**Design of sub-station and ancillary development**

8. There shall be no commencement of development unless final details of the external appearance, dimensions, and surface materials of the substation building, control building, associated compounds, battery storage, any construction compound boundary fencing, external lighting and parking areas have been submitted to and approved in writing by the Planning Authority. The substation building, associated compounds, fencing, external lighting and parking areas shall be constructed in accordance with the approved details. The construction compound that is proposed to serve the construction of the proposed bridge over the River Tweed shall be removed and its site reinstated within six months of the bridge being brought into use.
(Reason: To ensure that the environmental impacts of the sub-station and ancillary development forming part of the Development conform to the impacts assessed in the Environmental Statement and in the interests of the visual amenity of the area.)

**Micro-siting**

9. All wind turbines, buildings, masts, areas of hardstanding and tracks shall be constructed in the location shown on plan reference Figure FEI 3.1 (Volume 2 Further Environmental Information May 2016). Wind turbines, buildings, masts, areas of hardstanding and tracks may be adjusted by micro-siting within the site. However, unless otherwise approved in advance in writing by the Planning Authority (in consultation with SEPA and SNH), micro-siting is subject to the following restrictions:

a) No wind turbine foundation shall positioned higher, when measured in metres Above Ordinance Datum (Newlyn), than the position shown on the aforementioned Figure FEI 3.1;

b) No building, mast, access track or hardstanding shall be moved more than 50 metres from the position shown on the original approved plans;

c) No wind turbine shall be moved more than 50 metres from the position shown on the original approved plans;

d) All micro-siting permissible under this condition must be approved in advance in writing by the Ecological Clerk of Works (ECoW).

No later than one month after the date of first commissioning, an updated site plan must be submitted to the planning authority showing the final position of all wind turbines, masts, areas of hardstanding, tracks and associated infrastructure forming part of the development. The plan should also specify areas where micro-siting has taken place and, for each instance, be accompanied by copies of the ECoW or planning authority’s approval, as applicable.
(Reason: to control environmental impacts while taking account of local ground conditions)

**Borrow Pits**
10. There shall be no commencement of development unless a scheme for the working of each borrow pit forming part of the development has been submitted to and approved in writing by the planning authority. The scheme shall include:

a. a detailed working method statement;

b. details of the handling of any overburden (including peat, soil and rock);

c. drainage, including measures to prevent surround areas of peatland from drying out;

d. a programme of implementation of the works described in the scheme; and

e. full details of the reinstatement, restoration and aftercare of the borrow pit(s) at the end of the construction period.

The approved scheme shall thereafter be implemented in full. (Reason: To ensure that excavation of materials from the borrow pit(s) is carried out in a manner that minimises the impact on road safety, amenity and the environment, and that the mitigation measures contained in the Environmental Statement accompanying the application, or as otherwise agreed, are fully implemented. To secure the restoration of borrow pit(s) at the end of the construction period.)

Ecological Clerk of Works

11. There shall be no commencement of development unless the planning authority has approved in writing the terms of appointment by the developer of an independent Ecological Clerk of Works (ECoW). The terms of appointment shall:

a. Impose a duty to monitor compliance with the ecological and hydrological commitments provided in the environmental statement and other information lodged in support of the application, the Construction and Environmental Management Plan and other plans approved in terms of condition 13,16 and 27, (“the EcoW works”); and

b. Require the EcoW to report to the developer’s nominated construction project manager any incidences of non-compliance with the EcoW works at the earliest practical opportunity.

The EcoW shall be appointed on the approved terms throughout the period from Commencement of Development, throughout any period of construction activity and during any period of post construction restoration works approved in terms of condition 13,16 and 27.

No later than 18 months prior to decommissioning of the development or the expiration of this consent (whichever is the earlier), the developer shall submit details of the terms of appointment by the developer of an independent ECoW throughout the decommissioning, restoration and aftercare phases of the development to the planning authority for approval. The ECoW shall be appointed on the approved terms throughout the decommissioning, restoration and aftercare phases of the development. (Reason: To secure effective monitoring compliance with the environmental mitigation and management measures associated with the Development.)

Construction and Environmental Management Plan
12. There shall be no commencement of development unless a Construction and Environmental Management Plan ("CEMP") outlining site specific details of all on-site construction works, post-construction reinstatement, drainage and mitigation, together with details of their timetabling, has been submitted to and approved in writing by the planning authority. The CEMP shall include (but shall not be limited to):

a. a site waste management plan (dealing with all aspects of waste produced during the construction period other than peat), including details of contingency planning in the event of accidental release of materials which could cause harm to the environment;

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. details of borrow pit excavation and restoration;

d. a dust management plan;

e. 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;

f. a pollution prevention and control method statement, including arrangements for the storage of oil and fuel on the site;

g. soil storage and management;

h. a peat management plan;

i. a drainage management strategy, demonstrating how all surface and waste water arising during and after development will be managed and prevented from polluting any watercourses or sources;

j. sewage disposal and treatment;

k. temporary site illumination;

l. the construction of the access into the site and the creation and maintenance of associated visibility splays;

m. the method of construction of the crane pads;

n. the method of construction of the turbine foundations;

o. the method of working cable trenches;

p. the method of construction and erection of the wind turbines and meteorological masts;

q. details of watercourse crossings which shall include a detailed Flood Risk Assessment
(“FRA”) of any proposed new watercourse crossing;

r. post-construction restoration/reinstatement of the working areas not required during the operation of the Development, including construction access tracks, borrow pits, construction compound and other construction areas. Wherever possible, reinstatement is to be achieved by the careful use of turfs removed prior to construction works. Details should include all seed mixes to be used for the reinstatement of vegetation;

s. a wetland ecosystems survey and mitigation plan;

t. a felling and tree management plan;

u. noise mitigation and complaint procedures;

v. information on the design and location of the construction compound that is proposed at the confluence of the Fingland Burn and the River Tweed to service the construction of the new bridge over the River Tweed and arrangements for the removal of compound once the new bridge is operational; and

w. a construction method statement for the main access track adjacent to the Fingland Burn outlining sediment control arrangements, timings of the works and details of the final track design including drainage arrangements, details of the methods and timing of re-vegetation and reinstatement of bare ground.

The development shall be implemented thereafter in accordance with the approved CEMP unless otherwise approved in advance in writing by the planning authority.

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

Construction Hours

13. Construction work shall only take place on the site between the hours of 07.00 to 19.00 on Monday to Friday inclusive and 07.00 to 13.00 on Saturdays, with no construction work taking place on a Sunday or on national public holidays (except by prior notification to the planning authority). Outwith these specified hours, development on the site shall be limited to turbine erection, maintenance, emergency works, dust suppression, and the testing of plant and equipment, unless otherwise approved in advance in writing by the planning authority. HGV movements to and from the site (excluding abnormal loads) during construction of the wind farm shall be limited to 07.00 to 19.00 Monday to Friday, and 07.00 to 13.00 on Saturdays, with no HGV movements to or from site taking place on a Sunday or on national public holidays.

(Reason: In the interests of local amenity.)

Traffic Management Plan

14. There shall be no commencement of development unless a traffic management plan has been submitted to and approved in writing by the planning authority. The traffic management plan shall include:
a. the routeing of all traffic associated with the development on the local road network;

b. measures to ensure that the specified routes are adhered to, including monitoring procedures;

c. details of all signage and lining arrangements to be put in place;

d. provisions for emergency vehicle access;

e. identification of a nominated person to whom any road safety issues can be referred;

f. a plan for access by vehicles carrying abnormal loads, including the number and timing of deliveries, the length, width, axle configuration of all extraordinary traffic accessing the site;

g. a written statement relating to the undertaking of road condition surveys and remedial works to respond to damage/deterioration caused by construction traffic;

h. detailed junction design to include construction specification, swept path analysis, kerbing, drainage and visibility splays; and

i. detailed design of the new bridge crossing over the River Tweed.

The approved traffic management plan shall thereafter be implemented in full, unless otherwise agreed in advance in writing with the Planning Authority. (Reason: in the interests of road safety and to ensure that abnormal loads access the site in a safe manner.)

Habitat Management and Enhancement Plan

15. There shall be no commencement of development unless a Habitat Management and Enhancement Plan (HMEP) in accordance with the Outline Habitat Management Plan submitted as part of the ES at Technical Appendix 7.8 has been submitted to and approved in writing by the planning Authority. The HMEP shall set out proposed long-term management and enhancement of the wind farm site and shall provide for the maintenance, monitoring and reporting of habitat on site in relation to black grouse, curlew, breeding waders, blanket bog, acid and marshy grassland and riparian habitat enhancement.

The approved HMEP will be updated to reflect ground condition surveys undertaken following construction and prior to the date of final commissioning and submitted to the planning authority for written approval. Unless otherwise agreed in advance in writing with the planning authority, the approved HMEP shall be implemented in full. (Reason: in the interests of good land management and the protection and enhancement of habitats.)

Species Mitigation and Management Plan

16. Prior to the commencement of any works or development on the site a Species Mitigation and Management Plan in accordance with the Draft Species Protection Plan contained within the ES at Technical appendices 7.7 (including bats, otter, badger, red squirrel, breeding curlew, black grouse birds and reptiles) shall be submitted to and approved
in writing by the planning authority. All on-site works and development shall thereafter be
carried out in accordance with the approved Plan unless otherwise agreed in writing with the
planning authority.
(Reason: to ensure that reasonable protection is given to biodiversity on and utilising the site.)

Archaeological Clerk of Works (ACoW)

17. There shall be no commencement of development unless the planning authority has
approved the terms of appointment by the developer of an independent Archaeological Clerk
of Works (ACoW), and the developer has secured the implementation of a Written
Scheme of Investigation outlining a programme of archaeological mitigation. The scope of the
ACoW’s appointment shall include:

a. monitoring implementation and compliance with a programme of archaeological mitigation
works approved by the planning authority in a Written Scheme of Investigation which shall
specify:

   i. an archaeological watching brief on relevant excavations where unknown
      archaeological deposits or features may exist;

   ii. a paleo-environmental sampling and dissemination strategy in areas where
depth peat will be impacted by development;

   iii. a post-excavation research and dissemination strategy in the event of significant
discoveries determined as such by the ACoW and planning authority. All post-
exca
vation research and dissemination shall be completed within 3 years of the
completion of on-site investigations;

   iv. the erection of suitable fencing around known archaeological assets, to be
determined by the ACoW and planning authority, where there is potential damage
during development;

b. advising the developer on adequate protection of archaeological interests on the site;

c. checking for new records of archaeological interests for which additional mitigation may be
required;

d. directing the micro-siting and placement of turbines and tracks away from known assets
and discovered assets of archaeological significance where in situ preservation is warranted;

e. monitoring the compliance with mitigation, reinstatement and restoration measures
approved in this consent; and

f. reporting any breaches of the mitigation, reinstatement and restoration measures approved
in this consent to the planning authority in writing.

The ACoW shall be appointed on the approved terms throughout the period from
commencement of development, throughout any period of construction activity and during any
period of post construction restoration works approved in terms of condition 12.
No later than 18 months prior to decommissioning of the development or the expiration of this consent (whichever is the earlier), the developer shall submit details of the terms of appointment by the developer of an independent ACoW throughout the decommissioning, restoration and aftercare phases of the development to the planning authority for approval. The ACoW shall be appointed on the approved terms throughout the decommissioning, restoration and aftercare phases of the development.

(Reason: to ensure adequate protection or recording or archaeological remains.)

Archaeological interpretation

18. Prior to commencement of works, a scheme for improving access to, and providing interpretation of the nearby archaeological features of interest shall be submitted to and approved in writing by the planning authority. The approved scheme shall be implemented in full in accordance with details and to a timescale approved in writing by the planning authority.

(Reason: to ensure that the archaeological interest in the surrounding area is highlighted and properly interpreted.)

Replanting of Forestry

19. There shall be no commencement of the development unless a woodland planting scheme to compensate for the removal of 52 hectares of existing woodland ("the Replanting Scheme") has been submitted for the written approval of the planning authority. The Replanting Scheme must comply with the requirements set out in the UK Forestry Standard (Forestry Commission, 2011. ISBN 978-0-85538-830-0) and the guidelines to which it refers, or such replacement standard as may be in place at the time of submission of the Replanting Scheme for approval. The Replanting Scheme must include-

(a) details of the location of the area to be planted;

(b) details of land owners and occupiers of the land to be planted;

(c) the nature, design and specification of the proposed woodland to be planted including consideration of Scots Pine proportion and maintenance of views from the A701, and compliance with the Scottish Borders Woodland Strategy;

(d) details of all consents required for delivery of the Replanting Scheme and timescales within which each will be obtained;

(e) the phasing and associated timescales for implementing the Replanting Scheme;

(f) proposals for the maintenance and establishment of the Replanting Scheme, including annual checks, replacement planting, fencing, ground preparation and drainage; and

(g) proposals for reporting to the Planning Authority on compliance with timescales for obtaining the necessary consents and thereafter implementation of the Replanting Scheme.

Unless otherwise agreed in writing by the planning authority, the development shall not be commissioned to supply electricity on a commercial basis unless all relevant consents necessary for implementation of the approved Replanting Scheme in accordance with the phasing and timescales set out therein have been obtained.
In the event that there is no reasonable prospect of the relevant consents necessary for implementation of the approved Replanting Scheme being obtained, then the developer shall submit an amended Replanting Scheme to the planning authority for approval. Unless otherwise agreed in writing by the planning authority, the development shall not be commissioned to supply electricity on a commercial basis unless all relevant consents necessary for implementation of the approved amended Replanting Scheme in accordance with the phasing and timescales set out therein have been obtained.

The approved Replanting Scheme (or, as the case may be, an approved amended Replanting Scheme) shall be implemented in full, unless otherwise agreed in writing by the planning authority.
(Reason: To secure replanting to compensate for effects of deforestation arising from the Development. In accordance with Scottish Government’s Control of Woodland Removal policy.)

Noise

20. The rating level of noise immissions from the combined effects of the wind turbines hereby permitted (including the application of any tonal penalty), when determined in accordance with the attached Guidance Notes, shall not exceed the values for the relevant integer wind speed set out for those properties identified in the Tables 1 & 2 attached to these conditions.

At the properties detailed in Tables 3 and 4 only, the rating level of noise immissions from the combined effects of the wind turbines hereby permitted, operating in conjunction with the consented and operational turbines of the Clyde and Clyde Extension Wind Farm (application references CL/08/0714 and 12/01114/S36) (including the application of any tonal penalty), when determined in accordance with the attached Guidance Notes shall not exceed the values for the relevant integer wind speed set out in Tables 3 and 4 attached to these conditions.

Following complaint, in the event that the level of noise immissions from the combined effects of the wind turbines hereby permitted, operating in conjunction with the consented and operational turbines of the Clyde and Clyde Extension Wind Farm (including the application of any tonal penalty) exceeds the values in Tables 3 and 4, the operator of Whitelaw Brae Wind Farm shall undertake appropriate mitigation to reduced turbine noise immissions such that the limits in Tables 3 and 4 are met, or such that noise from the turbines hereby permitted (including the application of any tonal penalty) does not exceed the levels set out in Tables 5 and 6. [See attached flowchart]

Prior to the First Export Date, the wind farm operator shall submit to the planning authority for written approval a list of proposed independent consultants who may undertake compliance measurements in accordance with this condition. Amendments to the list of approved consultants shall be made only with the prior written approval of the planning authority.

(A) Where there is more than one property at a location specified in Tables 1 and 2 attached to this condition, the noise limits set for that location shall apply to all dwellings at that location. Where a dwelling to which a complaint is related is not identified by name or location in the Tables attached to these conditions, the wind farm operator shall submit to the planning authority for written approval proposed noise limits selected from those listed in the Tables to
be adopted at the complainant’s dwelling for compliance checking purposes. The proposed noise limits are to be those limits selected from the Tables specified for a listed location which the independent consultant considers as being likely to experience the most similar background noise environment to that experienced at the complainant’s dwelling. The submission of the proposed noise limits to the planning authority shall include a written justification of the choice of the representative background noise environment provided by the independent consultant. The rating level of noise immissions resulting from the combined effects of the wind turbines when determined in accordance with the attached Guidance Notes shall not exceed the noise limits approved in writing by the planning authority for the complainant’s dwelling.

(B) Prior to the commencement of any measurements by the independent consultant to be undertaken in accordance with these conditions, the wind farm operator shall submit to the planning authority for written approval the proposed measurement location identified in accordance with the Guidance Notes where measurements for compliance checking purposes shall be undertaken. Where the proposed measurement location is close to the wind turbines, rather than at the complainants property (to improve the signal to noise ratio), then the operators submission shall include a method to calculate the noise level from the wind turbines at the complainants property based on the noise levels measured at the agreed location (the alternative method). Details of the alternative method together with any associated guidance notes deemed necessary, shall be submitted to and agreed in writing by the planning authority prior to the commencement of any measurements. Measurements to assess compliance with the noise limits set out in the Tables attached to these conditions or approved by the planning authority pursuant to paragraph (B) of this condition shall be undertaken at the measurement location approved in writing by the planning authority.

(C) Prior to the commencement of the independent consultant’s assessment of the rating level of noise immissions pursuant to paragraph (E) of this condition, the wind farm operator shall submit to the planning authority for written approval a proposed assessment protocol setting out the following:

(i) the range of meteorological and operational conditions (the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise immissions;

(ii) a reasoned assessment as to whether the noise giving rise to the complaint contains or is likely to contain a tonal component.

The proposed range of conditions shall be those which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the information provided in the written request of the planning authority under paragraph (A), and such others as the independent consultant considers necessary to fully assess the noise at the complainant’s property. The assessment of the rating level of noise immissions shall be undertaken in accordance with the assessment protocol approved in writing by the planning authority and the attached Guidance Notes.

(D) The wind farm operator shall provide to the Planning authority the independent consultant’s assessment of the rating level of noise immissions undertaken in accordance with the Guidance Notes within 2 months of the date of the written request of the planning
authority made under paragraph (A) of this condition unless the time limit is extended in writing by the planning authority.

The assessment shall include all data collected for the purposes of undertaking the compliance measurements, such data to be provided in the format set out in Guidance Note 1(e) of the Guidance Notes. The instrumentation used to undertake the measurements shall be calibrated in accordance with Guidance Note 1(a) and certificates of calibration shall be submitted to the planning authority with the independent consultant’s assessment of the rating level of noise immissions.

(E) Where a further assessment of the rating level of noise immissions from the wind farm is required pursuant to Guidance Note 4(c) of the attached Guidance Notes, the wind farm operator shall submit a copy of the further assessment within 21 days of submission of the independent consultant’s assessment pursuant to paragraph (E) above unless the time limit for the submission of the further assessment has been extended in writing by the planning authority.

(F) The wind farm operator shall continuously log wind speed, wind direction at the permanent meteorological mast erected in accordance with this consent and shall continuously log power production and nacelle wind speed, nacelle wind direction and nacelle orientation at each wind turbine all in accordance with Guidance Note 1(d) of the attached Guidance Notes. The data from each wind turbine and the permanent meteorological mast shall be retained for a period of not less than 24 months. The wind farm operator shall provide this information in the format set out in Guidance Note 1(e) of the attached Guidance Notes to the planning authority on its request within 14 days of receipt in writing of such a request.

Note: For the purposes of this condition, a “dwelling” is a building within Use Class 9 of the Use Classes Order which lawfully exists or had planning permission at the date of this consent.
### Table 1 - Between 07:00 and 23:00 - Noise level dB $L_{A90}$, 10-minute

<table>
<thead>
<tr>
<th>Location (easting, northing grid coordinates)</th>
<th>Standardised wind speed at 10 metres height (m/s) within the site averaged over 10-minute periods</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1</td>
</tr>
<tr>
<td>Craiglaw (308784,620941)</td>
<td>36</td>
</tr>
<tr>
<td>Frid (310772,618310)</td>
<td>35</td>
</tr>
</tbody>
</table>

### Table 2 - Between 23:00 and 07:00 - Noise level dB $L_{A90}$, 10-minute

<table>
<thead>
<tr>
<th>Location (easting, northing grid coordinates)</th>
<th>Standardised wind speed at 10 metres height (m/s) within the site averaged over 10-minute periods</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1</td>
</tr>
<tr>
<td>Craiglaw (308784,620941)</td>
<td>43</td>
</tr>
<tr>
<td>Frid (310772,618310)</td>
<td>43</td>
</tr>
</tbody>
</table>

### Table 3 - Between 07:00 and 23:00 - Noise level dB $L_{A50}$, 10-minute

<table>
<thead>
<tr>
<th>Location (easting, northing grid coordinates)</th>
<th>Standardised wind speed at 10 metres height (m/s) within the site averaged over 10-minute periods</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1</td>
</tr>
<tr>
<td>Tweedhopefoot (305309,617547)</td>
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</tr>
<tr>
<td>Badleu (305346,619035)</td>
<td>40</td>
</tr>
<tr>
<td>Fingland (305546,619419)</td>
<td>45</td>
</tr>
<tr>
<td>Glenbrock (306130,621529)</td>
<td>40</td>
</tr>
<tr>
<td>Hawkshaw (307543,622254)</td>
<td>40</td>
</tr>
</tbody>
</table>

### Table 4 - Between 23:00 and 07:00 - Noise level dB $L_{A50}$, 10-minute

<table>
<thead>
<tr>
<th>Location (easting, northing grid coordinates)</th>
<th>Standardised wind speed at 10 metres height (m/s) within the site averaged over 10-minute periods</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1</td>
</tr>
<tr>
<td>Tweedhopefoot (305309,617547)</td>
<td>43</td>
</tr>
<tr>
<td>Badleu (305346,619035)</td>
<td>43</td>
</tr>
<tr>
<td>Fingland (305546,619419)</td>
<td>45</td>
</tr>
<tr>
<td>Glenbrock (306130,621529)</td>
<td>43</td>
</tr>
<tr>
<td>Hawkshaw (307543,622254)</td>
<td>43</td>
</tr>
</tbody>
</table>
### Table 5 - Between 07:00 and 23:00 - Noise level db $L_{EQ}$, 10-minute

<table>
<thead>
<tr>
<th>Location (easting, northing grid coordinates)</th>
<th>Standardised wind speed at 10 metres height (m/s) within the site averaged over 10-minute periods</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1</td>
</tr>
<tr>
<td><strong>Decibel Levels</strong></td>
<td></td>
</tr>
<tr>
<td>Tweedhopefoot (305309,617547)</td>
<td>30</td>
</tr>
<tr>
<td>Badileu (305346,619035)</td>
<td>30</td>
</tr>
<tr>
<td>Fingland (305546,619419)</td>
<td>42</td>
</tr>
<tr>
<td>Glenbreck (306130,621529)</td>
<td>30</td>
</tr>
<tr>
<td>Hawkshaw (307543,622394)</td>
<td>30</td>
</tr>
</tbody>
</table>

### Table 6 - Between 23:00 and 07:00 - Noise level db $L_{EQ}$, 10-minute

<table>
<thead>
<tr>
<th>Location (easting, northing grid coordinates)</th>
<th>Standardised wind speed at 10 metres height (m/s) within the site averaged over 10-minute periods</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1</td>
</tr>
<tr>
<td><strong>Decibel Levels</strong></td>
<td></td>
</tr>
<tr>
<td>Tweedhopefoot (305309,617547)</td>
<td>32</td>
</tr>
<tr>
<td>Badileu (305346,619035)</td>
<td>33</td>
</tr>
<tr>
<td>Fingland (305546,619419)</td>
<td>41</td>
</tr>
<tr>
<td>Glenbreck (306130,621529)</td>
<td>33</td>
</tr>
<tr>
<td>Hawkshaw (307543,622394)</td>
<td>33</td>
</tr>
</tbody>
</table>
Flow Chart to Explain How Complaints Would be Investigated

A complaint is received by Scottish Borders Council (SBC)

SBC notify the operator of the Whitelaw Brae Wind Farm (WBWF), who initiates an investigation in accordance with the Conditions.

Total Noise is measured in accordance with the Conditions. Does Total Noise meet the limits specified in Tables 3 & 4 (Full cumulative noise limits)?

- **No**
  - Undertake assessment to determine specific noise from WBWF. This is undertaken by comparing results with WBWF on and off as per the guidance notes. Does the specific noise from WBWF meet the noise limits in Tables 5 & 6 ('Backstop' limits which are full limits -10db)?
    - **No**
      - WBWF implements appropriate remedial measures. Following implementation, Total Noise is measured in accordance with the conditions. Does Total Noise meet the limits specified in Tables 3 & 4?
        - **No**
          - Remedial measures were ineffective, further investigation required.
        - **Yes**
          - Undertake assessment to determine specific noise from WBWF. This is undertaken by comparing results with WBWF on and off as per the guidance notes. Does the specific noise from WBWF meet the noise limits in Tables 5 & 6?
            - **Yes**
              - The specific noise from WBWF meets the backstop position. Report submitted to SBC detailing results. No further action from WBWF necessary.
            - **No**
              - Total Noise meets the noise limits in Tables 3 & 4. Report submitted to SBC detailing results. No further action from WBWF necessary.

- **Yes**
  - Report submitted to SBC detailing results. No further action from WBWF necessary.
    - The specific noise from WBWF meets the backstop position. Report submitted to SBC detailing results. No further action from WBWF is necessary. SBC may choose to discuss complaint with Clyde Wind Farm.
Guidance Notes for Noise Condition

These notes are to be read with and form part of the noise condition. They further explain the condition and specify the methods to be employed in the assessment of complaints about noise emissions from the wind farm. The rating level at each integer wind speed is the arithmetic sum of the wind farm noise level as determined from the best-fit curve described in Note 2 of these Guidance Notes and any tonal penalty applied in accordance with Note 3 with any necessary correction for residual background noise levels in accordance with Note 4. Reference to ETSU-R-97 refers to the publication entitled “The Assessment and Rating of Noise from Wind Farms” (1997) published by the Energy Technology Support unit (ETSU) for the Department of Trade and Industry (DTI).

Note 1

(a) Values of the $L_{eq,10\text{-minute}}$ noise statistic should be measured at the complainant's property (or an approved alternative representative location as detailed in Note 1(b), using a sound level meter of EI 60551/BS EI 60804 Type 1, or BS EI 61672 Class 1 quality (or the equivalent UK adopted standard in force at the time of the measurements) set to measure using the fast time weighted response as specified in BS EI 60551/BS EI 60804 or BS EI 61672-1 (or the equivalent UK adopted standard in force at the time of the measurements). This should be calibrated before and after each set of measurements, using a calibrator meeting IEC 60945:2003 “Electroacoustics - sound calibrators” Class 1 with PTB Type Approval (or the equivalent UK adopted standard in force at the time of the measurements) and the results shall be recorded. Measurements shall be undertaken in such a manner to enable a tonal penalty to be applied in accordance with Guidance Note 3.

(b) The sound level meter shall be located in a free field location outside the complainants dwelling, in accordance with recommendations in the Institute of Acoustics Good Practice Guide to the Application of ETSU-R-97 for the Assessment and Rating of Wind Farm Noise (IOA May 2013). In the event that the consent of the complainant for access to his or her property to undertake compliance measurements is withheld, the wind farm operator shall submit for the written approval of the Local Authority details of the proposed alternative representative measurement location prior to the commencement of measurements and the measurements shall be undertaken at the approved alternative representative measurement location.

(c) The $L_{eq,10\text{-minute}}$ measurements should be synchronised with measurements of the 10-minute arithmetic mean wind speed and wind direction data and with operational data logged in accordance with Guidance Note 1(d) and rain data logged in accordance with Note 1(f).

(d) To enable compliance with the conditions to be evaluated, the wind farm operator shall continuously log arithmetic mean wind speed in metres per second (m/s), arithmetic mean wind direction in degrees from north and rainfall data in each successive 10-minute period at the permanent meteorological mast erected in accordance with the planning permission on the site. The mean hub height wind speed shall be “standardised” to a reference height of 10 metres as described in ETSU-R-97 at page 120 using a reference roughness length of 0.05 metres. It is this standardised 10 metre height wind speed data which is correlated with the noise measurements determined as valid in accordance with Note 2(b), such correlation to be undertaken in the manner described in Note 2(c). The wind farm operator shall continuously log arithmetic mean nacelle anemometer wind speed, arithmetic mean nacelle orientation, arithmetic mean wind direction as measured at the nacelle and arithmetic mean power generated during each successive 10-minute period for each wind turbine on the wind farm. All 10-minute periods shall commence on the hour and in 10-minute increments thereafter synchronised with Greenwich Mean Time and adjusted to British Summer Time where necessary.

(e) Data provided to the Local Authority in accordance with paragraphs (E) (F) and (G) of the noise condition shall be provided in an electronic format as comma separated values, or in the case of audio recordings as 16bit WAV files.

(f) A data logging rain gauge shall be installed within 3m of any sound level meter installed in the course of the independent consultant undertaking an assessment of the level of noise emissions. The gauge shall record over successive 10-minute periods synchronised with the periods of data recorded in accordance with Note 1(d).
Note 2

(a) The noise measurements should be made so as to provide not less than 20 valid data points as defined in Note 2 paragraph (b).

(b) Valid data points are those measured during the conditions set out in the assessment protocol approved by the Local Authority under paragraph (d) of the noise condition but excluding any periods of rainfall measured in accordance with Note 1(f).

(c) Values of the $L_{A_{10}}$ noise measurements and corresponding values of the 10-minute standardised ten metre height wind speed for those data points considered valid in accordance with Note 2(b) shall be plotted on an XY chart with noise level on the Y-axis and wind speed on the X-axis. A least squares, “best fit” curve of an order deemed appropriate by the independent consultant (but which may not be higher than a fourth order) shall be fitted to the data points to define the wind farm noise level at each integer speed.

Note 3

(a) Where, in accordance with the approved assessment protocol under paragraph (d) of the noise condition, noise emissions at the location or locations where compliance measurements are being undertaken contain or are likely to contain a tonal component, a tonal penalty shall be calculated and applied using the following rating procedure.

(b) For each 10-minute interval for which $L_{A_{10}}$ data have been determined as valid in accordance with Note 2, a tonal assessment shall be performed on noise emissions during 2-minutes of each 10-minute period. The 2-minute periods should be spaced at 10-minute intervals provided that uninterrupted uncorrected data are available (“the standard procedure”). Where uncorrected data are not available, the first available uninterrupted clean 2-minute period out of the affected overall 10-minute period shall be selected. Any such deviations from the standard procedure shall be reported.

(c) For each of the 2-minute samples the tone level above audibility shall be calculated by comparison with the audibility criterion given in Section 2.1 on pages 104 -109 of ETSU-R-97.

(d) The tone level above audibility shall be plotted against wind speed for each of the 2-minute samples. Samples for which the tones were below the audibility criterion or no tone was identified, a value of zero audibility shall be substituted.

(e) A least squares “best fit” linear regression shall then be performed to establish the average tone level above audibility for each integer wind speed derived from the value of the “best fit” line fitted to values. If there is no apparent trend with wind speed then a simple arithmetic mean shall be used. This process shall be repeated for each integer wind speed for which there is an assessment of overall levels in Note 2.

(f) The tonal penalty is derived from the margin above audibility of the tone according to the figure below derived from the average tone level above audibility for each integer wind speed.
Note 4

(a) If a tonal penalty is to be applied in accordance with Note 3 the rating level of the turbine noise at each wind speed is the arithmetic sum of the measured noise level as determined from the best fit curve described in Note 2 and the penalty for tonal noise as derived in accordance with Note 3 at each integer wind speed within the range set out in the approved assessment protocol under paragraph (D) of the noise condition.

(b) If no tonal penalty is to be applied then the rating level of the turbine noise at each wind speed is equal to the measured noise level as determined from the best fit curve described in Note 2.

(c) If the rating level at any integer wind speed lies at or below the values set out in the Tables attached to the conditions or at or below the noise limits approved by the Local Authority for a complainant’s dwelling in accordance with paragraph (B) of the noise condition then no further action is necessary. In the event that the rating level is above the limit(s) set out in the Tables attached to the noise conditions or the noise limits for a complainant’s dwelling approved in accordance with paragraph (B) of the noise condition, the independent consultant shall undertake a further assessment of the rating level to correct for background noise so that the rating level relates to wind turbine noise emission only.

(d) The wind farm operator shall ensure that all the wind turbines in the development are turned off for such period as the independent consultant requires to undertake the further assessment. The further assessment shall be undertaken in accordance with the following steps:

i. Repeating the steps in Note 2, with the wind farm switched off, and determining the background noise (L_2) at each integer wind speed within the range set out in the approved noise assessment protocol under paragraph (D) of this condition.

ii. The wind farm noise (L_1) at this speed shall then be calculated as follows where L_2 is the measured level with turbines running but without the addition of any tonal penalty:

\[
L_1 = 10 \log \left( \frac{10^{L_2/10} - 10^{L_3/10}}{} \right)
\]

iii. The rating level shall be re-calculated by adding the tonal penalty (if any is applied in accordance with Note 3) to the derived wind farm noise L_1 at that integer wind speed.

iv. If the rating level after adjustment for background noise contribution and adjustment for tonal penalty (if required in accordance with note (iii) above) at any integer wind speed lies at or below the values set out in the Tables attached to the conditions or at or below the noise limits approved by the Local Authority for a complainant’s dwelling in accordance with paragraph (B) of the noise condition then no further action is necessary. If the rating level at any integer wind speed exceeds the values set out in the Tables attached to the conditions or the noise limits approved by the Local Authority for a complainant’s dwelling in accordance with paragraph (B) of the noise condition then the development fails to comply with the conditions.
Private Water Supplies

21. There shall be no commencement of development unless 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. 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.)

Redundant turbines

22. If one or more turbine fails to generate electricity for a continuous period of 12 months, then unless otherwise agreed in writing by the planning authority, the operator shall:

(i) by no later than the date of expiration of the 12 month period, submit a scheme to the planning authority setting out how the relevant turbine(s) and associated infrastructure will be removed from the site and the ground restored; and

(ii) implement the approved scheme within six months of the date of its approval, all to the satisfaction of the planning authority.
(Reason: to ensure that any redundant wind turbine is removed from site, in the interests of safety, amenity and environmental protection.)

Aviation Safety

23. There shall be no commencement of development until the developer has provided the planning authority, Ministry of Defence, Defence Geographic Centre and NATS with the following information, and has provided evidence to the planning authority of having done so:

i. the date of the expected commencement of each stage of construction;

ii. the height above ground level of the tallest structure forming part of the development;

iii. the maximum extension height of any construction equipment; and

iv. the position of the turbines and masts in latitude and longitude.
(Reason: in the interests of aviation safety.)

Aviation lighting

24. Prior to the erection of the first wind turbine, the developer shall submit a scheme for aviation lighting for the wind farm to the planning authority for written approval. The scheme shall include details of infra-red aviation lighting to be applied. No lighting other than that described in the scheme may be applied at the site, other than as required for health and safety, unless otherwise agreed in advance and in writing by the planning authority. No turbines shall be erected on site until the scheme has been approved in writing. The development shall thereafter be operated fully in accordance with the approved scheme.
(Reason: in the interests of aviation safety.)
Site decommissioning, restoration and aftercare

25. Upon expiry of the planning permission, as detailed in condition 1 above, the site shall be restored in accordance with a decommissioning, restoration and aftercare scheme to be submitted for the written approval of the planning authority prior to the start of the 25 year permission period. Decommissioning in accordance with the approved scheme or any variation to it agreed in writing with the planning authority prior to decommissioning shall be completed within 12 months of the end of the period of this planning permission or any alternative timescale that has been agreed in writing with the planning authority and shall include the dismantling and removal from the site of all turbines, buildings and ancillary development other than the access tracks which may remain in situ if the planning authority has agreed to this in writing.

The scheme shall include provision for monitoring and reporting. The approved plan and Decommissioning Method Statement shall be implemented as approved and overseen by an Ecological Clerk of Works (ECoW) appointed in accordance with condition 11. (Reason: to ensure the decommissioning and removal of the development in an appropriate and environmentally acceptable manner and the restoration and aftercare of the site, in the interests of safety, amenity and environmental protection.)

Financial Guarantee

26. There shall be no commencement of development unless the developer has delivered a bond or other form of financial guarantee in terms acceptable to the planning authority which secures the cost of performance of all decommissioning, restoration and aftercare obligations contained in condition 25 to the planning authority. The financial guarantee shall thereafter be maintained in favour of the planning authority until the date of completion of all restoration and aftercare obligations.

The value of the financial guarantee shall be determined by a suitably qualified independent professional as being sufficient to meet the costs of all decommissioning, restoration and aftercare obligations contained in condition 25. The value of the financial guarantee shall be reviewed by a suitably qualified independent professional no less than every five years and increased or decreased to take account of any variation in costs of compliance with restoration and aftercare obligations and best practice prevailing at the time of each review. (Reason: to ensure that there are sufficient funds to secure performance of the decommissioning, restoration and aftercare conditions attached to this deemed planning permission in the event of default by the operator.)

Public path/access protection, enhancement and management

27. There shall be no commencement of development until a Public Path and Access Management Plan has been submitted to and approved in writing by the planning authority. The Plan shall include (but not be limited to) the following:

i. timings of any intended diversion, closure or obstruction of any public right of way (note that these are likely to need a separate consent);
ii. measures for ensuring that paths kept open during development are safe and can be traversed without undue harm to the amenity of users;

iii. measures to ensure that users of the path network and accessible areas more generally are able to navigate through and adjacent to the site, including mapping and signage;

iv. any temporary installations such as gates, stiles and bridges and the duration of their installation;

v. proposals to restore original paths to an acceptable condition between construction and decommissioning and once full decommissioning has taken place;

vi. proposals to enhance public access within and adjacent to the site during the lifetime of the development.

(Reason: the development would interact with a range of public paths and accessible areas, with development effects causing changes that require careful management to ensure that the experience of users is not harmed unacceptably or, where it will be harmed, that the level and nature of harm is limited and controlled to minimise development effects. To ensure that access across the site is improved to provide access to areas of cultural heritage in the area of the site and to improve access to the countryside.)

d. draft unilateral undertaking under section 75 of the Town and Country Planning (Scotland) Act 1997
Appendix 10: written representations made to DPEA

a. further written submissions by the parties

Craig Riabhach Wind Farm

The applicant

The council

The Mountaineering Council of Scotland

Scotways

John Muir Trust

Eric & Kirsty Stevens

Samantha Billingham


The applicant

The council

Tweedsmuir Community Council

The Mountaineering Council of Scotland

Scotways

Kirsty & Eric Stevens

Samantha Billingham

b. responses by consultees to requests made by the reporters
c. representations made regarding Further Environmental Information
d. other representations
Appendix 11: Closing submissions

Council’s closing submissions

Applicant’s closing submission

Tweedsmuir Community Council closing submissions

Mountaineering Council of Scotland closing submissions

Kirsty Stevens closing submissions