



Torfichen Wind Farm

Appendix 4.2

Scoping Opinion

Author	ITPEnergised
Date	Oct 2023
Ref	5585

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**The Scottish Government
Energy Consents Unit**

**Scoping Opinion On Behalf Of Scottish Ministers Under The
Electricity Works (Environmental Impact Assessment) (Scotland)
Regulations 2017**

**Torfichen Wind Farm
Renewable Energy Systems (RES) Group Ltd**

13th of April 2023

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ANNEX A

ANNEX B

1. Introduction

1.1 This scoping opinion is issued by the Scottish Government Energy Consents Unit on behalf of the Scottish Ministers to Renewable Energy Systems (RES) Group Ltd a company incorporated under the Companies Acts with company number 01589961 and having its registered office Beaufort Court, Egg Farm Lane, Off Station Road, Kings Langley, Hertfordshire, WD4 8LR (“the Company”) in response to a request dated 16th January 2023 for a scoping opinion under the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 in relation to the proposed Torfichen Wind Farm (“the proposed development”). The request was accompanied by a scoping report which was prepared by ITP Energised.

1.2 The proposed development would be located approximately 8 km south-west of Penicuik and 14 km north-east of Stow within the northern edge of the Moorfoot Hills fully within the Midlothian Council area.

1.3 The proposed development will comprise up to 19 turbines, each with a blade tip height within the region of 180 m, each with a generating capacity of approximately 6 MW.

1.4 In addition to the wind turbines there will be ancillary infrastructure including:

- temporary construction compound;
- crane pads;
- temporary laydown areas adjacent to the turbines;
- access tracks;
- watercourse crossings;
- underground cables between turbines;
- electrical switching station;
- onsite substation and control building;
- battery storage infrastructure;
- a gatehouse compound;
- telecoms mast;
- concrete batching plant;
- drainage and drainage attenuation measures (as required); and
- potential excavations/borrow workings.

1.5 The Company indicates the proposed development would be decommissioned after 50 years and the site restored in accordance with the decommissioning and restoration plan.

1.6 The proposed development is solely within the planning authority of Midlothian Council.

2. Consultation

2.1 Following the scoping opinion request a list of consultees was agreed between Renewable Energy Systems (RES) Group Ltd and the Energy Consents Unit. A consultation on the scoping report was undertaken by the Scottish Ministers and this commenced on 23rd January 2023. The consultation closed on 13th February 2023. Extensions to this deadline were granted to Scottish Environment Protection Agency (SEPA), Historic Environment Scotland (HES), Defence Infrastructure Organisation (DIO) and Heriot Community Council. The Scottish Ministers also requested responses from their internal advisors Transport Scotland and Scottish Forestry. Standing advice from Marine Scotland Science (MSS) has been provided with requirements to complete a checklist prior to the submission of the application for consent under section 36 of the Electricity Act 1989. All consultation responses received, and the standing advice from MSS, are attached in **ANNEX A Consultation responses**.

2.2 The purpose of the consultation was to obtain scoping advice from each consultee on environmental matters within their remit. Responses from consultees and advisors, including the standing advice from MSS, should be read in full for detailed requirements and for comprehensive guidance, advice and, where appropriate, templates for preparation of the Environmental Impact Assessment (EIA) report.

2.3 Unless stated to the contrary in this scoping opinion, Scottish Ministers expect the EIA report to include all matters raised in responses from the consultees and advisors.

2.4 The following organisations were consulted but did not provide a response:

- British Horse Society;
- Civil Aviation Authority – Airspace;
- Forth Fisheries Trust;
- Oban Airport;
- Scottish Wildlife Trust;
- Scottish Wild Land Group; and
- Visit Scotland;

2.5 With regard to those consultees who did not respond, it is assumed that they have no comment to make on the scoping report, however each would be consulted again in the event that an application for section 36 consent is submitted subsequent to this EIA scoping opinion.

2.6 The Scottish Ministers are satisfied that the requirements for consultation set out in Regulation 12(4) of the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 have been met.

3. The Scoping Opinion

3.1 This scoping opinion has been adopted following consultation with Midlothian Council, within whose area the proposed development would be situated, NatureScot, Scottish Environment Protection Agency and Historic Environment Scotland, all as statutory consultation bodies, and with other bodies which Scottish Ministers consider likely to have an interest in the proposed development by reason of their specific environmental responsibilities or local and regional competencies.

3.2 Scottish Ministers adopt this scoping opinion having taken into account the information provided by the applicant in its request dated 16th January 2023 in respect of the specific characteristics of the proposed development and responses received to the consultation undertaken. In providing this scoping opinion, the Scottish Ministers have had regard to current knowledge and methods of assessment; have taken into account the specific characteristics of the proposed development, the specific characteristics of that type of development and the environmental features likely to be affected.

3.3 A copy of this scoping opinion has been sent to Midlothian Council for publication on their website. It has also been published on the Scottish Government energy consents website at www.energyconsents.scot.

3.4 Scottish Ministers expect the EIA report which will accompany the application for the proposed development to consider in full all consultation responses attached in **Annex A and Annex B**.

3.5 Scottish Ministers are satisfied with the scope of the EIA set out in the scoping report.

3.6 In addition to the consultation responses, Ministers wish to provide comments with regards to the scope of the EIA report. The Company should note and address each matter.

3.7 The proposed development set out in the Scoping Report refers to wind turbines, and other technologies including battery storage and/or solar panels. Any application submitted under the Electricity Act 1989 requires to clearly set out the generation station(s) that consent is being sought for. For each generating station details of the proposal require to include but not limited to:

- the scale of the development (dimensions of the wind turbines, solar panels, battery storage)
- components required for each generating station
- minimum and maximum export capacity of megawatts and megawatt hours of electricity for battery storage

3.8 Scottish Water provided information on whether there are any drinking water protected areas or Scottish Water assets on which the development could have any significant effect. Scottish Ministers request that the company contacts Scottish Water (via [REDACTED]) and makes further enquires to confirm whether there are any Scottish Water assets which may be affected by the development, and includes details in the EIA report of any relevant mitigation measures to be provided.

3.9 Scottish Ministers request that the Company investigates the presence of any private water supplies which may be impacted by the development. The EIA report should include details of any supplies identified by this investigation, and if any supplies are identified, the Company should provide an assessment of the potential impacts, risks, and any mitigation which would be provided.

3.10 MSS provide generic scoping guidelines for onshore wind farm and overhead line development [Onshore Renewables Interactions - gov.scot \(www.gov.scot\)](http://www.gov.scot/Onshore-Renewables-Interactions) which outline how fish populations can be impacted during the construction, operation and decommissioning of a wind farm or overhead line development and informs developers as to what should be considered, in relation to freshwater and diadromous fish and fisheries, during the EIA process.

3.11 In addition to identifying the main watercourses and waterbodies within and downstream of the proposed development area, developers should identify and consider, at this early stage, any areas of Special Areas of Conservation where fish are a qualifying feature and proposed felling operations particularly in acid sensitive areas.

3.12 MSS also provide standing advice for onshore wind farm or overhead line development (which has been appended at Annex B) which outlines what information, relating to freshwater and diadromous fish and fisheries, is expected in the EIA report. Use of the checklist, provided in Annex 1 of the standing advice, should ensure that the EIA report contains the required information; the absence of such information may necessitate requesting additional information which may delay the process. Developers are required to submit the completed checklist in advance of their application submission.

3.13 Scottish Ministers consider that where there is a demonstrable requirement for peat landslide hazard and risk assessment (PLHRA), the assessment should be undertaken as part of the EIA process to provide Ministers with a clear understanding of whether the risks are acceptable and capable of being controlled by mitigation measures. The Peat Landslide Hazard and Risk Assessments: Best Practice Guide for Proposed Electricity Generation Developments (Second Edition), published at <http://www.gov.scot/Publications/2017/04/8868>, should be followed in the preparation of the EIA report, which should contain such an assessment and details of mitigation measures. Where a PLHRA is not required clear justification for not carrying out such a risk assessment is required.

3.14 The scoping report identified viewpoints at Table 4.1 to be assessed within the landscape and visual impact assessment. The Midlothian Council have requested additional viewpoints at chapter 4 of their response. Scottish Borders Council and Heriot Community Council have also requested additional viewpoints in their response.

3.15 The noise assessment should be carried out in line with relevant legislation and standards as detailed in section 10 of the scoping report. The noise assessment report should be formatted as per Table 6.1 of the IOA “A Good Practice Guide to the Application of ETSU-R-97 for the Assessment and Rating of Wind Turbine Noise.”.

The Scottish Ministers are aware that the proposed Development falls within the statutory safeguarded area around Eskdalemuir Seismological Recording Station. Scientific research has established that wind turbines of current design generate noise emissions that cause seismic vibrations which can interfere with the effective operation of the array. In order to ensure the United Kingdom can continue to implement its obligations in maintaining the Comprehensive Nuclear Test Ban Treaty, a noise budget has been allocated to regulate the development of wind turbines within a 50km radius of the array.

As advised by the Defence Infrastructure Organisation (“the DIO”), the budget has been set at 0.336nm rms and at present the reserved noise budget has been reached. Consequently, the DIO has stated there would be concerns if this proposal progresses to application based upon current information.

The Scottish Ministers request that the company keep up to date with the information provided by the Eskdalemuir Working Group (EWG) and contact the Defence Infrastructure Organisation at the earliest opportunity to discuss any possible mitigation measures. Enquiries regarding the work being undertaken by EWG can be directed to [REDACTED]

3.16 As the maximum blade tip height of turbines exceeds 150m the LVIA as detailed in section 4.5.15 of the scoping report must include a robust Night Time Assessment with agreed viewpoints to consider the effects of aviation lighting and how the chosen lighting mitigates the effects.

3.17 It is recommended by the Scottish Ministers that decisions on bird surveys – species, methodology, vantage points, viewsheds & duration - site specific & cumulative – should be made following discussion between the Company and NatureScot.

3.18 Where borrow pits are proposed as a source of on-site aggregate they should be considered as part of the EIA process and included in the EIA report detailing information regarding their location, size and nature. Ultimately, it would be necessary to provide details of the proposed depth of the excavation compared to the actual topography and water table, proposed drainage and settlement traps, turf and overburden removal and storage for reinstatement, and details of the proposed restoration profile. The impact of such facilities (including dust, blasting and impact on water) should be appraised as part of the overall impact of the working. Information should cover the requirements set out in ‘PAN 50: Controlling the Environmental Effects of Surface Mineral Workings’.

3.19 Ministers are aware that further engagement is required between parties regarding the refinement of the design of the proposed development regarding, among other things, surveys, management plans, peat, radio links, finalisation of viewpoints, cultural heritage, cumulative assessments and request that they are kept informed of relevant discussions.

4. Mitigation Measures

4.1 The Scottish Ministers are required to make a reasoned conclusion on the significant effects of the proposed development on the environment as identified in the environmental impact assessment. The mitigation measures suggested for any significant environmental impacts identified should be presented as a conclusion to each chapter. Applicants are also asked to provide a consolidated schedule of all mitigation measures proposed in the environmental assessment, provided in tabular form, where that mitigation is relied upon in relation to reported conclusions of likelihood or significance of impacts.

5. Conclusion

5.1 This scoping opinion is based on information contained in the applicant's written request for a scoping opinion and information available at the date of this scoping opinion. The adoption of this scoping opinion by the Scottish Ministers does not preclude the Scottish Ministers from requiring of the applicant information in connection with an EIA report submitted in connection with any application for section 36 consent for the proposed development.

5.2 This scoping opinion will not prevent the Scottish Ministers from seeking additional information at application stage, for example to include cumulative impacts of additional developments which enter the planning process after the date of this opinion.

5.3 Without prejudice to that generality, it is recommended that advice regarding the requirement for an additional scoping opinion be sought from Scottish Ministers in the event that no application has been submitted within 12 months of the date of this opinion.

5.4 It is acknowledged that the environmental impact assessment process is iterative and should inform the final layout and design of proposed developments. Scottish Ministers note that further engagement between relevant parties in relation to the refinement of the design of this proposed development will be required, and would request that they are kept informed of on-going discussions in relation to this.

5.5 Applicants are encouraged to engage with officials at the Scottish Government's Energy Consents Unit at the pre-application stage and before proposals reach design freeze.

5.6 When finalising the EIA report, applicants are asked to provide a summary in tabular form of where within the EIA report each of the specific matters raised in this scoping opinion has been addressed.

5.7 It should be noted that to facilitate uploading to the Energy Consents portal, the EIA report and its associated documentation should be divided into appropriately named separate files of sizes no more than 10 megabytes (MB).

Nicola Ferguson
Energy Consents Unit
13th of April 2023

ANNEX A

Consultation

List of consultees who provided a response

• Midlothian Council;	A1-A4
• SEPA;	A5-A12
• NatureScot;	A13-A16
• Historic Environment Scotland;	A17-A21
• Scottish Forestry;	A22
• Transport Scotland;	A23-A25
• Aberdeen Airport;	A26
• BT;	A27
• Crown Estate Scotland;	A28
• Defence Infrastructure Organisation;	A29-A31
• Edinburgh Airport;	A32-A33
• Forth Fisheries Management Scotland;	A34
• Forth DSFB;	A35
• Glasgow Airport;	A36
• Glasgow Prestwick Airport;	A37
• Highland and Islands Airport Limited;	A38-A39
• John Muir Trust;	A40
• Joint Radio Company;	A41-A42
• Mountaineering Scotland;	A43
• NATS Safeguarding;	A44
• Office for Nuclear Regulation;	A45
• RSPB Scotland;	A46-A47
• ScotWays;	A48-A54
• Scottish Water;	A55-A57
• The Coal Authority;	A58-A59
• The MET Office;	A60
• Scottish Borders Council;	A61
• Heriot Community Council; and	A62-A69
• Moorfoot Community Council	A70-A73

Internal advice from areas of the Scottish Government was provided by officials from Transport Scotland, Scottish Forestry and Marine Scotland (in the form of standing advice from Marine Scotland Science) included in **Annex B**.

See Section 2.4 above for a list of organisations that were consulted but did not provide a response.

13 February 2023

Nicola Ferguson
Case Officer
Energy Consents Unit
Scottish Government

BY EMAIL ONLY

Dear Nicola Ferguson

Reference – ECU00004661
Request for EIA Scoping Opinion for Proposed Section 36 Application for
Torfichen Wind Farm, Midlothian

Further to your notification dated 23 January 2023, as requested below are Midlothian Council's observations on the scope of the environmental impact assessment for this proposal.

Chapter 3 – Planning and Energy Policy Context

With regard to proposed planning and energy policy assessment to be undertaken (EIA Planning Statement), please note comments below for consideration.

National policies

The national planning policies contained in National Planning Framework 4 (NPF4) will supersede Scottish Planning Policy (SPP) (2014). The anticipated NPF4 adoption date is 13 February 2023.

Development Plan

National Planning Framework 4 (NPF4) will form part of the development plan, alongside the Midlothian Local Development Plan (MLDP) (2017). NPF4 will supersede the South East Scotland Strategic Development Plan (SESplan) (2013).

The EIA Scoping Report notes relevant NPF4 policies. Additional NPF4 policies, which are relevant to the proposed development include:

- Policy 2 – Climate mitigation and adaptation
- Policy 23 – Health and safety
- Policy 29 – Rural development

The EIA Scoping Report notes relevant MLDP policies. Additional MLDP policies, which are relevant to the proposed development include:

- Policy DEV5 – Sustainability in New Development
- Policy VIS1 – Tourist Attractions
- Policy ENV17 – Air Quality
- Policy ENV21 – Nationally Important Historic Battlefields

Please also note the location of the Gas Pipeline constraint, which is located in the northern half of the site near the proposed turbines T9, T13, T15 and T19.



Chapter 4 – Landscape and Visual

Midlothian Council are content that the proposed scope and methodology for the Landscape and Visual Impact Assessment (LVIA) is generally acceptable. Please note specific comments below for your consideration.

Viewpoints

Midlothian Council would want to liaise with the relevant consultants on a range of viewpoints across the study area. We request that in addition to those proposed, the following are also included in the LVIA:

- B6372 Lady Brae/ Mossend, Gorebridge (NT 35367 61670)
- Chapel Loan, Roslin (NT 27288 63191)
- Andy Kelly View, Bonnyrigg – Core Path (NT 29765 64390)
- Fala Moor – Core Path (NT 42341 58197)

The Council reserves its right within reason to request additional viewpoints at a later date.

Cumulative Effects

The LVIA needs to evaluate the effect of the proposal on cumulative impact of wind energy development in this area. Full cognisance must be had of the NatureScot guidance 'Siting and Designing Windfarms in the Landscape' (Section 4, Designing in Landscapes with Multiple Windfarms). This is a particularly important issue given the existing presence of Bowbeat and Carcant wind farms in the Moorfoot Hills, and Longpark, Toddleburn, Dun Law and Pogie further to the east. The landscape and visual impact of different turbine heights between this proposal and those built and consented in nearby wind farms needs to be considered in the LVIA. Differences in the relationship between turbine blade lengths and turbine stem height between this proposal and nearby wind energy developments also needs to be considered.

In addition to those identified in the EIA Scoping, Midlothian Council recommend that the following wind farm proposals (currently at application stage) are included in the cumulative assessment:

- Wull Muir, northwest of Heriot, Scottish Borders (8no. turbines, 150m height)
Application stage, Scottish Borders Council reference 22/01960/FUL
- Scawd Law, north of Walkerburn, Scottish Borders (8no. turbines, 180m height)
Application stage, Energy Consents Unit reference ECU00002111

Although not at application stage, consideration should also be given to the following wind farm proposals:

- Leithenwater, northeast of Peebles, Scottish Borders (13no. turbines, 200m height)
EIA Scoping stage, Energy Consents Unit reference ECU00004619
- Ditcher Law, north of Oxton, Scottish Borders (15no. turbines, 220m height)
Pre-application stage, Energy Consents Unit reference ECU00002173

Comment

Without pre-empting the findings of the LVIA, Midlothian Council have concerns about the scale, location and extent of the proposed wind farm – which appear inconsistent with the findings of the Landscape Capacity Study for Wind Turbine Development in Midlothian (2007). The proposed development is likely to give rise to significant effects on the character and key qualities of the Gladhouse Reservoir and Moorfoot Scarp Special Landscape Area (SLA).



It also has the potential to affect some of the key panoramic views across Midlothian, notably those from the B7007 and Gladhouse Reservoir; and others within the Pentland Hills and across the county, in which the site forms an uncluttered foreground to views of the distinctive northern scarp of the Moorfoot Hills.

The potential for adverse effects on Peat and Carbon Rich Soils within the site, as well as cumulative effects of the development in combination with the existing Bowbeat and Carcant wind farms are further grounds for concern.

Chapter 5 – Cultural Heritage and Chapter 19 – Forestry

Midlothian Council are content with the approach suggested in the EIA Scoping, so long as the potential impact on the areas of long established woodland of plantation origin is fully considered in the ecology assessment.

Chapter 6 – Ecology and Chapter 7 – Ornithology

The site is close to the internationally important nature conservation sites at Gladhouse Reservoir, Fala Flow and Peeswit Moss. Please note also that Burn Quarry proposed Local Geodiversity Site (LGS) is located approx. 1km north of site (Esperston).

The EIA should assess the impact on migratory species passing through/ in close proximity to the site between Midlothian and Scottish Borders. Expert ornithological advice should be used to determine the distance from the site that should be included in the assessment of the potential impact of the proposals on the species found in these designations. The impact on the wider environment and species not found in these designated sites should also be included in the assessment, including in other statutory and non-statutory nature conservation designations.

Chapter 9 – Traffic and Transportation

Consultation

The Scoping Report identifies the preferred route / study area, which includes the following Midlothian adopted roads (paragraph 9.3.2):

- turn right onto B6458/ B6367
- turn right onto A7
- continue on A7 and before North Middleton turn left onto B7007 towards site access

Where the construction and access route passes through Midlothian, the Council requests that its Road and Planning Services are consulted and kept fully informed in the development of the proposal. In relation to Consultee Lists (paragraphs 9.4.4 and 9.8.1), please include Midlothian Council.

Our baseline requirements during any consultation is that any accommodation measures required on the public road network through Midlothian, including the removal of street furniture, removal of lighting columns, junction widening, over-run areas, temporary traffic management etc. require to be agreed with Midlothian Council Road Services prior to work commencing on site.

Structures

One structure on the preferred route that may be an issue is Tynehead Railway Bridge, close to the B6458/ B6367 junction. This is a Network Rail owned bridge and they have imposed weight limits of between 41t and 54t gvw, depending on the Category of the abnormal load vehicle. This could be critical, so Midlothian Council suggest the applicant consults with Network Rail regarding their proposed route.



Construction and access routes

The length of the loads could be an issue for the Midlothian road network more generally, in particular at the junctions (A68/ B6458; B6458/ B6367; B6367/ A7; A7/ B7007) and tight bends e.g. the relatively tight bend immediately west of Tynehead Railway Bridge. Midlothian Council recommend that the assessment referred to in paragraph 9.4 will look at all these issues in more detail.

Any accommodation works will require Roads (Scotland) Act 1984 Section 56 consent and required to be carried out by the hauliers/ developers appointed roadworks contractor and at the expense of the developer.

Midlothian Council requests that full and exact details of the proposed construction and access routes and points are identified and assessed as part of the EIA. This should include proposed widths and finishes to any temporary or permanent access tracks, and any other infrastructure, in order to assess the impacts of the construction and access routes if they pass through Midlothian.

The EIA needs to be accompanied by a full swept path analysis that identifies whether the vehicles and turbine components will be able to pass along the identified construction and access routes, and whether any trees or hedgerows along the route in Midlothian will be affected. The Council's starting position is that there should be no loss of trees and hedges and everything possible should be done to retain them. The extent of potential impact on trees and hedgerows should be identified, assessed and mitigation measures, if necessary, set out, e.g. replacement proposals for any trees or hedgerows that might be lost to allow construction traffic to pass.

Chapter 10 – Noise and Chapter 18 – Air Quality

Midlothian Council are content that the scope and methodology proposed in the EIA Scoping for noise and air quality assessment is acceptable.

Chapter 12 – Potential Grid Connections

Midlothian Council requests to be informed of applications for grid connection access for this proposal at the appropriate future stage(s).

Consultee List

Midlothian Council requests that the following groups/ organisations are included as consultees:

- Midlothian Council
- Local community councils including Moorfoot, and Tynewater
- Local community groups
- Sustrans Scotland. Note that a section of National Cycle Network (NCN) Route 1 utilises the B7007 road near Middleton to the B7009 junction and from this point to the A72 at Innerleithen.

I hope that these comments are helpful to you. Please contact me if you have any queries.

Yours sincerely

Keith Luke
Planning Officer
Midlothian Council

Nicola Ferguson
Energy Consents Unit (ECU)
The Scottish Government

Our Ref:
8025

Your Ref:
ECU00004661

SEPA Email Contact:
[REDACTED]

23 March 2023

By email only to: [REDACTED]

Dear Nicola Ferguson

Electricity Act 1989 - Section 36
ECU00004661

**REQUEST FOR SCOPING OPINION FOR PROPOSED SECTION 36 APPLICATION FOR
TORFICHEN WIND FARM**

Thank you for consulting SEPA on the scoping opinion for the above development proposal by your email received on 23 January 2023.

Advice to the determining authority

We consider that the following key issues must be addressed in the Environmental Impact Assessment process. To **avoid delay and potential objection**, the information outlined below and in the attached appendix should be submitted in support of the application.

- a) Map and assessment of all engineering works within and near the water environment including buffers, details of any flood risk assessment and details of any related CAR applications.
- b) Map and assessment of impacts upon Groundwater Dependent Terrestrial Ecosystems and buffers.
- c) Map and assessment of impacts upon groundwater abstractions and buffers.
- d) Peat depth survey and table detailing re-use proposals.
- e) Map and site layout of borrow pits.
- f) Schedule of mitigation, including pollution prevention measures.
- g) Borrow Pit Site Management Plan of pollution prevention measures.
- h) Map of any proposed water abstractions, including details of the proposed operating regime.
- i) Decommissioning statement.

Further details on these information requirements and the form in which they must be submitted can be found in the attached appendix. We also provide site-specific comments in the following section which can help the developer focus the scope of the assessment:

1. Site-specific comments

- 1.1. In this case, where much of the site is on peat, we expect the application to be supported by a comprehensive site-specific Peat Management Plan (PMP).
- 1.2. We advise that we will assess the proposals in accordance with National Planning Framework 4 (NPF4) and information should be provided to demonstrate compliance with Policy 5 of NPF4 including confirmation of how the development is considered to meet the requirements of policy 5c and the provision of the information outlined in 5d. It should be clearly demonstrated how impacts on peat have been minimised via location, layout and design of all proposed infrastructure in line with the mitigation hierarchy. We would welcome the opportunity to comment on this at this time, as well as the peat management plan and any plans required for restoring and/or enhancing the site into a functioning peatland system capable of achieving carbon sequestration. We are likely to object to proposals where infrastructure is located on peat >1m and it is not demonstrated that the mitigation hierarchy has been followed and, if required, proposals for peat restoration into a functioning peatland system identified.
- 1.3. Provided watercourse crossings are designed to accommodate the 1 in 200-year event (plus climate change) and other infrastructure is located well away from watercourses, we do not foresee from current information a need for detailed information on flood risk.

2. Regulatory advice for the applicant

- 2.1. Proposed engineering works within the water environment will require authorisation under The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (as amended). Management of surplus peat or soils may require an exemption under The Waste Management Licensing (Scotland) Regulations 2011. Proposed crushing or screening will require a permit under The Pollution Prevention and Control (Scotland) Regulations 2012. Consider if other environmental licences may be required for any installations or processes.
- 2.2. Details of regulatory requirements and good practice advice can be found on the [regulations section](#) of our website. If you are unable to find the advice you need for a specific regulatory matter, please contact a member of the local compliance team at: [REDACTED]

We recommend that all assessments or reports submitted in support of the planning submission accord with the principles and requirements of National Planning Framework 4 (NPF4), to minimise the risk of delay or objection from SEPA.

If you have queries relating to this letter, please contact [REDACTED] including our reference number in the email subject.

Yours sincerely

Peter Minting
Planning Officer
Planning Service



Disclaimer

This advice is given without prejudice to any decision made on elements of the proposal regulated by us, as such a decision may take into account factors not considered at this time. We prefer all the technical information required for any SEPA consents to be submitted at the same time as the planning or similar application. However, we consider it to be at the applicant's commercial risk if any significant changes required during the regulatory stage necessitate a further planning application or similar application and/or neighbour notification or advertising. We have relied on the accuracy and completeness of the information supplied to us in providing the above advice and can take no responsibility for incorrect data or interpretation, or omissions, in such information. If we have not referred to a particular issue in our response, it should not be assumed that there is no impact associated with that issue. For planning applications, if you did not specifically request advice on flood risk, then advice will not have been provided on this issue. Further information on our consultation arrangements generally can be found on our [website planning pages - www.sepa.org.uk/environment/land/planning/](http://www.sepa.org.uk/environment/land/planning/).



Chairman
Bob Downes

CEO
Nicole Paterson

Angus Smith Building



Tel: [redacted]
www.sepa.org.uk

Appendix 1: Detailed scoping requirements

This appendix sets out our scoping information requirements. There may be opportunities to scope out some of the issues below depending on the site. Evidence must be provided in the submission to support why an issue is not relevant for this site in order **to avoid delay and potential objection**.

If there is a delay between scoping and the submission of the application then please refer to our website for our latest information requirements as they are regularly updated; current best practice must be followed.

We would welcome the opportunity to comment on the draft submission. As we can process files of a maximum size of only 25MB the submission must be divided into appropriately named sections of less than 25MB each.

1. Site layout

1.1. All maps must be based on an adequate scale with which to assess the information. This could range from OS 1: 10,000 to a more detailed scale in more sensitive locations. Each of the maps below must detail all proposed upgraded, temporary and permanent site infrastructure. This includes all tracks, excavations, buildings, borrow pits, pipelines, cabling, site compounds, laydown areas, storage areas and any other built elements. Existing built infrastructure must be re-used or upgraded wherever possible. The layout should be designed to minimise the extent of new works on previously undisturbed ground. For example, a layout which makes use of lots of spurs or loops is unlikely to be acceptable. Cabling must be laid in ground already disturbed such as verges. A comparison of the environmental effects of alternative locations of infrastructure elements, such as tracks, may be required.

2. Engineering activities which may have adverse effects on the water environment

- 2.1. The site layout must be designed to avoid impacts upon the water environment. Where activities such as watercourse crossings, watercourse diversions or other engineering activities in or impacting on the water environment cannot be avoided then the submission must include justification of this and a map showing:
- a) All proposed temporary or permanent infrastructure overlain with all lochs and watercourses.
 - b) A minimum buffer of 50m around each loch or watercourse. If this minimum buffer cannot be achieved each breach must be numbered on a plan with an associated photograph of the location, dimensions of the loch or watercourse and drawings of what is proposed in terms of engineering works.
 - c) Detailed layout of all proposed mitigation including all cut off drains, location, number and size of settlement ponds.
- 2.2. If water abstractions or dewatering are proposed, a table of volumes and timings of groundwater abstractions and related mitigation measures must be provided.
- 2.3. Further advice and our best practice guidance are available within the water [engineering](#) section of our website. Guidance on the design of water crossings can be found in our [Construction of River Crossings Good Practice Guide](#).



- 2.4. Refer to our flood risk [Standing Advice](#) for advice on flood risk. Watercourse crossings must be designed to accommodate the 0.5% Annual Exceedance Probability (AEP) flows, or information provided to justify smaller structures. If it is thought that the development could result in an increased risk of flooding to a nearby receptor then a Flood Risk Assessment must be submitted in support of the planning application. Our [Technical flood risk guidance for stakeholders](#) outlines the information we require to be submitted as part of a Flood Risk Assessment. Please also refer to Controlled Activities Regulations (CAR) Flood Risk Standing Advice for Engineering, Discharge and Impoundment Activities.

3. Disturbance and re-use of excavated peat and other carbon rich soils

- 3.1. Where peat and other carbon rich soils are present, applicants must assess the likely effects of development on carbon dioxide (CO₂) emissions. Where peatland is drained or otherwise disturbed, there is liable to be a release of CO₂ to the atmosphere. Developments must aim to minimise this release.
- 3.2. The planning submission must a) demonstrate how the layout has been designed to minimise disturbance of peat and consequential release of CO₂ and b) outline the preventative/mitigation measures to avoid significant drying or oxidation of peat through, for example, the construction of access tracks, drainage channels, cable trenches, or the storage and re-use of excavated peat. There is often less environmental impact from localised temporary storage and reuse rather than movement to large central peat storage areas.
- 3.3. The submission must include:
- A detailed map of peat depths (this must be to full depth and follow the survey requirement of the Scottish Government's Guidance on [Developments on Peatland - Peatland Survey \(2017\)](#)) with all the built elements (including peat storage areas) overlain to demonstrate how the development avoids areas of deep peat and other sensitive receptors such as Groundwater Dependent Terrestrial Ecosystems.
 - A table which details the quantities of acrotelmic, catotelmic and amorphous peat which will be excavated for each element and where it will be re-used during reinstatement. Details of the proposed widths and depths of peat to be re-used and how it will be kept wet permanently must be included.
- 3.4. To avoid delay and potential objection proposals must be in accordance with [Guidance on the Assessment of Peat Volumes, Reuse of Excavated Peat and Minimisation of Waste](#) and our [Developments on Peat and Off-Site uses of Waste Peat](#).
- 3.5. Dependent upon the volumes of peat likely to be encountered and the scale of the development, applicants must consider whether a full Peat Management Plan (as detailed in the above guidance) is required or whether the above information would be best submitted as part of the schedule of mitigation.
- 3.6. Please note we do not validate carbon balance assessments except where requested to by Scottish Government in exceptional circumstances. Our advice on the minimisation of peat disturbance and peatland restoration may need to be taken into account when you consider such assessments.



4. Disruption to Groundwater Dependent Terrestrial Ecosystems (GWDTE)

- 4.1. GWDTE are protected under the Water Framework Directive and therefore the layout and design of the development must avoid impact on such areas. The following information must be included in the submission:
- a) A map demonstrating that all GWDTE are outwith a 100m radius of all excavations shallower than 1m and outwith 250m of all excavations deeper than 1m and proposed groundwater abstractions. If micro-siting is to be considered as a mitigation measure the distance of survey needs to be extended by the proposed maximum extent of micro-siting. The survey needs to extend beyond the site boundary where the distances require it.
 - b) If the minimum buffers above cannot be achieved, a detailed site specific qualitative and/or quantitative risk assessment will be required. We are likely to seek conditions securing appropriate mitigation for all GWDTE affected.
- 4.2. Please refer to [Guidance on Assessing the Impacts of Development Proposals on Groundwater Abstractions and Groundwater Dependent Terrestrial Ecosystems](#) for further advice and the minimum information we require to be submitted.

5. Existing groundwater abstractions

- 5.1. Excavations and other construction works can disrupt groundwater flow and impact on existing groundwater abstractions. The submission must include:
- a) A map demonstrating that all existing groundwater abstractions are outwith a 100m radius of all excavations shallower than 1m and outwith 250m of all excavations deeper than 1m and proposed groundwater abstractions. If micro-siting is to be considered as a mitigation measure the distance of survey needs to be extended by the proposed maximum extent of micro-siting. The survey needs to extend beyond the site boundary where the distances require it.
 - b) If the minimum buffers above cannot be achieved, a detailed site specific qualitative and/or quantitative risk assessment will be required. We are likely to seek conditions securing appropriate mitigation for all existing groundwater abstractions affected.
- 5.2. Please refer to [Guidance on Assessing the Impacts of Development Proposals on Groundwater Abstractions and Groundwater Dependent Terrestrial Ecosystems](#) for further advice.

6. Forest removal and forest waste

- 6.1. Key holing must be used wherever possible as large-scale felling can result in large amounts of waste material and in a peak release of nutrients which can affect local water quality. The supporting information should refer to the current Forest Plan if one exists and measures should comply with the Plan where possible.
- 6.2. Clear felling may be acceptable only in cases where planting took place on deep peat and it is proposed through a Habitat Management Plan to reinstate peat-forming habitats. The submission must include:
- a) A map demarcating the areas to be subject to different felling techniques.
 - b) Photography of general timber condition in each of these areas.



- c) A table of approximate volumes of timber which will be removed from site and volumes, sizes of chips or brash and depths that will be re-used on site.
- d) A plan showing how and where any timber residues will be re-used for ecological benefit within that area, supported by a Habitat Management Plan. Further guidance on this can be found in [Use of Trees Cleared to Facilitate Development on Afforested Land – Joint Guidance from SEPA, SNH and FCS](#).

7. Borrow pits

- 7.1. Scottish Planning Policy states (Paragraph 243) that “Borrow pits should only be permitted if there are significant environmental or economic benefits compared to obtaining material from local quarries, they are time-limited; tied to a particular project and appropriate reclamation measures are in place.” The submission must provide sufficient information to address this policy statement.
- 7.2. In accordance with Paragraphs 52 to 57 of Planning Advice Note 50 Controlling the Environmental Effects of Surface Mineral Workings (PAN 50) a Site Management Plan should be submitted in support of any application.
- 7.3. The following information should also be submitted for each borrow pit:
 - a) A map showing the location, size, depths and dimensions.
 - b) A map showing any stocks of rock, overburden, soils and temporary and permanent infrastructure including tracks, buildings, oil storage, pipes and drainage, overlain with all lochs and watercourses to a distance of 250 metres. You need to demonstrate that a site specific proportionate buffer can be achieved. On this map, a site-specific buffer must be drawn around each loch or watercourse proportionate to the depth of excavations and at least 10m from access tracks. If this minimum buffer cannot be achieved each breach must be numbered on a plan with an associated photograph of the location, dimensions of the loch or watercourse, drawings of what is proposed in terms of engineering works.
 - c) You need to provide a justification for the proposed location of borrow pits and evidence of the suitability of the material to be excavated for the proposed use, including any risk of pollution caused by degradation of the rock.
 - d) A ground investigation report giving existing seasonally highest water table including sections showing the maximum area, depth and profile of working in relation to the water table.
 - e) A site map showing cut-off drains, silt management devices and settlement lagoons to manage surface water and dewatering discharge. Cut-off drains must be installed to maximise diversion of water from entering quarry works.
 - f) A site map showing proposed water abstractions with details of the volumes and timings of abstractions.
 - g) A site map showing the location of pollution prevention measures such as spill kits, oil interceptors, drainage associated with welfare facilities, recycling and bin storage and vehicle washing areas. The drawing notes should include a commitment to check these daily.



- h) A site map showing where soils and overburden will be stored including details of the heights and dimensions of each store, how long the material will be stored for and how soils will be kept fit for restoration purposes. Where the development will result in the disturbance of peat or other carbon rich soils then the submission must also include a detailed map of peat depths (this must be to full depth and follow the survey requirement of the Scottish Government's Guidance on [Developments on Peatland - Peatland Survey \(2017\)](#)) with all the built elements and excavation areas overlain so it can clearly be seen how the development minimises disturbance of peat and the consequential release of CO2.
- i) Sections and plans detailing how restoration will be progressed including the phasing, profiles, depths and types of material to be used.
- j) Details of how the rock will be processed in order to produce a grade of rock that will not cause siltation problems during its end use on tracks, trenches and other hardstanding.

8. Pollution prevention and environmental management

- 8.1. One of our key interests in relation to developments is pollution prevention measures during the periods of construction, operation, maintenance, demolition and restoration.
- 8.2. A schedule of mitigation supported by the above site specific maps and plans must be submitted. These must include reference to best practice pollution prevention and construction techniques (for example, limiting the maximum area to be stripped of soils at any one time) and regulatory requirements. They should set out the daily responsibilities of ECOWs, how site inspections will be recorded and acted upon and proposals for a planning monitoring enforcement officer. Please refer to [Guidance for Pollution Prevention \(GPPs\)](#).

9. Life extension, repowering and decommissioning

- 9.1. Proposals for life extension, repowering and/or decommissioning must demonstrate accordance with SEPA Guidance on the [life extension and decommissioning of onshore wind farms](#). Table 1 of the guidance provides a hierarchical framework of environmental impact based upon the principles of sustainable resource use, effective mitigation of environmental risk (including climate change) and optimisation of long term ecological restoration. The submission must demonstrate how the hierarchy of environmental impact has been applied, within the context of latest knowledge and best practice, including justification for not selecting lower impact options when life extension is not proposed.
- 9.2. The submission needs to demonstrate that there will be no discarding of materials that are likely to be classified as waste as any such proposals would be unacceptable under waste management licensing. Further guidance on this may be found in the document [Is it waste - Understanding the definition of waste](#).





Scottish Government
Energy Consents Unit

FAO: Nicola Ferguson
Case Manager

Your ref: ECU00004661
Our ref: CDM169700
15 March 2023

Dear Nicola,

ELECTRICITY ACT 1989

THE ELECTRICITY WORKS (ENVIRONMENTAL IMPACT ASSESSMENT) (SCOTLAND) REGULATIONS 2017 | REQUEST FOR SCOPING OPINION FOR PROPOSED SECTION 36 APPLICATION FOR TORFICHEN WIND FARM

Thank you for consulting NatureScot on the above proposal on the 23rd January 2023.

1. Summary

Our advice is that development in this area raises a number of key issues described in section 2 below. Careful consideration of these issues will be required during the design iteration process as part of the Environmental Impact Assessment (EIA).

2. Appraisal

Landscape and Visual

Our key advice at this stage is that our siting and design guidance¹ should be followed to minimise the following potential impacts which should be assessed as part of the Landscape and Visual Impact Assessment:

- Impacts on the Moorfoot Hills when seen from the north, north-west and west
- Impacts on key viewpoints from Edinburgh and the Lothians

¹ <https://www.nature.scot/doc/siting-and-designing-wind-farms-landscape-version-3a>

- Assessment of impacts on National Scenic Areas (NSAs) within the vicinity of the development. These include Upper Tweeddale NSA which lies approximately 13km south-west of the site and Eildon and Leaderfoot NSA which lies approximately 26km south-east of the site. Information on the special qualities of each NSA can be found on our website²
- Cumulative impacts with existing windfarms. We disagree that using a 20 km study area for assessing cumulative impacts is sufficient and recommend that a 60 km radius is used as per NatureScot guidance³, however we do recommend that you focus on the developments most likely to result in significant effects.

The Moorfoot hills are an important landmark in the region with a prominent escarpment when seen from the north-west. The proposed development should not diminish the apparent scale of the Moorfoot hills by competing with it in terms of size and scale. The design iteration process should seek to find a turbine layout which is sympathetic to this landscape.

Due to the height of the turbines a full lighting assessment should be provided as described in Annex 1 of our guidance document⁴. The lighting assessment should include lowlight photomontages.

We offer no comment at this time on the proposed viewpoints, and would be pleased to offer advice on this once there is more certainty about the turbine layout.

Ornithology

Habitats Regulations Appraisal (HRA)

Our advice is that this proposal is likely to have a significant effect on the qualifying interests of the sites listed below. The EIA should contain sufficient information to allow the competent authority required to carry out an appropriate assessment in view of the site's conservation objectives for its qualifying interest(s).

This proposal has potential connectivity with the following sites as they are within the 20km foraging range for their designated populations of pink-footed goose:

- Gladhouse Reservoir Special Protection Area (SPA)
- Fala Flow SPA
- Firth of Forth SPA
- Westwater SPA

Further guidance on the HRA process can be found on the NatureScot website⁵

2 <https://www.nature.scot/professional-advice/protected-areas-and-species/protected-areas/national-designations/national-scenic-areas/nsa-special-qualities>

3 <https://www.nature.scot/doc/guidance-assessing-cumulative-landscape-and-visual-impact-onshore-wind-energy-developments>

4 <https://www.nature.scot/doc/general-pre-application-and-scoping-advice-onshore-wind-farms>

5 <https://www.nature.scot/professional-advice/planning-and-development/environmental-assessment/habitats-regulations-appraisal-hra>

Moorfoot Hills Site of Scientific Interest (SSSI)

The Moorfoot Hills SSSI lies immediately adjacent to the proposed development site. In addition to a range of upland habitat features, the site is designated for its breeding golden plover population along with over 40 other breeding bird species, including three Schedule 1 species. Assessment of the impacts of this proposal on the avian features of this SSSI should be included in the EIA.

Other Species

The habitat and species surveys carried out appear comprehensive. The proposed approach to the assessment of impacts appears appropriate and in line with NatureScot guidance⁶. Full guidance on protected species impacts, surveying and licensing can be found in our pre-application and scoping guidance document⁴.

Ecology and Habitats

We accept that the Moorfoot Hills Special Area of Conservation (SAC), River Tweed SAC and Peeswit Moss SAC are not hydrologically linked to the proposed development and therefore impacts on their non-avian features can be scoped out. Full details for protected areas, including their conservation objectives/management statements, can be found in Sitelink⁷.

The developer should assess the direct and indirect impacts on these protected areas and their qualifying interests/notified features in the context of their conservation objectives/management statements. The assessment should be for the proposal on its own and cumulatively with other plans or projects also affecting the protected area.

Peatland

The proposed development site contains an area of Class 1 nationally important carbon-rich soils, deep peat and priority peatland habitat and is therefore likely to be of high conservation value. Development proposals on peat will always require a site-specific and detailed peat and vegetation survey and the results from that should then inform the need for a peat slide risk assessment and a peat management plan.

We encourage development to avoid carbon-rich soils, deep peat and priority peatland habitat and to minimise losses of the highest quality peatland habitat. Besides protecting nature, avoidance will help reduce carbon release and the technical challenges of managing peat.

Where avoidance is not possible mitigation measures are required. For example, adopting alternative construction techniques (such as floating roads); carefully planning site drainage; and following good practice for handling, storing and reinstating peat materials.

⁶ <https://www.nature.scot/doc/recommended-bird-survey-methods-inform-impact-assessment-onshore-windfarms>

⁷ <https://sitelink.nature.scot/home>

Existing peatland habitat should be restored and improved to compensate for unavoidable residual adverse effects. Habitat enhancement should go beyond compensation and should provide overall positive effects or net benefit for peatland interest.

Further guidance on this can be found in our general pre application and scoping advice for onshore wind farms³.

3. Concluding remarks

While we are supportive of the principle of renewable energy, our advice is given without prejudice to a full and detailed consideration of the impacts of the proposal if it is submitted as a formal application.

Should you have any queries about this letter, please contact Rachel Elliott at NatureScot,

[REDACTED].

Yours sincerely,

Rachel Elliott
Operations Officer
National Operations South

[REDACTED]
[REDACTED]

[REDACTED] [nature.scot](https://www.nature.scot)

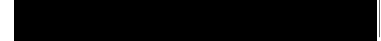


By email to: [REDACTED]

Nicola Ferguson
Case Officer
Energy Consents Unit



Enquiry Line: 0131-668-8716



Our case ID: 300063312
Your ref: ECU00004661



15 March 2023

Dear Nicola Ferguson

[The Electricity Works \(Environmental Impact Assessment\) \(Scotland\) Regulations 2017](#)
[Torfichen Wind Farm, Moorfoot Hills, Midlothian](#)
[Scoping Report](#)

Thank you for your consultation which we received on 23 January 2023 about the above scoping report. We have reviewed the details in terms of our historic environment interests. This covers world heritage sites, scheduled monuments and their settings, category A-listed buildings and their settings, inventory gardens and designed landscapes, inventory battlefields and historic marine protected areas (HMPAs).

The relevant local authority archaeological and cultural heritage advisors will also be able to offer advice on the scope of the cultural heritage assessment. This may include heritage assets not covered by our interests, such as unscheduled archaeology, and category B- and C-listed buildings.

Proposed Development

We understand that the proposed development comprises c.19 wind turbines of up to 180m maximum blade tip height plus associated ancillary infrastructure located approximately 4 km south of Gorebridge, 8 km south-west of Penicuik and 14 km north-east of Stow within the northern edge of the Moorfoot Hills, Midlothian.

Scope of assessment

There are no designated assets within the development boundary. However, we consider that the proposed development has the potential to result in impacts on the setting of heritage assets within our remit. Further information regarding these impacts, the scope of the assessment and proposed methodology are detailed in the annex below.

Further information

Guidance about national policy can be found in our 'Managing Change in the Historic Environment' series available online at www.historicenvironment.scot/advice-and-support/planning-and-guidance/legislation-and-guidance/managing-change-in-the-



[REDACTED]

[REDACTED]

[historic-environment-guidance-notes](#). Technical advice is available on our Technical Conservation website at <https://conservation.historic-scotland.gov.uk/>. We hope this is helpful. Please contact us if you have any questions about this response. The officer managing this case is Sam Fox and they can be contacted by phone on [REDACTED] or by email on [REDACTED].

Yours sincerely

Historic Environment Scotland



Annex

Scheduled Monuments

Section 5. [REDACTED] of the Scoping Report [REDACTED] the assets in the vicinity with the potential for setting impacts that are anticipated to require detailed assessment. We agree that the following scheduled monuments should be considered as part of your EIA assessment;

- Hirendeane Castle (SM 5608) (Figure 5.3)
- Moorfoot Chapel (SM5976) (Figure 5.4)
- Loquariot, fort 500m SW of (SM6260)
- Falla Luggie Tower, towerhouse (SM5653)
- Corsehope Rings, fort (SM1166)
- Halltree Rings, settlement, Chapel Hill (SM1170)
- Soutra Aisle, burial aisle and medieval hospital (SM3067)

The applicant also notes in Section 5.2.4 that they propose to group several assets together as part of their impact assessment including the setting assessment for **Crichton Castle (SM13585)** and associated assets within the Borthwick and Crichton Conservation Area, and the setting assessment of **Dundreich, cairn (SM2777)** with **Jeffries Corse, cairn (SM3527)**.

Regarding **Dundreich, cairn (SM2777)** & **Jeffries Corse, cairn (SM3527)** it is not clear from the information provided how the settings of these two monuments will be assessed together. While we accept there will be a degree of overlap in their settings, they will experience slightly different impacts from the development. The more open aspect of views out from **Jeffries Corse, cairn (SM3527)** means it will experience different impacts from those at **Dundreich, cairn (SM2777)**. The inter-relationship between the monuments and the impact of the turbines on views from **Dundreich, cairn (SM2777)** towards **Jeffries Corse, cairn (SM3527)** will also be of particular importance. We would expect to see any assessment address these differences, even if the two monuments are considered together in the Report.

Stonefieldhill Farm henge (SM6258)

We disagree with the proposal to scope out **Stonefieldhill Farm, henge 500m SE of (SM6258)** from the EIA assessment. The monument has an impressive setting with a deliberate position and alignment that informs its function based on long distant views of the sky and the interaction of celestial bodies with the distant horizon. We do not consider that the applicant has provided sufficient justification to scope out the assessment of setting impacts on the scheduled monument from the EIA assessment.



Listed Buildings & Garden and Designed Landscapes

We note that there are several A-listed buildings within the 10km study area. We recommend that impacts on the following buildings within our remit are considered as part of your assessment.

- **Bush House (LB7463)**
- **Glencorse Parish Church (LB7456)**
- **Oxenfoord Castle (LB768)**
- **A-listed buildings at Mavisbank (LB7404 Mavisbank House LB44166 Mavisbank Walled Garden, LB7387 Mavisbank Gazebo, LB7386 Mavisbank Doocot, LB7398 Barony House (formerly Lasswade Cottage))**
- **Preston Hall A-listed buildings and Garden and designed Landscape (LB775, LB777, LB113, LB746 and GDL00320)**
We note that Preston Hall, its designed landscape and associated A-listed buildings are missing from the Scoping report. As it lies within the study area and is adjacent to **LB768 Oxenfoord Castle** and **Preston Hall designed landscape (GDL00320)**, we recommend that impacts on the setting of these heritage assets should be appraised as part of the EIA assessment.
- **Middleton Hall (LB806)**
The appraisal states that “Views of the wind farm 3km southwest are to be expected” and we would ask for impacts on the above listed building to be **scoped into** the EIA assessment. We disagree with the comment that the asset draws its significance solely from its architecture. The house is built and aligned to take in surrounding views, particularly from the first-floor Principal rooms. The East/West axis of the building suggests that the wind farm would be visible in outward views from Principal rooms on the first floor. We cannot confirm from the information provided that the topography of the landscape would mean the existing trees obscure key views from the building towards the proposed development. We cannot confirm whether Middleton Hall is likely to experience significant effects, due to the applicant noting that the wind farm will be visible, and it is just 3km away, we would ask for it to be assessed and visualisation provided (below) so that an assessment can be made by us to confirm that any visibility may either be screened by existing trees, mitigated, or accepted as not significant enough.
- **Arniston House (LB808) Garden & Designed Landscape (GDL29) & Associated Designated Assets**
We note that the applicant proposes to group several assets together as part of their impact assessment (Section 5.2.4). Primarily these are listed buildings relating to the Arniston Policies within **Arniston Garden and Designed**



[REDACTED]

Landscape (GDL29). We are content with this approach for assessing the impact on these heritage assets. [REDACTED]

Scoping Report & Methodology

[REDACTED]

We are content with the proposed 10km study area identified for the assessment. We note that the wording of the text in Table 5.4. describing “Heritage Significance of Effect” does not explain or define “significance”, and instead addresses similar issues of magnitude of impact as Table 5.3. Any attempt to apply these criteria in the EIA process without defining the “significance” of assets could lead to misleading results, poor assessment, or confusion. We also expect that any assets that are identified through the EIA process as having the potential to experience Moderate or Major impacts (significant in EIA terms) should also be subject to detailed assessment.

Visualisations

We recommend that wireframe illustrations should be provided for all the scheduled monuments scoped into the EIA process, noted above. These should be taken from the location of the monuments, but consideration should also be given to key views towards monuments from obvious approach routes and vantage points and from other potentially contemporary or related monuments nearby. This is particularly relevant to sites like **Jeffries Corse cairn (SM3527)** and **Dundreich cairn (SM2777)**, where there is a clear visual relationship between the two monuments. The view from **Dundreich cairn (SM2777)** is a key element of the setting of **Jeffries Corse cairn (SM3527)** and the potential for turbines to appear in this view should be assessed and illustrated. We should also note that after considering the information in the wireframes we may wish to request photomontage views for some monuments to help our understanding of impacts.

Regarding Category A-listed Buildings, although we welcome the provision of wireframes for **Mauldslie Farmhouse and Steading (LB45814)** please note this building is Category B-listed and we have no remit on its setting. However, we recommend that a photomontage is prepared for **Middleton Hall (LB806)** looking west out along the drive from a principal room on the first floor, or equivalent external location, to allow sufficient understanding of the impact of the proposed development on the listed building.

We would be happy to assess visualisations at an early stage and advise whether further material is required in advance of the EIA Report.

Historic Environment Scotland

15 March 2023

From: [Hobbs T \(Tom\)](#)
To: [Ferguson N \(Nicola\)](#)
Subject: ELECTRICITY ACT 1989 - THE ELECTRICITY WORKS (ENVIRONMENTAL IMPACT ASSESSMENT) (SCOTLAND) REGULATIONS 2017- REQUEST FOR SCOPING OPINION FOR PROPOSED SECTION 36 - APPLICATION FOR TORFICHEN WIND FARM
Date: 10 March 2023 15:01:10

Dear Nicola

Many thanks for consulting Scottish Forestry in relation the above. The scoping report states that there will be no effect on any woodland within the project area and as such the scoping report proposes to take Forestry out of scope of the EIA report – from the outline turbine location map this appears to be the case and we therefore agree with that proposal. However, if during the course of the development (and EIA process) this changes, we would like the opportunity to comment at that point. This may of course be in relation to the EIA Report itself.

Many thanks

Tom Hobbs MICFor
Senior Operations Manager
Scottish Forestry



 Mobile: REDACTED



Scottish Forestry is the Scottish Government agency responsible for forestry policy, support and regulation.

Direct Line: [REDACTED] Fax: [REDACTED]

Energy Consents Unit
The Scottish Government

Your ref:
ECU00004661

Our ref:
GB01T19K05

Date:
09/02/2023

Dear Sirs,

ELECTRICITY ACT 1989

THE ELECTRICITY (APPLICATIONS FOR CONSENT) REGULATIONS 2017

REQUEST FOR SCOPING OPINION FOR PROPOSED SECTION 36 APPLICATION FOR TORFICHEN WIND FARM

With reference to your recent correspondence on the above development, we acknowledge receipt of the Scoping Report (SR) prepared by ITP Energised in support of the above development.

This information has been passed to SYSTRA Limited for review in their capacity as Term Consultants to Transport Scotland – Roads Directorate. Based on the review undertaken, Transport Scotland would provide the following comments.

Proposed Development

The proposed development comprises 19 turbines with a blade tip height of up to 180m located approximately 8km south-west of Penicuik and 14km north-east of Stow in Midlothian. The nearest trunk road to the site is the A7(T) which lies approximately 6km to the north-east.

Assessment of Environmental Impacts

Chapter 9 of the SR presents the proposed methodology for the assessment of access, traffic and transport during the construction of the development. This indicates that the thresholds as indicated within the Institute of Environmental Management and Assessment (IEMA) Guidelines for the Environmental Assessment of Road Traffic are to be used as a screening process for the assessment. Transport Scotland is in agreement with this approach.

Transport Scotland would state that potential trunk road related environmental impacts such as driver delay, pedestrian amenity, severance, safety etc will require to be considered and assessed where appropriate (i.e. where the IEMA Guideline thresholds for further assessment are breached).

These specify that road links should be taken forward for detailed assessment if:

- Traffic flows will increase by more than 30%, or
- The number of HGVs will increase by more than 30%, or
- Traffic flows will increase by 10% or more in sensitive areas.

The SR indicates that traffic data for the road network will be obtained from UK Government Department for Transport (DfT) traffic count data, the Traffic Scotland database or from specifically commissioned traffic surveys. We also note that National Road Traffic Forecast (NRTF) Low Traffic Growth assumptions will be used to provide a common future year baseline to coincide with the expected construction traffic peak.

Transport Scotland is satisfied with this approach and would add that where significant changes in traffic are not noted for any link, no further assessment needs to be undertaken. We would ask that DfT “estimated” traffic flows are not used in the assessment.

It is noted that any impacts associated with the operational phase of the development are to be scoped out of the EIA. We would consider this to be acceptable in this instance.

Abnormal Loads Assessment

Chapter 9.3 indicates that the study area will include the abnormal load route from King George V docks in Glasgow to the site, as follows:

- Exit KGV onto King Inch Dr.
- Turn left onto M8 slip road and merge into M8.
- At junction 1 (Hermiston Gait Roundabout) take the 3rd exit and merge into the City of Edinburgh Bypass (A720(T)).
- Take the 3rd exit to continue onto A720(T).
- On A1 – The City of Edinburgh bypass (A720(T)) roundabout take the 4th exit towards A720(T).
- Take the slip road towards A68(T) and turn left onto A68(T).
- Turn right onto B6458/B6367.
- Turn right onto A7(T).
- Continue on A7(T) and before North Middleton turn left onto B7007 towards site access.

It should be noted that Transport Scotland will require to be satisfied that the size of turbines proposed can negotiate the selected route and that their transportation will not have any detrimental effect on structures within the trunk road route path.

A full Abnormal Loads Assessment report should be provided with the EIA Report that identifies key pinch points on the trunk road network. Swept path analysis should be undertaken and details provided with regard to any required changes to street furniture or structures along the route.

We note that the SR states that a Construction Traffic Management Plan (CTMP) will be developed. This is welcomed and a copy should be forwarded for review when available.

I trust that the above is satisfactory but should you wish to discuss any issues raised in greater detail, please do not hesitate to contact me or alternatively, Alan DeVenny at SYSTRA's Glasgow Office on [REDACTED]

Yours faithfully

REDACTED

Gerard McPhillips

**Transport Scotland
Roads Directorate**

cc Alan DeVenny – SYSTRA Ltd.

From: [#ABZ Safeguarding](#)
To: [Ferguson N \(Nicola\)](#)
Subject: RE: Request for Scoping Opinion Torfichen Wind Farm
Date: 30 January 2023 13:57:17
Attachments: [image061531.jpg](#)
[image879650.png](#)
[image871031.png](#)
[image724530.png](#)
[image090281.png](#)
[image220213.png](#)
[image155939.png](#)
[image346858.png](#)
[image612532.png](#)

This proposal is located outwith out consultation zone. As such we have no comment to make and need not be consulted further.

Kind regards

Kirsteen



• Scottish Airport of the Year 2022.

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From: [REDACTED]
To: [Ferguson N \(Nicola\)](#)
Cc: [REDACTED]
Subject: RE: Request for Scoping Opinion Torfichen Wind Farm - WID12074
Date: 30 January 2023 16:12:47
Attachments: [image001.jpg](#)
[image002.png](#)
[image003.jpg](#)



-
-
-

OUR REF: WID12074

Thank you for your email dated 23/01/2023.

We have studied this Torfichen Windfarm proposal with respect to EMC and related problems to BT point-to-point microwave radio links.

The conclusion is that, the Turbine Locations indicated in Table 2.1 in the scoping report should not cause interference to BT's current and presently planned radio network.

BT requires 100m minimum clearance from any structure to the radio link path. If the proposed locations change please let us know and we can reassess this for you.

Please note this refers to BT Radio Links only, you will need to contact other providers separately for information relating to other supplier links / equipment.

Please direct all queries to [REDACTED]

Kind regards

Laura Taylor
National Radio Planner
Network Planning

E: [REDACTED]

From: [Olivia Morrad](#)
To: [Ferguson N \(Nicola\)](#)
Cc: [Econsents Admin](#)
Subject: 20230212 - Request for Scoping Opinion Torfichen Wind Farm. Email to GovScot
Date: 12 February 2023 15:25:04

Thank you for your email.

I write to confirm that the assets of Crown Estate Scotland are not affected by this proposal and we therefore have no comments to make.

Best regards

Olivia

Olivia Morrad
Assistant Portfolio Co-ordinator
Crown Estate Scotland

t: [REDACTED] / REDACTED

Our team are currently working from home. Mail is occasionally being collected from our offices (addresses are at www.crownestatescotland.com/contact-us). Where possible, please email or call us rather than post mail.

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[REDACTED]



Defence Infrastructure Organisation

Kaye Noble
Safeguarding Manager
Ministry of Defence
Safeguarding Department

[Redacted contact information]

Your Reference: ECU00004661

Telephone [MOD]: [Redacted]

Our Reference: DIO10057693

E-mail: [Redacted]

Nicola Ferguson
Energy Consents Unit
Scottish Government

[Redacted contact information]

By email only

21 February 2023

Dear Nicola,

Application reference: ECU00004661
Site Name: Torfichen Wind Farm
Proposal: Request for scoping opinion for proposed section 36 application for Torfichen Wind Farm
Site address: Torfichen Wind Farm

Thank you for consulting the Ministry of Defence (MOD) in relation to the Scoping through your communication dated 23rd January 2022.

The Defence Infrastructure Organisation (DIO) Safeguarding Team represents the MOD as a consultee in UK planning and energy consenting systems to ensure that development does not compromise or degrade the operation of defence sites such as aerodromes, explosives storage sites, air weapon ranges, and technical sites or training resources such as the Military Low Flying System.

I am writing to advise you that the MOD has concerns with the proposal.

The proposal concerns a development of 19 turbines with maximum blade tip heights of 180.00 metres above ground level. The proposed development has been assessed using the location data (Grid References) below provided in Scoping Report dated 16th January 2023.

Table with 3 columns: Turbine no., Easting, Northing. Rows: 1 (331999, 653946), 2 (332146, 653507)

3	332193	653028
4	332668	653392
5	333220	653351
6	333100	653797
7	332461	654371
8	332951	654230
9	333418	654677
10	333501	654221
11	333774	653787
12	334207	654237
13	333969	654666
14	334776	654789
15	334447	655405
16	334896	655969
17	335240	655183
18	335785	655528
19	335434	655900

The principal safeguarding concerns of the MOD with respect to this development of wind turbines relates to their potential to create a physical obstruction to air traffic movements and the impact it will have upon the Eskdalemuir Seismology Array.

Physical Obstruction

In this case the development falls within Low Flying Area 14 (LFA 14), an area within which fixed wing aircraft may operate as low as 250 feet or 76.2 metres above ground level to conduct low level flight training. The addition of turbines in this location has the potential to introduce a physical obstruction to low flying aircraft operating in the area.

Eskdalemuir Seismological Recording Station

The proposed application site falls within the statutory consultation zone of the seismological recording station at Eskdalemuir (the array), a UK asset that contributes to the Comprehensive Nuclear Test Ban Treaty. Research has confirmed that wind turbines of current design generate seismic noise which can interfere with the operational functionality of the array. In order to ensure the United Kingdom can continue to implement its obligations in maintaining the Comprehensive Nuclear Test Ban Treaty a noise budget, based on the findings of research for the 50km radius surrounding the array, is managed by the MOD.

At this time, there is no noise budget available in respect of this Section 36 application. Therefore, the MOD must object to this application due to the unacceptable impact the proposed wind energy development would have upon the array.

If the developer is able to overcome the issues stated above, to address the impact up on low flying given the location and scale of the development, the MOD would require that conditions are added to any consent issued requiring that the development is fitted with aviation safety lighting and that sufficient data is submitted to ensure that structures can be accurately charted to allow deconfliction.

As a minimum the MOD would require that the development be fitted with MOD accredited aviation safety lighting in accordance with the Air Navigation Order 2016.

Summary

The principal safeguarding concerns of the MOD with respect to this development of wind turbines relates to their potential to create a physical obstruction to air traffic movements and the impact it will have upon the Eskdalemuir Seismology Array.

The MOD must emphasise that the advice provided within this letter is in response to the data and information detailed in the developer's documents titled "Site Layout" dated October 2022 and "Scoping Report" dated January 2023. Any variation of the parameters (which include the location, dimensions, form, and finishing materials) detailed may significantly alter how the development relates to MOD safeguarding requirements and cause adverse impacts to safeguarded defence assets or capabilities. In the event that any amendment, whether considered material or not by the determining authority, is submitted for approval, the MOD should be consulted and provided with adequate time to carry out assessments and provide a formal response.

I hope this adequately explains our position on the matter. If you require further information or would like to discuss this matter further, please do not hesitate to contact me.

Further information about the effects of wind turbines on MOD interests can be obtained from the following websites:

MOD: <https://www.gov.uk/government/publications/wind-farms-ministry-of-defence-safeguarding>

Yours sincerely

REDACTED

Kaye Noble
Assistant Safeguarding Manager
DIO Safeguarding

Edinburgh Airport
EH12 9DN
Scotland


W: edinburghairport.com

8 February 2023

Nicola Ferguson
Case Manager
Energy Consents Unit
The Scottish Government
By email

Dear Nicola

Your Ref: ECU00004661
Development: Torfichen Wind Farm
Our Ref: EDI3402

This proposal has been examined from an aerodrome safeguarding perspective and conflicts with safeguarding criteria.

We therefore object to the development on the following grounds:

Instrument Flight Procedure (IFP) Assessment

No turbine tower of any turbine may be erected, unless and until such time as the Local Planning Authority receive confirmation from the Airport Operator in writing that: (a) an IFP Assessment has demonstrated that an IFP Scheme is not required; or (b) if an IFP Scheme is required such a scheme has been approved by the Airport Operator; and (c) if an IFP Scheme is required the Civil Aviation Authority has evidenced its approval to the Airport Operator of the IFP Scheme (if such approval is required); and (d) if an IFP Scheme is required the scheme is accepted by NATS AIS for implementation through the AIRAC Cycle (or any successor publication) (where applicable) and is available for use by aircraft.

Reason: In the interests of aviation safety.

Definitions:

"IFP Scheme" means a scheme to address the potential impact of the turbines on the instrument flight procedures of Edinburgh Airport.

"IFP Assessment" means a safeguarding assessment against current and any possible future IFPs. This assessment must be undertaken by a UK CAA Approved Procedure Design Organisation (APDO).

Further information on IFP Safeguarding and a quote for this assessment can be obtained by contacting

[REDACTED]

Where a Planning Authority proposes to grant permission against the advice of Edinburgh Airport, it shall notify Edinburgh Airport, the Civil Aviation Authority and the Scottish Ministers as specified in the Safeguarding of Aerodromes Direction 2003.

Yours sincerely

REDACTED

Claire Brown
Edinburgh Airport Limited

[REDACTED]

From: [Brian Davidson](#)
To: [Ferguson N \(Nicola\)](#)
Cc: [Alison Baker](#)
Subject: RE: Request for Scoping Opinion Torfichen Wind Farm
Date: 10 February 2023 13:41:44
Attachments: [image001.png](#)

Dear Nicola,

Thank you for your correspondence concerning the Torfichen Wind Farm proposal in Midlothian.

Fisheries Management Scotland (FMS) represents the network of Scottish District Salmon Fishery Boards (DSFBs) including the River Tweed Commission (RTC), who have a statutory responsibility to protect and improve salmon and sea trout fisheries and the network of fishery trusts who provide a research, educational and monitoring role for all freshwater fish.

FMS act as a convenient central point for Scottish Government and developers to seek views on local developments. However, as we do not have the appropriate local knowledge, or the technical expertise to respond to specific projects, we are only able to provide a general response with regard to the potential risk of such developments to fish, their habitats and any dependent fisheries. Accordingly, our remit is confined mainly to alerting the relevant local DSFB/Trust to any proposal. The proposed development falls within the river catchments relating to the Forth DSFB and Forth Rivers Trust. It is important that the proposals are conducted in full consultation with the Board/Trust, and I should be grateful if they could be involved in the project proposals. I have also copied this response to the relevant personnel.

Due to the potential for such developments to impact on migratory fish species and the fisheries they support, FMS have developed, in conjunction with Marine Scotland Science, advice for DSFBs and Trusts in dealing with planning applications. We would strongly recommend that these guidelines are fully considered throughout the planning, construction and monitoring phases of the proposed development.

- [LINK TO ADVICE ON TERRESTRIAL WINDFARMS](#)
- [LINK TO DSFB & TRUST CONTACT DETAILS](#)

Kind regards,

Brian

Brian Davidson | Dir Communications & Administration
Fisheries Management Scotland

Tel: [REDACTED] | REDACTED

www.fms.scot

The Clubhouse

[Redacted]
[Redacted]
[Redacted]

Email: [Redacted]

Tel: [Redacted]

13/02/2023

To whom it may concern,

Reference: Torfichen Wind Farm application

ECU: ECU00004661

The Forth District Salmon fishery Board has a remit to protect and enhance salmon within the Forth basin. It is the organisation with a statutory remit to enact the Salmon and Freshwater Fisheries (Consolidation)(Scotland) Act 2003.

The Board has reviewed the consultation documents and remains neutral with regards to this development. Having reviewed the application documents including scoping report the Board has outlined below the requirements and considerations for the developers to ensure that the habitat and fish populations within the watercourses are not impacted by the works.

- Fish species must be protected during construction of the wind farm
- Fish/habitat surveys must be carried out on any potentially impacted watercourses to assess fish populations and habitat ahead of the proposed works.
- If fish populations are found during the surveys, it will be a requirement for fish rescues to be carried out ahead of proposed works. If the watercourse crossings will take place over an extended period of time additional measures may need to be put in place to ensure fish populations do not travel into the designated crossing sites for the period of construction. These rescues must be carried out by licensed individuals. They must also hold the required permissions from the relevant fishery owners.
- If infrastructure is to be installed which involves construction within river channels, fish rescues must be carried out prior to diggers entering rivers on the site.
- Any infrastructure such as culverts or bridges must not impede the passage of fish on the site.
- In stream works should take place from 1st June – 30th September to minimise impact on fish. Should in stream works be required out with this period, further mitigations will be required.

Yours sincerely,

Grace Wilding
Development Officer
Forth District Salmon Fishery Board

REDACTED

Grace Wilding Development Officer, Forth District Salmon Fishery Board

a: [Redacted]

w: www.forthdsfb.org e: [Redacted]

t: [Redacted]

FAO Nicola Ferguson
Energy Consents Unit
By Email

30th January 2023

Dear Nicola


**ELECTRICITY ACT 1989
THE ELECTRICITY WORKS (ENVIRONMENTAL IMPACT ASSESSMENT) (SCOTLAND)
REGULATIONS 2017
REQUEST FOR SCOPING OPINION FOR PROPOSED SECTION 36
APPLICATION FOR TORFICHEN WIND FARM
Our Ref: GLA4263**

I refer to your consultation request received in this office on 23rd January 2023.

The proposed development has been examined from an aerodrome safeguarding perspective and does not conflict with safeguarding criteria. We, therefore, have no objection to this proposal.

Yours sincerely

REDACTED

Kirsteen MacDonald
Safeguarding Manager
Glasgow Airport
REDACTED


From: [Ian Hutchinson](#)
To: [Ferguson N \(Nicola\)](#); [Econsents Admin](#)
Cc: [Safeguarding](#)
Subject: RE: Request for Scoping Opinion Torfichen Wind Farm
Date: 24 January 2023 08:40:42

Hi Nicola,

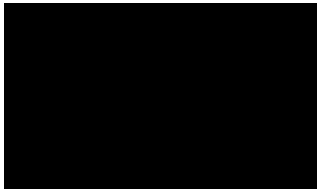
On behalf of Glasgow Prestwick Airport (GPA) I have reviewed the documents available on the ECU portal regarding the Torfichen Wind Farm scoping (ECU00004661).

The proposed development lies outwith the GPA safeguarding area and consequently we have no comment to make, and would have no valid objection should the proposal proceed to a full S36 planning application.

Kind regards,

Ian

Glasgow Prestwick Airport
Ltd.



Ian Hutchinson
Safeguarding Manager

T: [REDACTED]
M: [REDACTED]



www.glasgowprestwick.com

Your Ref: ECU00004661

Our Ref: 2023/045/DND

Dear Sir/Madam,

Proposal: REQUEST FOR SCOPING OPINION FOR PROPOSED SECTION 36

Location: APPLICATION FOR TORFICHEN WIND FARM

The development has been assessed using the criteria below:

Turbine Number	X Coordinate	Y Coordinate
1	331999	653946
2	332146	653507
3	332193	653028
4	332668	653392
5	333220	653351
6	333100	653797
7	332461	654371
8	332951	654230
9	333418	654677
10	333501	654221
11	333774	653787
12	334207	654237
13	333969	654666
14	334776	654789
15	334447	655405

Turbine Number	X Coordinate	Y Coordinate
16	334896	655969
17	335240	655183
18	335785	655528
19	335434	655900

HIAL has been consulted on the above proposed development, received by this office on:
23/01/2023

With reference to the above proposal, our preliminary assessment shows that, at the given position and height, this development would not infringe the safeguarding criteria and operation of Dundee Airport.

Therefore, HIAL have no objections to this proposal.

Kind regards,

Nyree

From: [Rosie Simpson](#)
To: [Ferguson N \(Nicola\)](#)
Cc: [Fiona Baillie](#)
Subject: RE: Request for Scoping Opinion Torfichen Wind Farm
Date: 10 February 2023 09:50:18

Dear Nicola,

Thank you for your email requesting a scoping opinion on Torfichen wind farm. We are not planning to submit a scoping response but please can you also include my colleague, Fiona Baillie (cc'd) in future ECU notifications about energy infrastructure applications? Fiona is being missed off some ECU mail lists so we are trying to make sure the ECU team know to include her in the future!

Best wishes,
Rosie

From: [JRC Windfarm Coordinations](#)
To: [Ferguson N \(Nicola\)](#)
Subject: Torfichen Wind Farm ECU00004661 - Request for Scoping Opinion [WF286430]
Date: 26 January 2023 10:16:27

Dear nicola,

A Windfarms Team member has replied to your co-ordination request, reference **WF286430** with the following response:

***Please do not reply to this email - the responses are not monitored.
If you need us to investigate further, then please use the link at the end of this response
or login to your account for access to your co-ordination requests and responses.***

Dear Nicola,

Site Name: *Torfichen Wind Farm ECU00004661*

Turbine at NGR:

1 331999 653946
2 332146 653507
3 332193 653028
4 332668 653392
5 333220 653351
6 333100 653797
7 332461 654371
8 332951 654230
9 333418 654677
10 333501 654221
11 333774 653787
12 334207 654237
13 333969 654666
14 334776 654789
15 334447 655405
16 334896 655969
17 335240 655183
18 335785 655528
19 335434 655900

Hub Height: *105m Rotor Radius: 75m*

*This proposal is ***cleared*** with respect to radio link infrastructure operated by the local energy networks.*

JRC analyses proposals for wind farms on behalf of the UK Fuel & Power Industry. This is to assess their potential to interfere with radio systems operated by utility companies in support of their regulatory operational requirements.

In the case of this proposed wind energy development, JRC does not foresee any potential problems based on known interference scenarios and the data you have provided. However, if any details of the wind farm change, particularly the disposition or scale of any turbine(s), it will be necessary to re-evaluate the proposal. Please note that due to the large number of adjacent radio links in this vicinity, which have been taken into account, clearance is given specifically for a location within the declared grid reference (quoted above).

In making this judgement, JRC has used its best endeavours with the available data, although we recognise that there may be effects which are as yet unknown or inadequately predicted. JRC cannot therefore be held liable if subsequently problems arise that we have not predicted.

It should be noted that this clearance pertains only to the date of its issue. As the use of the spectrum is dynamic, the use of the band is changing on an ongoing basis and consequently, you are advised to seek re-coordination prior to submitting a planning application, as this will negate the possibility of an objection being raised at that time as a consequence of any links assigned between your enquiry and the finalisation of your project.

JRC offers a range of radio planning and analysis services. If you require any assistance, please contact us by phone or email.

Regards

Wind Farm Team




Office: 

JRC Ltd. is a Joint Venture between the Energy Networks Association (on behalf of the UK Energy Industries) and National Grid.

Registered in England & Wales: 2990041

[About The JRC | Joint Radio Company | JRC](#)

We maintain your personal contact details and are compliant with the Data Protection Act 2018 (DPA 2018) for the purpose of 'Legitimate Interest' for communication with you. If you would like to be removed, please contact .

We hope this response has sufficiently answered your query.

If not, please **do not send another email** as you will go back to the end of the mail queue, which is not what you or we need. Instead, **reply to this email by clicking on the link below or login to your account** for access to your co-ordination requests and responses.

<https://breeze.jrc.co.uk/tickets2/view.php?auth=o1xxufqaedomaaatzn21aOTdZXsJQ%3D%3D>

From: [Davie Black](#)
To: [Ferguson N \(Nicola\)](#)
Subject: RE: Request for Scoping Opinion Torfichen Wind Farm
Date: 09 February 2023 12:48:27
Attachments: [image002.png](#)
[image003.jpg](#)
[image004.jpg](#)
[image005.jpg](#)
[image006.png](#)

Mountaineering Scotland have no comment to make on this proposal at this time.

With kind regards

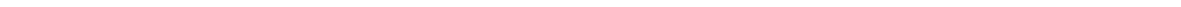
Davie Black
Access & Conservation Officer

T: REDACTED



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From: [NATS Safeguarding](#)
To: [Ferguson N \(Nicola\)](#)
Cc: [Econsents Admin](#)
Subject: RE: Request for Scoping Opinion Torfichen Wind Farm [SG34669]
Date: 03 February 2023 11:09:01
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)

Our Ref: SG34669

Dear Sir/Madam

The proposed development has been examined from a technical safeguarding aspect and does not conflict with our safeguarding criteria. Accordingly, NATS (En Route) Public Limited Company ("NERL") has no safeguarding objection to the proposal.

However, please be aware that this response applies specifically to the above consultation and only reflects the position of NATS (that is responsible for the management of en route air traffic) based on the information supplied at the time of this application. This letter does not provide any indication of the position of any other party, whether they be an airport, airspace user or otherwise. It remains your responsibility to ensure that all the appropriate consultees are properly consulted.

If any changes are proposed to the information supplied to NATS in regard to this application which become the basis of a revised, amended or further application for approval, then as a statutory consultee NERL requires that it be further consulted on any such changes prior to any planning permission or any consent being granted.

Yours faithfully



NATS Safeguarding

E: [Redacted]



www.nats.co.uk



NATS Public

From: ONR Land Use Planning [REDACTED]
Sent: 25 January 2023 15:25
To: Econsents Admin
Subject: ONR Land Use Planning - Application ECU00004661

Dear Sir/Madam,

With regard to planning application ECU00004661, ONR makes no comment on this proposed development as it does not lie within a consultation zone around a GB nuclear site.

You can find information concerning our Land Use Planning consultation process here: (<http://www.onr.org.uk/land-use-planning.htm>).

Kind regards,

Vicki Enston
Land Use Planning
Office for Nuclear Regulation
ONR-Land [REDACTED]



Nicola Ferguson
Case Officer
Energy Consents Unit
The Scottish Government
Sent by email:

25th January 2023

Dear Nicola

Re: ECU00004661- Request for Scoping Opinion Torfichen Wind Farm

Thank you for consulting RSPB Scotland on the above scoping opinion consultation for Torfichen Wind Farm. RSPB Scotland is supportive of the use of renewable technology, however developments must be carefully sited to avoid negative impacts on sites and species of conservation importance.

We welcome engagement with the applicant to discuss any of the matters raised in this letter. While we have no significant issues with this case, we have made some suggestions to ensure the EIA process is as robust as possible and ensure the impacts on ornithology and ecology are properly assessed.

In general, the ornithological chapter of the EIA should consider all the components of the proposal including access roads (including the route on public roads to get the turbines on site), on-site tracks, borrow pits, drainage, grid connection, substation, and temporary construction buildings/storage compounds. Disturbance, displacement (including barrier effects), loss of suitable habitat (breeding, wintering and foraging) and collision risk should be assessed for all species.

Information within the EIA report must demonstrate that the survey data are adequate, robust, and accurate. The following should be included:

- Full information on the Vantage Point (VP) Survey work undertaken, including dates, times, and weather conditions
- Maps showing VP locations that also denote viewsheds
- Maps showing raptor foraging areas and flights
- Worked example(s) of collision risk calculations
- Provision of raw data in order for independent verification of collision risk calculations

The EIA Report should also include post-construction monitoring for collision mortality and breeding birds.

Central Scotland
RSPB

[Redacted contact information]

[Redacted contact information]



The RSPB is part of Bird Life International, a Partnership of conservation organisations working to give nature a home around the world.

Section 6.5 mentions that the EIA report will include opportunities for enhancement, and Section 6.6 discusses a proposed construction phase Environmental Management Plan (CEMP), and production of an operational phase Habitat Management Plan (HMP). With NPF4 now approved by the Scottish Parliament and soon to be adopted we would expect the HMP to include proposals for mitigation and enhancement of habitats and species on site and discuss opportunities for development and enhancement of wider Nature Networks.

Chapter 6 – Ecology Scoping Questions to Consultees:

➤Do consultees agree that, subject to further information coming to light from the field surveys and desk study, the scope of IEFs to be included in the assessment is appropriate?

Yes

➤Do consultees agree that the suite of field surveys undertaken in 2022 and planned for 2023 in addition to a desk study are sufficient to inform a robust impact assessment?

Yes

➤Do consultees agree that the methodology and scope of assessment is appropriate?

Yes

Chapter 7 – Ornithology Scoping Questions to Consultees:

➤The above surveys have been scoped to ensure that a robust and complete set of baseline ecological data is collected for the Proposed Development. Please can the consultees confirm if the survey and assessment methodologies are appropriate for the site and in relation to the Proposed Development.

Yes

Should you have any questions regarding the above comments, please do not hesitate to contact me.

Yours sincerely,

REDACTED

Scott Shanks

Conservation Officer – Central Scotland

████████████████████



[REDACTED]

Nicola Ferguson
Case Officer
Energy Consents Unit
Directorate for Energy and Climate Change
The Scottish Government

Our Ref: 07737
15/03/2023

Dear Ms Ferguson,

ECU ref: ECU00004661
ELECTRICITY ACT 1989

**THE ELECTRICITY WORKS (ENVIRONMENTAL IMPACT ASSESSMENT) (SCOTLAND)
REGULATIONS 2017**

**REQUEST FOR SCOPING OPINION FOR PROPOSED SECTION 36 APPLICATION FOR
TORFICHEN WIND FARM**

Thank you for your email of 23 January 2023 seeking comments on the scoping report for the above proposal. We also acknowledge the additional email informing us of the extension to the consultation period.

ScotWays records

The enclosed map shows that rights of way LM173 and BE1 as recorded in the National Catalogue of Rights of Way (CROW) cross or are close to the application site as shown on Figure 2.1 *Site Location*.

The enclosed map shows that our book *Scottish Hill Tracks* describes a route number 39 *Leadburn to Heriot* [HT43] which crosses or is close to the application site as shown on Figure 2.1 *Site Location*.

In searching our records at this scoping stage, we have focussed solely on the immediate area of the proposed application. If required by the applicant to inform their Environmental Impact Assessment (EIA), maps of a wider search area are available from the Society, alongside a more detailed response.

Other Access to Land

You should be aware that other forms of public access to land may affect the proposed application site. More detail about these other types of access is set out in the enclosed Catalogue of Rights of Way Guidance Notes.

Wind Farms and public access

It is our understanding that there is very little guidance regarding the siting of turbines in relation to established paths and rights of way, so we use the following starting principle in considering what could be reasonable:

“a minimum distance, equivalent to the height of the blade tip, from the edge of any public highway (road or other public right of way) or railway line.”

ScotWays considers the above sets out a reasonable principle for a recommended minimum separation distance. There could also be site specific factors which would lead us to prefer a larger minimum separation distance; these could include the affected route being one of Scotland's Great Trails or it being known for equestrian use, for example. ScotWays is likely to object to any proposal where the above principle is not followed, including where a micro-siting allowance could lead to turbine encroachment upon a route because it has been insufficiently buffered.

Recreational amenity

As well as direct impacts of development upon public access, ScotWays has an interest in impacts on recreational amenity, so this includes the impact of wind farm development on the wider landscape. We anticipate that the applicant will take into account both recreational amenity and landscape impacts in developing their proposals for this site. We will consider these issues further should this scoping stage lead to a planning application.

Cumulative Impact

As ScotWays is aware of a number of wind turbine proposed in this general area, we are particularly concerned that the cumulative impact of these proposed developments is taken into account.

Comment

Under section 3 of the Land Reform (Scotland) Act 2003, there is a duty upon landowners to use and manage land responsibly in a way which respects public access rights. Under section 14 of the same Act, access authorities have a duty to uphold access rights. Accordingly, we suggest that the applicant may wish to approach the relevant authority's access team for their input when drawing up their Access Management Plan for their proposed development.

I hope the information provided is useful to you. Please do not hesitate to contact us if you have any further queries.

Yours sincerely,

REDACTED

Lynda Grant
Access Officer



Catalogue of Rights of Way Scoping Comment Guidance

These notes explain what is shown on the map(s) provided with scoping comments and provide information about the public right of access to land in Scotland. All maps are provided on a 1:50,000 scale base.

What is the Catalogue of Rights of Way (CROW)?

CROW was created by ScotWays in the early 1990s with the help of Scottish Natural Heritage (now NatureScot) and local authorities and is an amalgamation of rights of way information from a number of different sources. Mapped at 1:50,000 scale, the catalogue does not include all rights of way – many of these are known only to local people and come to ScotWays' notice only when a problem arises.

CROW is continually updated to take account of new information as it comes to ScotWays' attention.

What is a Recorded Right of Way?

Any right of way that we record in the Catalogue of Rights of Way.

Where any Recorded Rights of Way pass through or close to the wind farm application site a map will be provided showing them.

What is an Other Route?

Any path that we record in the Catalogue of Rights of Way that does not appear to meet the criteria to be a right of way.

Where any Other Routes pass through or close to the wind farm application site a map will be provided showing them.

What is a Heritage Path?

A historic route that forms part of the transport heritage of Scotland. Such routes reflect our cultural and social development and include drove roads, military roads, Roman roads, pilgrim routes and trade routes.

These routes may or may not be rights of way, core paths or carry some other type of designation.

Find out more about the Heritage Paths project at <http://www.heritagepaths.co.uk>

Where any Heritage Paths pass through or close to the wind farm application site a map will be provided showing them.

What is a Scottish Hill Track?

First published in 1924, our book *Scottish Hill Tracks* is a record of the network of paths, old roads and rights of way which criss-cross Scotland's hill country, from the Borders to Caithness.

These publicised routes may or may not be rights of way, core paths or carry some other type of designation.

Copies of our book *Scottish Hill Tracks* can be purchased from the ScotWays webshop: <https://www.scotways.com/shop>

Where any *Scottish Hill Tracks* routes pass through or close to the wind farm application site a map will be provided showing them.

Disclaimer

The routes shown on the CROW maps provided have been prepared from information contained in the records of ScotWays, local authorities, judicial and other records. The inclusion of a route in CROW is not in itself definitive of its legal status.

Other Public Access Information

You should be aware that other forms of public access to land may affect the wind farm application site.

Unrecorded Rights of Way

Our records only show the rights of way that we are aware of. Scots law does not require a right of way to be recorded in a specific document or register. Any route that meets the following criteria will be a right of way. This could include any paths, tracks or desire lines within your area of interest. A right of way:

1. Connects public places.
2. Has been used for at least 20 years.
3. Follows a more or less defined route.
4. Has been used by the public without judicial interruption or the landowner's permission.

Core Paths

The Land Reform (Scotland) Act 2003 requires all access authorities to create a system of routes within their area. These are known as core paths and are recorded in the authority's core paths plan. It is anticipated that applicants will have consulted the relevant access authority's core paths plan to check whether any core paths cross or are close to the wind farm application site, and will also have consulted the authority's access team.

The General Right of Access

Irrespective of the presence or absence of rights of way and core paths, the land in question may be subject to the access rights created by Section 1 of the Land Reform (Scotland) Act 2003. Unless the land falls into one of the excluded categories in Section 6 of this Act, the public has a right of access to the land, and land owners/managers have a duty under the Act's Section 3 to consider this in any decisions made about the use/management of the land.

Other Promoted Routes

There may be a promoted route running through or close to any wind farm application site. Such routes will usually be clearly marked with signposts or waymarking and may feature in guidebooks, leaflets, on local information boards and on websites. The two main types of nationally promoted routes are:

Scotland's Great Trails: <https://www.scotlandsgreattrails.com>

National Cycle Network: <https://www.sustrans.org.uk/map-ncn>

Public and Private Roads

The Roads (Scotland) Act 1984 created the terms 'public road' and 'private road'. Public roads are those roads which are on the List of Public Roads and which, importantly, the roads authority is required to manage and maintain. Private roads are those roads which are not on the List of Public Roads and thus there is no duty on the roads authority to manage or maintain them. There is a public right of passage over these roads and the owner(s) of a private road may not restrict or prevent the public's right of passage over the road.

If required, the local roads authority should be contacted by the applicant for more information on public and private roads that may cross or pass close to the application site.

More Information on Outdoor Access Law

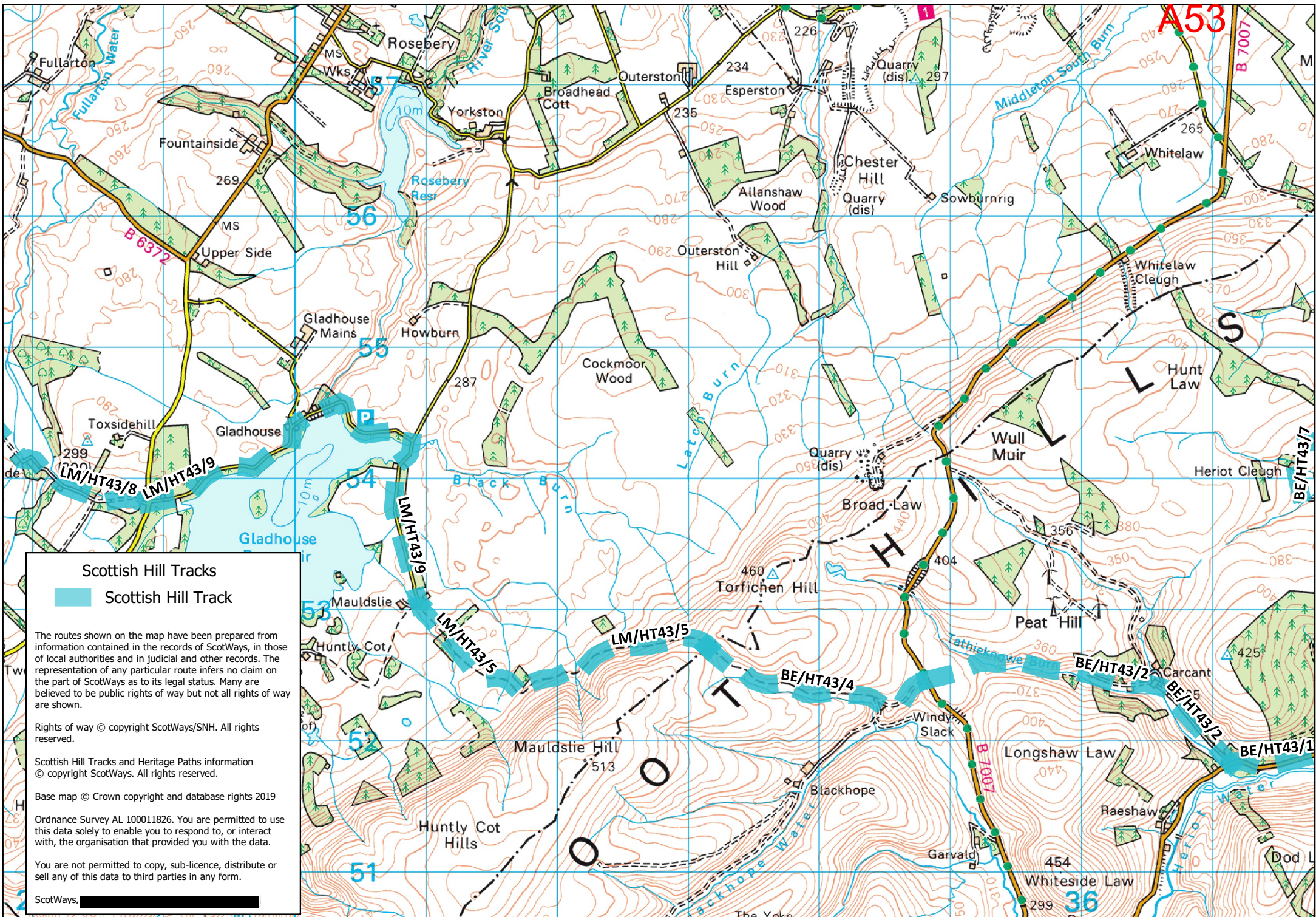
If you would like to know more about outdoor access law, why not visit our website (<https://scotways.com/outdoor-access/>) or get a copy of our book "*The ScotWays Guide to the Law of Access to Land in Scotland*" by Malcolm Combe (<https://www.scotways.com/shop>)?

Development and Planning Applications

When proposing to develop a site, it is advisable that the applicant reviews the current amount and type of public access across it and presents this as an access management plan as part of their application. This should include rights of way, core paths, other paths and tracks, and take account of how the statutory right of access currently affects the site.

The plan should then set out the effect that the proposed works, both during construction and upon completion, would have on the patterns of public access identified. Any good practice guidance associated with the proposed type of development should be considered, e.g. for windfarms the NatureScot "*Good Practice during Wind Farm Construction, Part 8 Recreation and Access*" and "*Siting and Designing Wind Farms in the Landscape*", and the policies contained within any local statutory plans.

Depending upon the proposals, there may be specific legal processes that must be followed to divert any paths or tracks whether temporarily or permanently. These will be in addition to getting planning consent for the proposal. We recommend that applicants contact the access team at the relevant access authority for advice in this regard.



Scottish Hill Tracks

Scottish Hill Track

The routes shown on the map have been prepared from information contained in the records of ScotWays, in those of local authorities and in judicial and other records. The representation of any particular route infers no claim on the part of ScotWays as to its legal status. Many are believed to be public rights of way but not all rights of way are shown.

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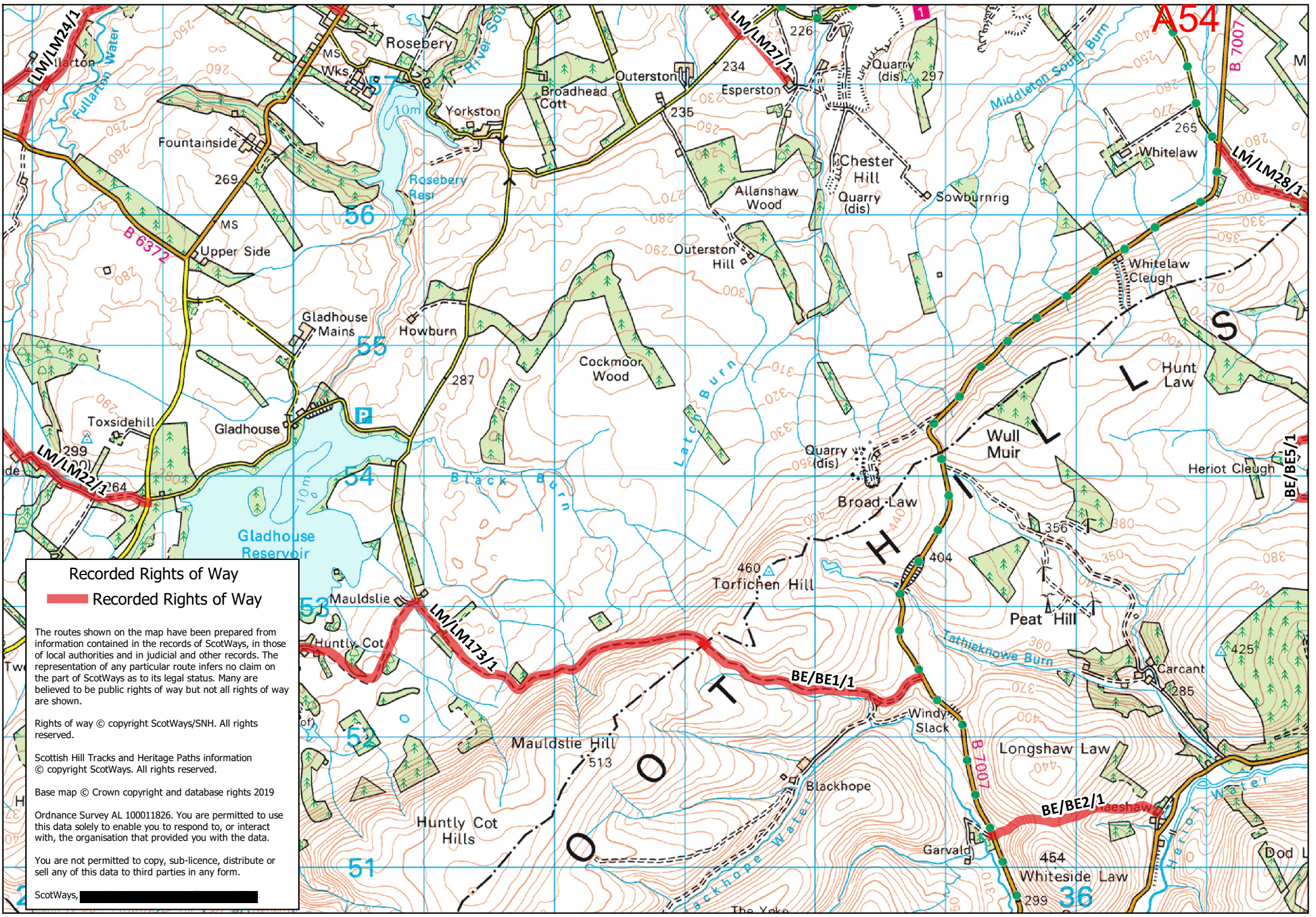
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ScotWays, XXXXXXXXXX



Recorded Rights of Way

— Recorded Rights of Way

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ScotWays, XXXXXXXXXX

Thursday, 16 February 2023



Local Planner
Energy Consents Unit
[Redacted]
[Redacted]
[Redacted]

Development Operations
The Bridge

[Redacted]
[Redacted]
[Redacted]
[Redacted]

Development Operations
Freephone Number - [Redacted]
E-Mail - [Redacted]
www.scottishwater.co.uk



Dear Customer,

Torfichen Wind Farm, Torfichen, EH23 4TA
Planning Ref: ECU00004661
Our Ref: DSCAS-0079886-CH2

Proposal: The Proposed Development would comprise c.19 turbines, each c.180 m from ground to blade tip when vertical. Its total generating capacity is anticipated to be in the region of 114 MW. The ancillary infrastructure is expected to include: temporary construction compound(s); crane pads; temporary laydown areas adjacent to the turbines; access tracks; watercourse crossings; underground cables between turbines; electrical switching station; on-site substation and control building; battery storage infrastructure; a gatehouse compound; telecoms mast; concrete batching plant; drainage and drainage attenuation measures (as required) and potential excavations/borrow workings.

Please quote our reference in all future correspondence

Audit of Proposal

Scottish Water has no objection to this planning application; however, the applicant should be aware that this does not confirm that the proposed development can currently be serviced and would advise the following:

Drinking Water Protected Areas

A review of our records indicates that the proposed activity falls within a drinking water catchment where a Scottish Water abstraction is located. Scottish Water abstractions are designated as Drinking Water Protected Areas (DWPA) under Article 7 of the Water Framework Directive. Gladhouse Reservoir supplies Rosebery Water Treatment Works (WTW) and it is essential that water quality and water quantity in the area are protected. In the event of an incident occurring that could affect Scottish Water we should be notified immediately using the Customer Helpline number [Redacted]

At least 10 of 19 turbines appear to fall within the catchment, catchment boundaries derived at this map scale can be subject to uncertainty and ground-truthing may be required to confirm whether borderline infrastructure is within or outside the catchment.

We would therefore deem this proposal to present a risk to water quality. It is a relatively small catchment therefore there may be less opportunity for dilution and a potential higher risk of activities affecting water quality. Some of the soils in this catchment appear to be peats and peaty gleys. Peat that is in unfavourable condition or disturbed can exacerbate the release of organic material into the water environment. Water containing a high organic content can affect WTW processes and water supply. We would welcome consideration of the precautions specific to protecting drinking water in peatland areas and any opportunities for peat restoration.

We have no comments with regard to water resource (quantity) impacts other than those already contained in our guidelines-particularly that drainage is not directed out of the catchments.

It would be useful if you could provide us with the shapefiles of the infrastructure with which we can further review the borderline turbines.

Scottish Water have produced a list of precautions for a range of activities. This details protection measures to be taken within a DWPA, the wider drinking water catchment and if there are assets in the area. Please note that site specific risks and mitigation measures will require to be assessed and implemented. These documents and other supporting information can be found on the activities within our catchments page of our website at www.scottishwater.co.uk/slm

We welcome receipt of this notification about the proposed activity within a drinking water catchment where a Scottish Water abstraction is located.

The fact that this area is located within a drinking water catchment should be noted in future documentation. Also, anyone working on site should be made aware of this during site inductions.

We would request further involvement at the more detailed design stages, to determine the most appropriate proposals and mitigation within the catchment to protect water quality and quantity.

We would also like to take the opportunity, to request that the required information is sent to us at [REDACTED]

General notes:

- ▶ Scottish Water asset plans can be obtained from our appointed asset plan providers:

- ▶ Site Investigation Services (UK) Ltd



- ▶ www.sisplan.co.uk

I trust the above is acceptable however if you require any further information regarding this matter please contact me on [REDACTED] or via the e-mail address below or at [REDACTED].

Yours sincerely,

Angela Allison
Development Operations Analyst
Tel: [REDACTED]
[REDACTED]

Scottish Water Disclaimer:

"It is important to note that the information on any such plan provided on Scottish Water's infrastructure, is for indicative purposes only and its accuracy cannot be relied upon. When the exact location and the nature of the infrastructure on the plan is a material requirement then you should undertake an appropriate site investigation to confirm its actual position in the ground and to determine if it is suitable for its intended purpose. By using the plan you agree that Scottish Water will not be liable for any loss, damage or costs caused by relying upon it or from carrying out any such site investigation."



The Coal
Authority

Resolving the **impacts** of mining

[Redacted]
[Redacted]
[Redacted]
[Redacted]
T: [Redacted]

E: [Redacted]
www.gov.uk/coalauthority

Nicola Ferguson | Case Officer | Energy Consents Unit
The Scottish Government

[By email: [Redacted]]

27 January 2023

Dear Ms Ferguson

**ELECTRICITY ACT 1989
THE ELECTRICITY WORKS (ENVIRONMENTAL IMPACT ASSESSMENT) (SCOTLAND)
REGULATIONS 2017**

**REQUEST FOR SCOPING OPINION FOR PROPOSED SECTION 36
APPLICATION FOR TORFICHEN WIND FARM [ECU00004661]**

Thank you for your notification of 23 January 2023 seeking the views of the Coal Authority on what relevant matters should be 'Scoped In' to any forthcoming Environmental Statement for the above project.

I have reviewed the location plan against our coal mining information and can confirm that, whilst the site lies within the coalfield, it is located outside the Development High Risk Area as defined by the Coal Authority; meaning that there are no recorded coal mining legacy hazards at shallow depth that could pose a risk to land stability at the surface and / or a risk to public safety.

Accordingly, if you consider that the application is EIA development, there is no requirement for the applicant to consider coal mining legacy as part of their Environmental Impact Assessment.

The Coal Authority's records indicate that surface coal resource is present on the site, although this should not be taken to imply that mineral extraction would be economically viable, technically feasible or environmentally acceptable. Those authorities with responsibility for minerals planning and safeguarding will have identified where they consider minerals of national importance are present in your area and related policy considerations. As part of the planning application decision making process consideration should be given to such advice in respect of the indicated surface coal resource.

I hope that this is helpful however please do not hesitate to contact me if you require any further assistance with this matter.

Yours sincerely

REDACTED

Deb Roberts *M.Sc. MRTPI*
Planning & Development Manager

Disclaimer

The above consultation response is provided by The Coal Authority as a Statutory Consultee and is based upon the latest available data on the date of the response, and electronic consultation records held by The Coal Authority since 1 April 2013. The comments made are also based upon only the information provided to The Coal Authority by the Local Planning Authority and/or has been published on the Council's website for consultation purposes in relation to this specific planning application. The views and conclusions contained in this response may be subject to review and amendment by The Coal Authority if additional or new data/information (such as a revised Coal Mining Risk Assessment) is provided by the Local Planning Authority or the Applicant for consultation purposes.

From: [Allott, Tim](#) on behalf of [metofficesafeguarding](#)
To: [Ferguson N \(Nicola\)](#)
Subject: RE: Request for Scoping Opinion Torfichen Wind Farm
Date: 24 January 2023 16:07:06

Dear Nicola,

Thanks for contacting the Met Office. The closest meteorological radar to the proposal is Munduff Hill, approx. 50km distant. The radar consultation zone is 20km radius, therefore we have no comments on the proposal and do not need to be consulted further.

Kind regards,

Tim Allott

Upper Air Observations

Met Office, [REDACTED]

E-mail: [REDACTED]

Web: <https://www.metoffice.gov.uk/services/business-industry/energy/safeguarding>

Nicola Ferguson
Energy Consents Unit

By email

Please ask for:

Our Ref:

Your Ref:

E-Mail:

Date:

Scott Shearer

23/00114/NECON

ECU00004661

28th February 2023

Dear Nicola,

ELECTRICITY ACT 1989

THE ELECTRICITY WORKS (ENVIRONMENTAL IMPACT ASSESSMENT) (SCOTLAND) REGULATIONS 2017

REQUEST FOR SCOPING OPINION FOR PROPOSED SECTION 36 APPLICATION FOR TORFICHEN WIND FARM

I write with reference to the above consultation which was received by Scottish Borders Council on 23rd January 2023. We have considered the Scoping Report and provide the following observations;

1. We would request that an additional viewpoint is provided from the Lauder Common at the B6362 from the stretch of road identified to have visibility on the ZTV.
2. We would request that a viewpoint within the Scottish Borders is used to also assess the impact of aviation lighting. Viewpoint 7 would appear be the most appropriate for this given that it is a well-travelled public road.

I trust that this is of assistance do not hesitate to contact Scottish Borders Council should you require anything further.

Yours Sincerely,

Scott Shearer
Peripatetic Planning Officer

Torfichen Wind Farm s36 Application ECU Ref: ECU00004661

Scoping Response by Heriot Community Council

Introduction

1. Heriot Community Council are making this response to a request from the Energy Consents Unit for a response to the Scoping Report submitted by RES Group Ltd, proposing a s36 wind farm of 19 turbines up to 180m in height on a site called Torfichen. This is on Maudslie Farm, Midlothian in the area of Moorfoots Community Council. The southern boundary of the site coincides with the county boundary between Midlothian and the Scottish Borders and is also the northern boundary of the area of Heriot Community Council. Representatives of RES have held a meeting with Heriot CC and also an exhibition in Macfie Hall for the local community. Heriot CC welcomes RES intention to hold regular meetings and keep the community informed on progress of their project.

Matters Arising from the Scoping Report

2. There are several other wind farm applications in the Scottish Borders area near to Heriot. Wull Muir 3 is the revived scheme for the previously refused Wull Muir application by Energiekontor. The site for Wull Muir 3 adjoins the Torfichen site to the south. It is for 8 turbines up to 150m in height. Heriot CC objected to the previous scheme and has also decided to object to Wull Muir 3. That application is proceeding through the planning process as an application to the local authority, Scottish Borders Council. Wull Muir 3 is about 1.5km west and 1km north of some of the main parts of Heriot.
3. Greystone Knowe is a s36 application for a wind farm of 14 turbines up to 180m in height on a site about 3km south of Heriot and about 1.5km west of Fountainhall. The application is awaiting the response by SBC Planning Committee, which is expected to be at the April 2023 planning meeting. Stow & Fountainhall CC and Heriot CC submitted a joint objection on LVIA impacts, cumulative impacts, noise and road access impacts.

4. Scawd Law is a s36 application for a wind farm of 8 turbines up to 180m in height on a site on the highest parts of the Moorfoot Hills, namely Windlestraw. Heriot CC has very recently submitted an objection to the scheme on the grounds of the LVIA impacts, cumulative impacts, and road access impacts.
5. There are other schemes less advanced in the Planning Process that may well become relevant. These are Ditcher Law s36 10 turbines at 200m in height, near Oxton, and Leithenwater s36 13 turbines up to 200m in height, about 7kms west of Scawd Law.
6. The cumulative effects of these applications in an area where there have only been very modest projects so far, threaten the landscape of the Moorfoots Plateau. The SBC Supplementary Planning Guidance on Renewable Energy, and within it, the Ironside Farrar Landscape Capacity Study 2016, set out in detail why any wind farm development in the entire area should amount to no more than 10 turbines over 120m in height, and that they should be placed well to the south of Heriot “*in smaller numbers where topography aids screening turbine developments should not adversely encroach onto the visually prominent escarpment and skyline facing Edinburgh or the setting of the Tweed Valley to the south.*”
7. Heriot CC has submitted detailed examination of the impacts that the proposed wind farms in the area would create, and also that all fail to meet the criteria set out in the LCS.
8. It will be essential for the EIA of the Torfichen scheme to consider the LCS in detail and to set out rationale as to why it no longer carries weight for this scheme. The above prescription that “*turbine developments should not adversely encroach on the prominent escarpment and skyline facing Edinburgh*” could hardly be more shamelessly ignored. Planners went to great lengths to ensure that earlier schemes such as Carcant, Bowbeat and Dun Law were set well back from the escarpment – and those turbines were from the earlier generation and are only 70m to 100m in height.

9. In two recent planning appeals, Reporters concurred with this vital principle and refused consent. These appeals were **Gilston Hill PPA/140/2068-1** and **Wull Muir PPA/140/2080**.

Mr Stephen Hall, in his decision letter on Wull Muir stated inter alia:

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....

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.....

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.....

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.

10. Heriot CC appreciates that the response it is submitting is to a scoping report, and that excessive detail, or indeed objections, are not appropriate at this stage. However, we consider that the setting of the escarpment is absolutely fundamental as to whether the Torfichen proposal should advance further in the planning system. We cannot see how a carefully drawn up and detailed LCS, formally adopted by SBC and Scottish Ministers, and then tried, tested and endorsed by two different Reporters, can be ignored in this way.
11. We draw attention to the two Viewpoints referred to above, in the SEI application for Wull Muir, which show the visual effect of turbines only 130m high. Any attempt to advance the Torfichen application will need to start from this point if it is to go any further.
12. We are aware that with the adoption of NPF4 the argument is being advanced by wind farm applicants that “everything has changed”. No doubt the Torfichen developers may use this approach to attempt to overturn the hitherto inviolate status of the Southern Escarpment.

Planning. Consideration of NPF4.

13. Much has been recently written about NPF4. All current open planning appeals concerning wind farms are having specially convened hearing sessions to consider what effect the new planning framework might have. It is therefore unclear yet what decision makers will decide and what will

emerge as the accepted application of NPF4. Heriot CC does not have specialist planning skills or personnel, but we are able to draw on published material by experts in recent appeals. We reproduce an Updated Policy Position submitted to one such Inquiry by a senior planner in Aberdeenshire Council (Glendye, Fasque and Glendye Estates, Aberdeenshire, DPEA Ref: WIN-110-3) Detailed comments related to the facts of that Inquiry are not included, and only short pieces are quoted in italics, but we consider those on Policy 11 – Energy give a very balanced and useful guide to the most relevant parts concerning wind farms applications, and we include the final overall conclusion as it sets out a very clear guide for decision makers.

14. Policy 11 -- Energy

Policy 11 intends “to encourage, promote and facilitate all forms of renewable energy development onshore and offshore”. Policy 11(a) is clear that development proposals for all forms of renewable, low carbon and zero-emissions technologies will be supported and includes a list of development types. Wind farms are included as point (i) in this list. Despite the support given in principle for renewable energy developments, the Policy also makes it clear in part (e) that there are other factors to be considered in the assessment of proposed developments. This list is similar, and in instances identical, to the wording used in paragraph 169 of SPP.

15. Overall, Draft Policy 11 is notably similar to paragraph 169 of SPP in terms of assessment criteria. However, the main change is the direction to decision makers to place ‘significant weight’ to carbon reduction targets and the benefits of the proposed development albeit it does not set out any actual policy test as such. There is not a fundamental change in approach and is reflected in many, if not all, recent pre NPF4 decisions on windfarms.

16. There is still a requirement for the planning balance to be assessed. Although the policy provides that significant weight is to be given to both the global climate and nature crisis, and the contribution a proposal will make to renewable energy generation targets and the reduction of greenhouse gas emissions, it notably does not state those factors are to be

given decisive weight. Further, the policy does not say that the weight to be given to the global climate and nature crisis, renewable energy generation targets and the greenhouse gas emissions alters the mode of assessment of the weight to be given to those factors when set against negative impacts, such as the adverse effect on the landscape – which we have clearly set out above. The weight to be given to those impacts remains a matter for the decision maker. It is accordingly still open to the decision maker to decide that even with significant weight being given to the factors prescribed in the policy, the negative impacts outweigh the benefit of the proposal's contributions.

Overall Conclusion

- 17. In summary, the Planning and Energy Policy environment is undergoing a period of significant change. The most significant change across the documents is the incorporation of the Climate Emergency and Biodiversity Crisis. The Council (Aberdeenshire) considers this to represent a consolidation or formalisation of recent approaches to decision making, as opposed to a change of approach.*
- 18. Under the provisions of NPF4, OWPS, DESJTP and ALDP 2023, wind energy developments continue to attract a significant degree of support in principle. However, that general support is tempered through a requirement to ensure the effects of the development are acceptable. **The myriad of considerations reflects the need for a planning balance to be struck in order to achieve the right development in the right place, not development at any cost.** (Emphasis added). The weighting to be assigned to each consideration remains a matter for the decision maker. While there may have been changes in the relevant policy documents, they do not introduce either individually or cumulatively, a new or novel approach to planning.*
- 19. Consultees in other applications have gone further than simply noting the adverse effects of wind farm applications. We note that for instance Nature Scot considers that some of the sections of NPF4 put an onus on developers to demonstrate that their proposals will actually enhance the state of the environment.*

20. In a recent submission to the same appeal as above in Aberdeenshire WIN -110-3 dated January 12th 2023 Nature Scot write “*with particular respect to Policy 3b of the draft NPF4, this introduces a new requirement for proposals to demonstrate that they will enhance biodiversity, such that it is in a demonstrably better state than without intervention. We are not aware of any development proposal currently under consideration which addresses this new requirement to enhance biodiversity, although some may include enhancement measures which are intended to compensate for the predicted impacts from development. This is a matter which all parties ... will need to consider not just for this application*”

21. The Torfichen developers will need consider how this can be achieved with their proposal and set out their rationale this in detail in the EIA.

Other subsidiary issues.

22. We have listed above in paras 2,3,4 &5 some of the nearest wind farms in the area that need to be considered for cumulative assessment.

Viewpoints.

23. We think it essential to include;

Nettlingflat: Viewpoint 6 in the Wull Muir 3 application and Viewpoint 5 in the Greystone Knowe Application. This part of Heriot Community is on high ground to the east of A7 and potentially will have views of all the Torfichen turbines.

Corsehope Rings: Viewpoint 4 in the Wull Muir 3 application. The Greystone Knowe application Viewpoint 2 Core Path 33 Heriot whilst similar, is not appropriate for the Torfichen application. This site will be representative of views of the Torfichen turbines from various high ground areas in Heriot Community.

Lauder Common. We are aware SBC have already asked for this Viewpoint to be included. It had been used for many wind farm applications, including Scawd Law, Greystone Knowe, and Wull Muir.

Further suggested for consideration:

B6372 at Fountainside/Roseberry area where there are clear views towards the escarpment.

Soutra Aisle might also be appropriate as there are views from there of the Carcant turbines.

There should be sequential Views of the A7, B7007/709, B6372

RAA.

24. SBC has agreed with applicants for recent s36 applications that the RAA should be set at 2.5km due to the much higher turbines now being employed by the industry. Whilst there are not properties in Heriot that will be included in the RAA, it should be considered for this application for properties in neighbouring areas.

Telecommunications.

25. There is a small mast operated by Borders Online CIC on the ridgeline near Torfichen Hill, with the agreement of Maudslie Farm. It is one of many the company use to supply high speed broadband services to local people across the Borders. The Company Chairman Professor Gordon Hughes can be contacted at [REDACTED] for discussion about interference with the service.

Heriot Community Council
March 2023

Torfichen Wind Farm

Scoping Response by Moorfoot Community Council

Moorfoot Community Council are making this response to the Scoping Report submitted by RES Group Ltd, proposing a s36 wind farm of 19 turbines up to 180m height on a site called Torfichen. This is on Maudslie Farm, Midlothian in the area of Moorfoot Community Council. The southern boundary of the site coincides with the county boundary between Midlothian and the Scottish Borders, and is also the northern boundary of the area of Heriot Community Council.

Representatives of RES have held exhibitions in North Middleton & Heriot for the local community.

Comments on the Scoping Report

There are several other wind farm applications in the Scottish Borders area near to Heriot.

Wull Muir 3 is the revived scheme for the previously refused Wull Muir application by Energiekontor. The site for Wull Muir 3 adjoins the Torfichen site to the south. It is for 8 turbines up to 150m in height. Heriot CC objected to the previous scheme and has also decided to object to Wull Muir 3. That application is proceeding through the planning process as an application to Scottish Borders Council.

Greystone Knowe is a s36 application for a wind farm of 14 turbines up to 180m in height on a site about 3km south of Heriot and about 1.5km west of Fountainhall. The application is awaiting the response by SBC.

Scawd Law is a s36 application for a wind farm of 8 turbines up to 180m height on a site on the highest parts of the Moorfoot Hills

There are other schemes less advanced in the Planning Process that may well become relevant.

Ditcher Law s36 10 turbines at 200m in height, near Oxton, and Leithenwater s36 13 turbines up to 200m in height, about 7kms west of Scawd Law.

The cumulative effects of these applications in an area where there have only been very modest projects so far, threaten the landscape of the Moorfoots Plateau.

The SBC Supplementary Planning Guidance on Renewable Energy, and within it, the Ironside Farrar Landscape Capacity Study 2016, set out in detail why any wind farm development in the entire area should amount to no more than 10 turbines over 120m in height, and that they should be placed well to the south of Heriot “in smaller numbers where topography aids screening turbine developments should not adversely encroach onto the visually prominent escarpment and skyline facing Edinburgh or the setting of the Tweed Valley to the south.”

Moorfoot Community Council are concerned of the impacts that the proposed wind farms in the area would create, and that all fail to meet the criteria set out in the LCS. It will be essential for the EIA of the Torfichen scheme to consider the LCS in detail and to set out why it feels this no longer applies for this scheme.

“Turbine developments should not adversely encroach on the prominent escarpment and skyline facing Edinburgh”.

Earlier schemes such as Carcant, Bowbeat and Dun Law were set well back from the escarpment and these turbines measure 70m to 100m in height.

In the Reporter’s decision letter on Wull Muir it stated

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...

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 plain, 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.

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 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.

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.

We consider that the setting of the escarpment is fundamental as to whether the Torfichen proposal should advance further in the planning system.

The current Midlothian Local Plan policy for Special Landscape Areas ENV6 would not support a scheme of this scale (and probably any scale) in this area. We understand there is to be a new national policy which gives greater weight to the importance of adding to Scotland's renewable energy capacity.

Our understanding is that **if** any environmental problem resulting from a wind farm¹ is only **localised** then it will be outweighed by the national importance of increasing the capacity of sustainable electricity.

The visual impact of this wind farm will not be local but widespread across Midlothian and further because of the size of the turbines.

Marine Scotland Science advice on freshwater and diadromous fish and fisheries in relation to onshore wind farm developments.

July 2020 updated April 2022

Marine Scotland Science (MSS) provides internal, non-statutory, advice in relation to freshwater and diadromous fish and fisheries to the Scottish Government's Energy Consents Unit (ECU) for onshore wind farm developments in Scotland.

Atlantic salmon (*Salmo salar*), sea trout and brown trout (*Salmo trutta*) are of high economic value and conservation interest in Scotland and for which MSS has in-house expertise. Onshore wind farms are often located in upland areas where salmon and trout spawning and rearing grounds may also be found. MSS aims, through our provision of advice to ECU, to ensure that the construction and operation of these onshore developments do not have a detrimental impact on the freshwater life stages of these fish populations.

The Electricity Works (Environmental Impact Assessment) (EIA) (Scotland) Regulations (2017) state that the EIA must assess the direct and indirect significant effects of the proposed development on water and biodiversity, and in particular species (such as Atlantic salmon) and habitats protected under the EU Habitats Directive. Salmon and trout are listed as priority species of high conservation interest in the Scottish Biodiversity Index and support valuable recreational fisheries.

A good working relationship has been developed over the years between ECU and MSS, which ensures that these fish species are considered by ECU during all stages of the application process of onshore wind farm developments and are similarly considered during the construction and operation of future onshore wind farms. It is important that matters relating to freshwater and diadromous fish and fisheries, particularly salmon and trout, continue to be considered during the construction and operation of future onshore wind farms.

In the current document, MSS sets out a revised, more efficient approach to the provision of our advice, which utilises our generic scoping and monitoring programme guidelines (<https://www2.gov.scot/Topics/marine/Salmon-Trout-Coarse/Freshwater/Research/onshoreren>). This standing advice provides regulators (e.g. ECU, local planning authorities), developers and consultants with the information required at all stages of the application process for onshore wind farm developments, such that matters relating to freshwater and diadromous fish and fisheries are addressed in the same rigorous manner as is currently being carried out and continue to be fully in line with EIA regulations. At the request of ECU, MSS will still be able to provide further and/or bespoke advice relevant to freshwater and diadromous fish and fisheries e.g. site specific advice, at any stage of the application process for a proposed development, particularly where a development may be considered sensitive or contentious in nature.

MSS will continue undertaking research, identifying additional research requirements, and keep up to date with the latest published knowledge relating to the

impacts of onshore wind farms on freshwater and diadromous fish populations. This will be used to ensure that our guidelines and standing advice are based on the best available evidence and also to continue the publication of the relevant findings and knowledge to all stakeholders including regulators, developers and consultants.

MSS provision of advice to ECU

- MSS should not be asked for advice on pre application and application consultations (including screening, scoping, gate checks and EIA applications). Instead, the MSS scoping guidelines and standing advice (outlined below) should be provided to the developer as they set out what information should be included in the EIA report;
- if new issues arise which are not dealt with in our guidance or in our previous responses relating to respective developments, MSS can be asked to provide advice in relation to proposed mitigation measures and monitoring programmes which should be outlined in the EIA Report (further details below);
- if new issues arise which are not dealt with in our guidance or in our previous responses, MSS can be asked to provide advice on suitable wording, within a planning condition, to secure proposed monitoring programmes, should the development be granted consent;
- MSS cannot provide advice to developers or consultants, our advice is to ECU and/or other regulatory bodies.
- if ECU has identified specific issues during any part of the application process that the standing advice does not address, MSS should be contacted.

MSS Standing Advice for each stage of the EIA process

Scoping

MSS issued generic scoping guidelines

(<https://www2.gov.scot/Topics/marine/Salmon-Trout-Coarse/Freshwater/Research/onshoreren>) which outline how fish populations can be impacted during the construction, operation and decommissioning of a wind farm development and informs developers as to what should be considered, in relation to freshwater and diadromous fish and fisheries, during the EIA process.

In addition to identifying the main watercourses and waterbodies within and downstream of the proposed development area, developers should identify and consider, at this early stage, any areas of Special Areas of Conservation where fish are a qualifying feature and proposed felling operations particularly in acid sensitive areas.

If a developer identifies new issues or has a technical query in respect of MSS generic scoping guidelines then ECU should be informed who will then co-ordinate a response from MSS.

Gate check

The detail within the generic scoping guidelines already provides sufficient information relating to water quality and salmon and trout populations for developers at this stage of the application.

Developers will be required to provide a gate check checklist (annex 1) in advance of their application submission which should signpost ECU to where all matters relevant to freshwater and diadromous fish and fisheries have been presented in the EIA report. Where matters have not been addressed or a different approach, to that specified in the advice, has been adopted the developer will be required to set out why.

EIA Report

MSS will focus on those developments which may be more sensitive and/or where there are known existing pressures on fish populations (<https://www2.gov.scot/Topics/marine/Salmon-Trout-Coarse/fishreform/licence/status/Pressures>). The generic scoping guidelines should ensure that the developer has addressed all matters relevant to freshwater and diadromous fish and fisheries and presented them in the appropriate chapters of the EIA report. Use of the gate check checklist should ensure that the EIA report contains the required information; the absence of such information may necessitate requesting additional information which may delay the process:

Developers should specifically discuss and assess potential impacts and appropriate mitigation measures associated with the following:

- any designated area, for which fish is a qualifying feature, within and/or downstream of the proposed development area;
- the presence of a large density of watercourses;
- the presence of large areas of deep peat deposits;
- known acidification problems and/or other existing pressures on fish populations in the area; and
- proposed felling operations.

Post-Consent Monitoring

MSS recommends that a water quality and fish population monitoring programme is carried out to ensure that the proposed mitigation measures are effective. A robust, strategically designed and site specific monitoring programme conducted before, during and after construction can help to identify any changes, should they occur, and assist in implementing rapid remediation before long term ecological impacts occur.

MSS has published guidance on survey/monitoring programmes associated with onshore wind farm developments (<https://www2.gov.scot/Topics/marine/Salmon-Trout-Coarse/Freshwater/Research/onshoreren>) which developers should follow when drawing up survey and/or monitoring programmes.

If a developer considers that such a monitoring programme is not required then a clear justification should be provided.

Planning Conditions

MSS advises that planning conditions are drawn up to ensure appropriate provision for mitigation measures and monitoring programmes, should the development be given consent. We recommend, where required, that a Water Quality Monitoring Programme, Fisheries Monitoring Programme and the appointment of an Ecological Clerk of Works, specifically in overseeing the above monitoring programmes, is outlined within these conditions and that MSS is consulted on these programmes.

Wording suggested by MSS in relation to water quality, fish populations and fisheries for incorporation into planning consents:

1. No development shall commence unless a Water Quality and Fish Monitoring Plan (WQFMP) has been submitted to and approved in writing by the Planning Authority in consultation with Marine Scotland Science and any such other advisors or organisations.
2. The WQFMP must take account of the Scottish Government's Marine Scotland Science's guidelines and standing advice and shall include:
 - a. water quality sampling should be carried out at least 12 months prior to construction commencing, during construction and for at least 12 months after construction is complete. The water quality monitoring plan should include key hydrochemical parameters, turbidity, and flow data, the identification of sampling locations (including control sites), frequency of sampling, sampling methodology, data analysis and reporting etc.;
 - b. the fish monitoring plan should include fully quantitative electrofishing surveys at sites potentially impacted and at control sites for at least 12 months before construction commences, during construction and for at least 12 months after construction is completed to detect any changes in fish populations; and
 - c. appropriate site specific mitigation measures detailed in the Environmental Impact Assessment and in agreement with the Planning Authority and Marine Scotland Science.
3. Thereafter, the WQFMP shall be implemented within the timescales set out to the satisfaction of the Planning Authority in consultation with Marine Scotland Science and the results of such monitoring shall be submitted to the Planning Authority on a 6 monthly basis or on request.

Reason: To ensure no deterioration of water quality and to protect fish populations within and downstream of the development area.

Sources of further information

NatureScot (previously “SNH”) guidance on wind farm developments - <https://www.nature.scot/professional-advice/planning-and-development/advice-planners-and-developers/renewable-energy-development/onshore-wind-energy/advice-wind-farm>

Scottish Environment Protection Agency (SEPA) guidance on wind farm developments – <https://www.sepa.org.uk/environment/energy/renewable/#wind>

A joint publication by Scottish Renewables, NatureScot, SEPA, Forestry Commission Scotland, Historic Environment Scotland, MSS and Association of Environmental and Ecological Clerks of Works (2019) Good Practice during Wind Farm Construction - <https://www.nature.scot/guidance-good-practice-during-wind-farm-construction>.

Annex 1

Marine Scotland Science advice on freshwater and diadromous fish and fisheries in relation to onshore wind farm developments.

July 2020, updated April 2022

MSS – EIA Checklist

The generic scoping guidelines should ensure that all matters relevant to freshwater and diadromous fish and fisheries have been addressed and presented in the appropriate chapters of the EIA report. Use of the checklist below should ensure that the EIA report contains the following information; the absence of such information **may necessitate requesting additional information** which could delay the process:

MSS Standard EIA Report Requirements	Provided in application YES/NO	If YES – please signpost to relevant chapter of EIA Report	If not provided or provided different to MSS advice, please set out reasons.	ECU/MSS use - comments
1. A map outlining the proposed development area and the proposed location of: <ul style="list-style-type: none">○ the turbines,○ associated crane hard standing areas,○ borrow pits,○ permanent meteorological masts,○ access tracks including watercourse crossings,○ all buildings including substation, battery storage;○ permanent and temporary construction compounds;○ all watercourses; and○ contour lines;				

<p>2. A description and results of the site characterisation surveys for fish (including fully quantitative electrofishing surveys) and water quality including the location of the electrofishing and fish habitat survey sites and water quality sampling sites on the map outlining the proposed turbines and associated infrastructure;</p>				
<p>3. An outline of the potential impacts on fish populations and water quality within and downstream of the proposed development area;</p>				
<p>4. Any potential cumulative impacts on the water quality and fish populations associated with adjacent (operational and consented) developments including wind farms, hydro schemes, aquaculture and mining;</p>				
<p>5. Any proposed site specific mitigation measures as outlined in MSS generic scoping guidelines and the joint publication “Good Practice during Wind Farm Construction” (https://www.nature.scot/guidance-good-practice-during-wind-farm-construction);</p>				

6. Full details of proposed monitoring programmes using guidelines issued by MSS and accompanied by a map outlining the proposed sampling and control sites in addition to the location of all turbines and associated infrastructure (see wording suggested by MSS for planning conditions).				
7. A decommissioning and restoration plan outlining proposed mitigation/monitoring for water quality and fish populations.				

Developers should specifically discuss and assess potential impacts and appropriate mitigation measures associated with the following:	Provided in application YES/NO	If YES – please signpost to relevant chapter of EIA Report	If not provided or provided different to MSS advice, please set out reasons.	ECU/MSS use - comments
8. Any designated area (i.e. SAC), for which fish is a qualifying feature, within and/or downstream of the proposed development area;				
9. The presence of a large density of watercourses;				
10. The presence of large areas of deep peat deposits;				
11. Known acidification problems and/or other existing pressures on fish populations in the area; and				
12. Proposed felling operations.				

