



---

Decision by Stephen Hall, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-140-2080
- Site address: Land north of Carcant Lodge, Heriot, Scottish Borders
- Appeal by Energiekontor UK Ltd against the decision by Scottish Borders Council
- Application for planning permission 19/00191/FUL dated 2 April 2019 refused by notice dated 3 February 2020
- The development proposed: Erection of 8 wind turbines with a maximum tip height of 130 metres, formation of access tracks, borrow pit, temporary construction compound, erection of control building, onsite substation and associated infrastructure and energy storage compound for up to 4 MW
- Date of site visit by Reporter: 6 August 2020

Date of appeal decision: 19 October 2020

---

## Decision

I dismiss the appeal and refuse planning permission. Attention is drawn to the advisory note at the end of the notice.

## Environmental impact assessment

1. The proposed development is described as above, and at paragraph 1.9 of the environmental impact assessment (EIA) report, subject to the amendments described in Chapter 1 of the supplementary environmental information. It is an EIA development. The determination of this appeal is therefore subject to the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 (“the 2017 EIA regulations”).

2. I am required to examine the environmental information, reach a reasoned conclusion on the significant environmental effects of the proposed development and integrate that conclusion into this decision notice. In that respect I have taken the following into account:

- the EIA report dated February 2019;
- the supplementary environmental information prepared by the appellant in response to various issues raised by consultees, and to assess amendments to the scheme, dated September 2019;
- consultation responses from bodies including Edinburgh Airport, Scottish Forestry; Heriot Community Council, Historic Environment Scotland, Midlothian Council, Ministry of Defence, NATS, Scotways, the Royal Society for the Protection of Birds, Scottish Natural



Heritage, Scottish Water, the Scottish Environment Protection Agency, Stow Community Council and Transport Scotland;

- representations from members of the public.

3. I am required by the 2017 EIA regulations to include information in this decision notice in regard to opportunities for the public to participate in the decision-making procedure. I set that information out in Schedule 1 below. My conclusions on the significant environmental effects of the proposal are set out at paragraphs 44, 49 and 56 below.

## Reasoning

4. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise. The development plan covering the appeal site consists of the Edinburgh and South-East Scotland Strategic Development Plan (2013) and the Scottish Borders Local Development Plan (2016) together with its associated supplementary guidance, in particular that entitled 'Renewable Energy'. Having regard to the provisions of the development plan the main issues in this appeal are:

- Landscape and visual impact; and
- The benefits of the development

5. The policies of the strategic development plan are largely aimed at the authors of local development plans, and not directed at individual development proposals. However, Policy 10 does state that the plan seeks to promote sustainable energy sources.

6. The most relevant policy of the local development plan is Policy ED9 Renewable Energy Development. This supports commercial wind farms that can be accommodated without unacceptable significant adverse impacts, having regard to relevant environmental, community and cumulative impact considerations. The policy contains a list of relevant considerations, including: the spatial framework; landscape and visual impacts (taking into account factors including the 2013 report on Landscape Capacity and Cumulative Impact); cumulative impacts; impacts on communities and individual dwellings; net economic impact; and the scale of contribution to renewable energy generation targets, and the effect on greenhouse emissions.

7. The plan contains a wide range of other policies of possible relevance to the proposal, including policies aimed at protecting assets such as biodiversity, soils and residential amenity. In the main, these topics are already referenced in Policy ED9, and generally I take the view that a wind farm that was in compliance with Policy ED9 would be likely to be compliant with the plan as a whole. Beyond the topics covered by Policy ED9, I have not identified any significant conflict with the provisions of the local development plan.

8. The Council has adopted supplementary guidance on renewable energy, and this constitutes the most detailed and up-to-date development plan material for me to apply in this appeal. The guidance expands on the criteria set out in Policy ED9 of the local development plan. Regarding landscape impact, it offers support to proposals that respect the main features and character of the landscape as identified in the Scottish Borders Landscape Capacity and Cumulative Impact Study ('the landscape capacity study'). This study (prepared by Ironside Farrar in 2016) is to be used as a further tool to inform wind

energy proposals. I note that this study effectively replaces the 2013 study referred to in Policy ED9 of the local development plan. Regarding visual impact, the guidance requires account to be taken of views from residential properties, settlements, public roads and paths, significant public viewpoints, and important recreational assets and tourist attractions.

9. Figure 6 of the supplementary guidance contains the wind energy spatial framework (as referenced in Policy ED9 of the local development plan). This shows the appeal site as falling within an 'area with potential for wind farm development' (terminology taken from Scottish Planning Policy). To take account of landscape capacity, the guidance then incorporates outputs from the landscape capacity study. Figure 12 of the guidance shows the appeal site as having no underlying landscape capacity for turbines of over 120 metres (the proposed turbines are 130 metres tall). However, Figure 11 shows an area of some low capacity for turbines between 80 and 120 metres extending into the western part of the appeal site. Figure 13 is a summary map of wind turbine opportunities and constraints, and shows the appeal site as falling within an 'area of limited capacity', but outwith any area where cumulative impact is shown as limiting development.

10. An EIA report was prepared for an earlier iteration of the scheme, and supplementary environmental information was then drawn up for the current proposal, which relocates the turbines somewhat further to the south. These assessments predict that there would be some significant landscape and visual effects on receptors within around eight kilometres of the site, including from three separate landscape areas, nine identified viewpoints, and various transport routes and footpaths. The assessment is that views from the east, south and south-west would be in the context of rolling hills, but from the north the proposed development would form a prominent development on the Moorfoots hill horizon. The relocation of the turbines did not translate into many reductions in the number of significant effects identified.

### Landscape Impact

11. According to the typology adopted in the Borders Landscape Assessment (1998), the appeal site is located at the northern extremity of the Moorfoot Plateau landscape character area, which is part of the dissected plateau moorland landscape type. Among the key characteristics of this landscape type, the Assessment includes the sense of wildness created by wide horizons and distant, unobstructed views. The assessment notes the high degree of internal intervisibility, and external intervisibility on plateau margins. However, due to the sparse population and paucity of roads, the visual sensitivity of this landscape type is given as low. Aesthetically, this type is described as being large in scale but low in diversity.

12. Positive attributes of the landscape type are said to include its grandeur of scale, high degree of perceived naturalness, relative absence of visual detractors and detractors from tranquillity, and wildland quality. Negative attributes are said to include an absence of visual screening or backdrop features, and a locally high visual sensitivity on plateau margins. Among the key landscape issues identified is the potential loss of wildland character in core areas of the plateau.

13. The 2016 landscape capacity study identifies a low remaining landscape capacity for turbines of over 120 metres in the Moorfoot Plateau landscape character area, but does state that turbines of this scale could be accommodated in smaller numbers where topography aids screening. However, specific guidance is given that turbine developments should not encroach onto the visually prominent escarpment and skyline facing Edinburgh. At paragraph 6.33, the guidance goes on to advise that areas with very limited capacity for any size of turbine are located on prominent hill crests and peripheral escarpments with high visibility from surrounding populated areas; including the Moorfoots escarpment overlooking Midlothian.

14. The Moorfoot Hills and surroundings are characterised as a 'Landscape with Occasional Wind Turbines' or 'No Wind Turbines', with potential for a further significant development to be located in the eastern part of these hills, if carefully sited and designed to take advantage of topographic screening to contain visibility and visual coalescence. However, the capacity for turbines over 120 metres is stated to be greatest in core area of the landscape character area, which has simple large scale landscape character, minimal population, and lower intervisibility due to topographical containment.

15. To summarise, while the landscape capacity study does offer some support for large scale windfarm development in the Moorfoot Plateau, this is mainly focussed on the core area of the plateau well to the south of the appeal site, which benefits from topographical screening. Particular warnings are given about the risks associated with development affecting the northern scarp edge, which is highly visible from surrounding areas.

16. The appeal site is outwith any designated landscape, but the Gladhouse Reservoir and Moorfoot Scarp Special Landscape Area in Midlothian Council's area, immediately adjoins the appeal site to the north-west.

17. The appeal site itself is a gently sloping area of an upland plateau characterised by open views in a very large scale landscape setting. While the turbines would be overwhelmingly dominant features of the immediate experience of the appeal site, such sites generally lend themselves well to wind farm development, as witnessed by the successful neighbouring Carcant scheme. I note that the appeal proposal relocates the turbines around 600 metres further to the south-east, compared to the original proposal, and thus away from the immediate edge of the Moorfoot escarpment.

18. The photomontage from viewpoint 1 (Broadlaw) of the supplementary environmental information illustrates the impact from elsewhere in the Moorfoot Plateau landscape character area. The turbines constitute a relatively good landscape fit in this view, being large but not overwhelming features in this simple large scale landscape, which lacks other scale indicators. No particularly significant landscape features would be disrupted in the view from this point, or, in my opinion, in views from other locations within this landscape character area.

19. In terms of impacts on other landscape character areas within the Scottish Borders Council area, it is clear from the zone of theoretical visibility maps included in the supplementary environmental information that the wind farm would be mainly visible from the north-western part of the Plateau Grassland landscape type (Lauder Common). The proposed turbines would be prominent landscape features, mainly at distances of between

a few hundred metres and five kilometres. Similarly to the Moorfoot Plateau, this area is characterised by open panoramic views, a large scale, and some sense of remoteness. Viewpoint 6 (Nettingflat) illustrates the impact from around three kilometres away.

20. While the remote character of this area would be compromised somewhat, I consider that the distinction between the Plateau Grassland and Moorfoot Plateau areas is not clearly defined, and the large scale, simplicity and horizontal emphasis of this wider landscape is capable of absorbing wind turbine development relatively well. I do not therefore anticipate significant detrimental landscape impacts in these views from the east of the appeal site.

21. The turbines (mainly just the upper parts) would also be seen as an occasional skyline feature to the west of the Pastoral Upland Valley of the Gala Water (see for instance viewpoint 5 – A7 Gilston Road End). Given that the surrounding hills have a role in defining this valley landscape, I consider there would be some negative impact due to the turbines' elevation and breaking of the skyline. However, I do not consider this skyline to be particularly characterful, prominent or distinctive, and the effect is mitigated by forestry, and the limited visibility of the turbines. I am not therefore unduly concerned about landscape impacts in this area.

22. Beyond the Scottish Borders, the turbines would also be widely visible across the Lothian plain to the north. The scarp of the Moorfoot Hills is a prominent and defining feature from several of the landscape types within this area, most notably the Gladhouse/ Auchencorth Moorland, the Rosewell/ Carrington Spur, and areas of the Mayfield/ Tranent Ridge and the river valleys of the North and South Esk and the Upper Tyne Water. Midlothian Council has designated several special landscape areas (SLAs) in this area, including the Gladhouse Reservoir & Moorfoot Scarp SLA, immediately north-west of the appeal site.

23. I note, and agree with, the particular concerns expressed in the landscape capacity study about encroachment onto this visually prominent escarpment. The Scottish Natural Heritage Siting and Designing Windfarms guidance advises that windfarms should not seem to overwhelm the distinctive character and scale of a landform, especially prominent landforms. While few wind farms will be able to avoid disrupting skylines altogether, the guidance also states that a skyline may be especially valued if it is a particularly distinctive landform, and that distinctive and prominent skylines should not be interrupted by turbines.

24. The proposal before me locates the turbines around 500 metres further to the south, away from the scarp edge, compared to an earlier iteration of the scheme. This change has reduced the impact somewhat, but the disruption to the scarp edge would still be significant. The main scarp slope rises about 100 metres from the sloping moorland to the north. An effect of locating 130 metre tall turbines close to the edge of the escarpment would be to diminish the perceived scale and impact of the escarpment as a landscape feature. The negative effect is most pronounced from locations where the role of the escarpment as a striking linear feature, defining the northern edge of the Lothian plan, is most apparent. These locations tend to be set back somewhat to the north, from where the extent of the escarpment is most apparent, for instance from viewpoint 8 (Gorebridge) at around seven kilometres distance. I consider the disruption of the Moorfoot escarpment edge to be a highly adverse landscape impact of the appeal proposal.

25. Despite statements in the Borders Landscape Assessment relating to wildness, I note this area has not subsequently been formally designated as wild land. Though the appeal site is a relatively lonely spot, the effects of man are nevertheless reasonably evident in, for instance, the visibility of coniferous tree belt plantations and the fencing and managed grazing of the site. I note from Figure 3.6 of the landscape capacity study that the relative wildness of the immediate area is considered to be neither high nor low, and I agree with this assessment.

### Visual Impact

26. In terms of the visual impact on individual houses, four properties or property groups are located within two kilometres of the proposed turbines. Heriot Cleugh is an apparently occupied farmhouse which would have turbines within 500 metres to the north, north-west and west. The property's principal outlook appears to be to the south-west, away from the bulk of the windfarm. A small copse to the west of the house and some trees around the garden perimeter to the north would provide some screening. Nevertheless I expect at least the easternmost turbine of the windfarm would dominate the experience of being in the rear garden and on the approach to the house.

27. A more relaxed attitude may sometimes be taken to the visual impact of turbines on properties that are financially involved in a scheme. According to the Supplementary Environmental Information, Heriot Cleugh is an 'involved property' because it would be bought by the appellant in the event of the scheme going ahead, and maintained unoccupied for the lifetime of the scheme. On this basis, I am content that any visual impacts (and indeed other amenity impacts such as noise) on this property do not need to form part of my consideration.

28. The three properties at Carcant are about 1.5 kilometres from the nearest turbine, but sit in a deep valley with woodland to the north. While one turbine and some other blade tips may theoretically be visible from this point, woodland would hide or filter most views, and overall I am satisfied that no unacceptable visual impact would occur.

29. Shoestanes Farm lies around 1.8 kilometres east of the nearest turbine. The windfarm would be a large prominent feature on the western skyline, but, at this distance, I do not consider that it would dominate the experience of living here or be excessively overbearing. The farmhouse is to the south-west of the other farm buildings, and so is somewhat screened by them.

30. Whitelaw lies below the Moorfoot escarpment, approximately 1.7 kilometres north of the nearest turbine. Two turbine hubs and some other blade tips would theoretically be visible from this point. Woodland encircling the house may serve to limit visibility somewhat, but the elevated position of the turbines on higher land may mean that parts of them would still be visible above the trees. The turbines would also be large prominent features on the approach road. However, overall I am satisfied that the woodland around the house will serve to restrict views of the turbines sufficiently, and limit their dominating effect, to bring the proposal within acceptable limits.

31. The turbines would be theoretically visible from settlements across Midlothian, the closest of these being Gorebridge at around seven kilometres distance. Viewpoint 8 illustrates the potential impact from here. It is the case that within settlements, outward views are largely limited by buildings. I therefore consider that the visual impact described would mainly be experienced by viewers living on the settlement edges and moving around this well-populated area.

32. The Moorfoots escarpment has an important role to play in establishing the landscape setting of Midlothian as a whole. It defines not only a local authority boundary, but also the geological, cultural and historical boundary between the Central Lowlands and the Southern Uplands. As such, it carries an importance out of proportion with its height, and will be appreciated as a significant geographical feature by people living in and moving through this part of Scotland. As a strikingly straight linear feature, the presence and role of the escarpment is able to be readily appreciated by a casual observer. By virtue of their scale and location, I consider that the proposed turbines will detract from the appreciation of the escarpment as a whole by drawing the eye, becoming the focus for attention, and diminishing the apparent height of the escarpment. The turbines' elevation on high land above the Lothian plain also serves to increase their visual impact.

33. It was clear from my site inspection that the impact described above would be experienced most severely in middle distance views, mainly between around five and ten kilometres from the appeal site (see for instance viewpoint 8 and cultural heritage viewpoint 6 Loquhariot), from where the sweep of the escarpment is apparent and the turbines would appear as large obvious features. This area is characterised by incised river valleys, a rolling topography and a moderate amount of woodland, all of which serve to limit the visibility of the proposed turbines somewhat. However, in driving around this area, I was nevertheless frequently able to observe this part of the escarpment, for instance from sections of the B6372 and minor roads around Gorebridge.

34. At distances of less than five kilometres, while the turbines appeared larger, the defining role of the escarpment is less readily apparent (see for instance from the B7007; viewpoint 7 Middleton). At longer distances, the full sweep of the Moorfoot escarpment is a very apparent and important landscape feature, but the turbines themselves appear smaller and are consequently less impactful, though they would still be easily seen on a clear day. The view from Arthur's Seat in Edinburgh (20 kilometres; viewpoint 16) and the Pentland Hills (18 kilometres; viewpoint 14) illustrate this point. However, because the views from these points would be experienced by very large numbers of recreational users, who will have climbed to these points in part to experience the views from them, I do not dismiss the impacts from these viewpoints as being negligible.

35. This part of the Moorfoot Hills does not appear to be greatly used for recreational walking. The B7007 forms part of the National Cycle Network, and I observed frequent cyclists using this road at the time of my site inspection. The turbines would be viewed as large kinetic structures on the southbound approach to the escarpment and from within the Moorfoot Plateau. In the former case, they would detract from the appearance of the escarpment as a significant feature of the route. In the latter case, I have found that there would be a relatively good landscape fit, and no significant adverse impact can be anticipated.

36. Other important recreational viewpoints include from Gladhouse Reservoir (viewpoint 2), which was busy with visitors at the time of my site inspection. The reservoir has something of a wild character that will be appreciated by visitors and would be lessened somewhat by the appearance of the turbines over the eastern skyline. That said, only the upper parts of five of the turbines would be visible, and the Moorfoot scarp is not as obvious or dramatic a feature as seen from here compared to other locations. Overall the effect is negative, but I doubt the wind farm would significantly diminish people's recreational enjoyment of this location.

37. Crichton Castle is a popular visitor attraction located around 6.5 kilometres north of the appeal site. I am not aware of any particular historical relationship between the castle and the Moorfoot Hills, so at this distance I do not consider there would be any significant negative effect on the setting of the ancient monument. However, the proposed turbines would unfortunately appear to visitors approaching the monument along the access track as large moving structures behind and to the right of the castle. While, at this distance, the turbines would not be so large as to dominate the experience, I consider a highly adverse visual impact would result due to the large number of visitors who will currently enjoy experiencing the castle in surroundings largely unaffected by modern development.

38. A number of other cultural heritage locations would (at least theoretically) have views of the proposed wind farm. The hillfort/ settlement remains at Corsehope Rings (viewpoint 4), Halltree Rings (cultural heritage viewpoint 3) and Symington Hillhead (cultural heritage viewpoint 5) are located between three and eight kilometres south-east of the proposed development. While the turbines would be prominent features in the wider landscape, I consider the most important historical relationships are likely to be between the forts themselves and with other forts in the area and the settled valleys of the Heriot Water and the Gala Water. These relationships would not be disturbed by the development. I am not aware of any particular relationship between the forts and the appeal site, and I do not therefore consider the ability to understand and appreciate the landscape settings of these monuments would be materially affected.

39. Regarding cultural heritage assets in Midlothian, Arniston House (Category A listed, and associated inventory garden/ designed landscape) would have a view of the turbines six kilometres to the south-east (cultural heritage viewpoint 8). While I consider there would be a negative visual impact from here due to the disruption of the Moorfoots escarpment as described above, I note that the front elevation of the house faces north, and I am not aware of any particular intentional visual relationship between the house, or its grounds, and the appeal site. I do not therefore consider that there would be a material effect on the setting of the house or garden.

40. The category A listed Middleton Hall lies 3.4 kilometres north of the proposed wind farm. The house is orientated to be appreciated primarily on approach from the west, and views from the house will primarily be to the east and west. Trees within the grounds will limit views to the south towards the windfarm, but perhaps not obscure them altogether. Where visible, the turbines would be large incongruous structures as seen from the house and grounds, but given the orientation of the building and its approach, I do not consider any significant effect on the building's setting is likely.

### Cumulative Impact

41. The principal potential for cumulative landscape and visual impacts would be in locations from where the proposed scheme would be visible together with the adjacent existing three turbine Carcant wind farm, which is located immediately to the south of the appeal site. At 107 metres, the Carcant turbines are less tall and are generally located on slightly lower ground. However, from the photomontages and wirelines supplied, I do not detect any great visual mismatch between the existing and proposed turbines. If built, I expect the Wull Muir and Carcant turbines would be read as a single wind farm by most observers.

42. From viewpoints within the Moorfoot Plateau and the Scottish Borders more widely, the two schemes would integrate quite successfully into the receiving landscape, and I have not identified any unacceptable visual impacts. From the Lothian plain to the north, the Carcant turbines are largely invisible or insignificant features, due to their being lower and set back further from the escarpment edge.

43. Of the other existing and consented wind farms that impinge on the Moorfoot/Lammermuir escarpment and so are visible from the Lothian plain, all are well separated from Wull Muir, and contain turbines that would appear much smaller than the Wull Muir turbines when viewed from Midlothian. Any cumulative impacts would be experienced well to the north, from locations such as Bonnyrigg (viewpoint 13; around 12 kilometres). From here, the Bowbeat wind farm is visible some nine kilometres south-west of Wull Muir, and the Dun Law/ Pogbie complex between seven and 13 kilometres to the north-east (I understand the Gilston wind farm may now have been refused after judicial review). These three groupings would therefore be well-spaced, but the limited incursion onto the escarpment skyline created by the Bowbeat and Dun Law groups would be greatly exacerbated by the introduction of the Wull Muir scheme.

44. To conclude in terms of landscape and visual impacts, while there may well be capacity for additional large turbines further south in the Moorfoot plateau, I consider that this particular proposal is too near the escarpment edge, and consequently has a severely disruptive effect on the landscape and visual role of this important landscape feature. It is therefore contrary to elements of Policy ED9 of the local development plan because it has a significant adverse landscape and visual impact. It is also contrary to the supplementary guidance on wind energy on a number of grounds. Firstly, it fails to respect the main features and character of the landscape as identified in the landscape capacity study (namely the Moorfoot scarp edge), and fails to minimise its effects on the landscape. Secondly, it has an unacceptable visual impact on locations in the Lothian plain. I also have some concerns about cumulative impact, though these are secondary to my concerns regarding the proposal in isolation.

### Benefits of the Development

45. Policy ED9 of the local development requires me to take into consideration factors including net economic impact, the scale of contribution to renewable energy generation targets, the effect on greenhouse gas emissions, and opportunities for energy storage. (Regarding this last matter, I note the inclusion in the scheme of an energy storage compound for up to 4MW.) The supplementary guidance on renewable energy supports proposals where the net economic impact and the scale of contribution towards renewable

energy targets outweighs any other possible unacceptable impacts that cannot be satisfactorily mitigated.

46. The appellant has itemised the potential benefits of the development, which are not challenged by the council. According to the appellant, the development would have an indicative installed capacity of up to 33.6 MW of renewable electricity. It would therefore make a modest, but nevertheless valuable, contribution to meeting the Scottish Government's renewable energy targets.

47. Carbon emission savings are estimated at around 41,000 tonnes of CO<sub>2</sub> per year, or 1,030,000 tonnes over the lifetime of the development. The development would therefore make a useful contribution towards achieving the Scottish Government's targets to reduce, and ultimately eliminate, net greenhouse gas emissions.

48. It is estimated that the development would generate an additional 125 jobs in Scotland during the construction phase, of which 42 would be within the Scottish Borders. A potential to inject £7.27 million into the Scottish economy during the construction phase is also claimed. While the landscape and visual impacts of the scheme described above may be argued to have some very diffuse negative effect on, for instance, tourist spending in the area, I accept that the proposal would have a strongly net positive economic effect.

49. I accept that the proposed wind farm would generate significant benefits, as itemised above, and so is supported by the parts of the development plan dealing with these topics. While the precise benefits are hard to verify, it is clear that these constitute a powerful argument in favour of the development. However it is also the case that the supplementary guidance expects me to balance these benefits against any impacts of the scheme.

### Other Impacts

50. The EIA report and Supplementary Environmental Information assess a wide range of other impacts, including those relating to: archaeology; ornithology; ecology; noise; traffic and transportation; geology, hydrology and hydrogeology; and other issues including aviation. Apart from the issue of aviation safety, the council has not founded its refusal on any of these impacts, and I note in this regard that there are no outstanding concerns on the part of key agencies, subject sometimes to the imposition of appropriate conditions.

51. Regarding defence and aviation safety impacts, I note that the initial objection from the Ministry of Defence (which had formed one basis for the council's refusal) has now been withdrawn subject to the installation of infra-red aviation warning lighting. As regards the objection from Scottish Forestry to an earlier iteration of the scheme, I note that the current proposal does not involve any tree-felling, and so I consider this issue resolved.

52. The Supplementary Environmental Information indicates that noise (and potentially shadow flicker) limits would be exceeded at Heriot Cleugh. However, as discussed at paragraph 27 above, I am satisfied that this property would not be used for residential purposes if the development went ahead (and a suspensive condition could ensure that this was the case).

53. With this exception, the EIA report and Supplementary Environmental Information submitted by the appellant did not identify any residual significant environmental effects, beyond those relating to landscape and visual impact which are considered above, assuming appropriate mitigation measures were put in place.

54. In particular, I note that no significant effects are predicted on the Moorfoot Hills or River Tweed Special Areas of Conservation. Nor are any significant effects on the integrity of the Fala Flow or Gladhouse Reservoir Special Protection Areas predicted.

55. The council received 21 representations in relation to the scheme, of which 9 were objections and 12 were in support. The main points raised in objections included questioning UK energy policy, the economic benefits of the scheme, landscape and visual impact, impacts on birds, compliance with local policies, and noise impacts. Points made in support included the contribution made to renewable targets and greenhouse gas reductions, support for local jobs and businesses, low landscape and visual impact, and the grant money the scheme would provide towards local communities. I have considered all the matters raised, with the exception that I cannot give weight to the appellant's offer of community benefit payments.

56. To conclude, following my consideration of the environmental information, I have identified no additional significant effects beyond those relating to landscape and visual impact. Subject to mitigation, controlled where necessary by means of conditions, there would be no unacceptable residual impacts in regard to these other matters.

#### Conclusion regarding Compliance with the Development Plan

57. A conclusion on the overall compliance of the proposal with the development plan requires me to balance the landscape and visual impacts I have identified above against the potential benefits relating to renewable energy generation, the reduction of greenhouse gas emissions and a positive economic effect. I consider that in this case the landscape and visual impacts are particularly severe for the reasons summarised at paragraph 44 above. While the benefits of the scheme are acknowledged, the power generation of the proposal is relatively modest. As noted above, I consider it likely that some landscape capacity does exist in the wider Moorfoot Plateau to accommodate additional large turbines, but that this particular proposal is not in the right place because it is sited too close to the escarpment edge. I therefore conclude that in this case, the landscape and visual considerations are more powerful than the potential benefits, and that proposed development does not therefore comply overall with the development plan.

#### Other Material Considerations

58. National Planning Framework 3 and Scottish Planning Policy support the expansion of renewable energy generation capacity. Paragraph 169 of Scottish Planning Policy sets out a number of criteria to consider in relation to energy infrastructure, including net economic impact (including local and community socio-economic benefits), the contribution towards renewable energy targets, the effect on greenhouse gas emissions, cumulative impacts, landscape and visual impacts, impacts on the historic environment and impacts on tourism and recreation. Some of these factors are considered above, but it is clear that

national policy expects possible impacts on the landscape and visual receptors to be balanced against possible environmental and economic benefits.

59. Scottish Planning Policy also introduces a presumption in favour of sustainable development. Paragraph 29 states that this includes giving due weight to net economic benefit and supporting the delivery of energy infrastructure, but also protecting the landscape. The thrust of national policy is therefore to give due weight to the range of factors contributing to sustainable development. In this case, I consider the adverse landscape and visual impacts of the proposal outweigh its potential benefits

### Overall Conclusion

60. I therefore conclude, for the reasons set out above, that the proposed development does not accord overall with the relevant provisions of the development plan and that there are no material considerations which would still justify granting planning permission. I have considered all the other matters raised, but there are none which would lead me to alter my conclusions.

*Stephen Hall*

Reporter

### **Advisory Note**

**Right to challenge this decision:** This decision is final, subject to the right of any person aggrieved by this decision to question its validity by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision. Your local Citizens' Advice Bureau or your solicitor will be able to advise you about the applicable procedures.

### **Schedule 1: Opportunities for public participation in decision-making**

There is the following evidence before me of opportunities the public had to take part in decision-making procedures on the application before I was appointed to this appeal:

- the appellant has provided a report on pre-application consultation. This indicates that three public exhibitions were held, at Macfie Hall, Heriot on 26 September 2018 and 8 February 2019, and at Temple Village Hall on 10 December 2018. The public had an opportunity to comment to the appellant on the proposed development;
- advertisements of the application in the Edinburgh Gazette and the Southern Reporter have been provided. These advertised the opportunity for the public to make representations upon the proposal for the development and the accompanying EIA report;
- the planning authority received 21 public representations in respect of the application. The main points raised in those representations are summarised in this decision notice at paragraph 55; and
- supplementary environmental information was submitted to the planning authority and the public had an opportunity to comment on that information.

Those who made representations upon the application have been treated as interested parties in the appeal. They have had the opportunity to make representations on matters that they raised, by written response to the appeal.