

Dun Law Windfarm Life Extension

Supporting Environmental Information

May 2020



**SCOTTISHPOWER
RENEWABLES**

Dun Law Windfarm Life Extension: Section 42 Application Supporting Information

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1. INTRODUCTION

This document has been prepared in support of a Section 42 application being submitted by ScottishPower Renewables (hereafter referred to as 'SPR') to Scottish Borders Council (hereafter referred to as 'SBC') in relation to the operational Dun Law Windfarm (hereafter referred to as 'DLWF'). The application description is as follows:

"Application under Section 42 of the Town and Country Planning (Scotland) Act 1997 to amend Condition 1 of permission 96/01130/FUL (alternative reference 96/185/C), in order to extend the operational life of the windfarm until 25th June 2034, to align with the lifetime of Dun Law Windfarm Extension."

Section 42 of the Town and Country Planning (Scotland) Act 1997¹, as amended ('the Act') allows for an applicant to seek permission for a change to a previously imposed condition on a planning permission.

This supporting information document sets out the background to the Section 42 application, which specifically addresses the amendment to condition 1 of permission 96/01139/FUL to allow an extension to the operational life of the windfarm to align with the lifetime of Dun Law Windfarm Extension (hereafter referred to as 'DLWFE'). Importantly, this will allow alignment of the decommissioning and restoration stages for the DLWF and DLWFE sites, affording environmental/amenity and financial benefits.

It is also important to note at the outset that there are no physical changes proposed to the DLWF scheme. The application seeks only to amend condition 1 to allow the operational life of the current/existing windfarm to be extended until September 2034 and to 'tidy up' the existing permission with the removal of any conditions which are no longer relevant (e.g. pre-construction conditions).

This document seeks to:

- provide background to the application (**Section 2**);
- provide confirmation of the proposed variations sought via this Section 42 application (**Section 3**);
- address the predicted impacts of the life extension of DLWF in terms of landscape, ecology, ornithology, cultural heritage, hydrology, hydrogeology, geology and soils, noise, shadow flicker, aviation and defence interests, access and transport and site decommissioning and restoration (**Section 4**);
- identify the relevant local, regional and national planning and renewable energy policy context and material considerations for determining the application, with an appraisal of the proposed condition variation undertaken in relation to this (**Section 5**); and
- provide a summary and conclusions (**Section 6**), with associated figures/appendices provided also.

¹ Town and Country Planning (Scotland) Act 1997 (as amended), Available [online] at: <https://www.legislation.gov.uk/ukpga/1997/8/contents>



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2. BACKGROUND TO THE APPLICATION

DLWF has been operated by SPR since 2000 and comprises 26 wind turbines of 63.5m to tip height, with an installed capacity of 17 megawatts (MW) of electricity. An application was submitted to SBC for planning permission in 1996 (application reference: 96/01130/FUL or alternative reference 96/185/C), with planning permission granted subsequently by SBC on 31st July 1997. Condition 1 of the planning permission allows for the turbines to remain operational for a period of 25 years from the date of first electricity export, which is until 31st July 2022.

DLWF lies approximately 5km to the north-east of the village of Oxton and falls within the administrative boundary of the SBC. The location and layout of DLWF is set out in Figures 1 and 2, found in **Appendix I**.

Figures 1 and 2 also provide details of the locational context of DLWFE. Planning permission for DLWFE was granted 19th September 2007 for an additional 35 turbines with a tip height of 75m and installed capacity of 30MW (planning reference 05/00847/FUL). The application was granted planning permission on 19th September 2007. The planning permission for DLWFE will expire on 25th June 2034, 25 years following the final commissioning (25th June 2009) of the windfarm as required by Condition 1 of the planning permission.

DLWF covers an area of approximately 4.5km² and is divided by the A68 trunk road with turbines located on both the east and west sides of the road. The site is directly adjacent to DLWFE which is also accessed off the A68 road. The site was originally selected for the construction of a windfarm given high wind resources and its proximity to a national grid connection point. It was also considered that a windfarm could be developed with limited environmental effects.

Under the Environmental Impact Assessment (EIA) Regulations in place at the time, the DLWF proposal was considered to be 'Schedule 2' development, given the number of turbines and also their height, and likely to cause significant environmental effects. An EIA was therefore undertaken and submitted with the original application.

The current EIA Regulations make it clear that any change to, or extension of, a Schedule 2 development is also 'Schedule 2 development *"where that development is already authorised, executed or in the process of being executed"*' (Category 13). Accordingly, it was concluded that the proposed life extension would also be Schedule 2 development and should be screened for EIA.

SPR submitted a request for an EIA Screening Opinion under Regulation 8 of the Environmental Impact Assessment (Scotland) Regulations 2017² to SBC in December 2019 (application reference:19/01820/SCR). The Screening Opinion sought to identify whether extending the life of DLWF could have significant environmental effects, and provided information on its location, physical characteristics and characteristics of likely effects, in accordance with Regulation 8(2).

It was concluded by SPR that the proposal to extend the life of DLWF would not introduce any new significant environmental effects, and therefore that an EIA was not

² The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017, Available [online] at: <http://www.legislation.gov.uk/ssi/2017/102/contents/made>



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required. The response from SBC concurred with these findings (see **Appendix II** for a copy of the Screening Opinion issued by SBC and received 24th January 2020).

In the Screening Opinion, SBC raised two issues relating to ecology that the Council felt were not adequately addressed in the Screening report. These issues related to:

1. Potential for impact on pink-footed geese at the Fala Flow Special Protection Area (SPA); and
2. The consideration given to recent guidance from Scottish Natural Heritage (SNH) on 'Bats and onshore wind turbines - survey, assessment and mitigation' (2019).

In response to this, SPR arranged a meeting with SBC (26th February 2020) and a subsequent meeting with SNH (6th March 2020, and also attended by SBC) to address these concerns. Both meetings were attended by the SPR and SBC ecologists to ensure that the matters could be discussed in sufficient detail. Further information in relation to the outcome of these discussions is provided in **Section 4** below.



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3. PROPOSED VARIATIONS TO THE CURRENT PLANNING PERMISSION (96/01130/FUL)

Condition 1

Section 42(2) of the Act identifies that the planning authority shall consider only the question of the conditions subject to which the planning permission should be granted.

A copy of the original conditions imposed on the DLWF permission is included in **Appendix III**.

Condition 1 stipulated that, *“This permission shall be for a period of twenty-five years from the date of approval. Within six months of the end of that period, unless a further planning application is submitted and approved, all wind turbines, ancillary equipment and buildings shall be dismantled and removed from the site and the land restored to its former condition, or such other means of restoration as may be agreed, to the satisfaction of the Planning Authority”*.

This condition relates to two separate matters; one being the timescale of the permission, and the other being the restoration requirements. To provide greater clarity, it is proposed that this condition is removed and replaced with two new conditions, separately addressing the matters of timescale and decommissioning/restoration.

In terms of timescale, this Section 42 application seeks permission only to extend the life of DLWF for a period of approximately 12 years beyond the current permission, without any physical changes to turbines, infrastructure or access arrangements. In terms of decommissioning, this Section 42 application seeks to clarify the arrangements for the submission and implementation of a Decommissioning Plan. The condition below is drafted to provide greater clarity on the decommissioning requirements. The proposed wording of the new conditions is set out below:

New condition 1

“This permission shall apply from the date of approval and the turbines hereby approved shall cease to operate on or before 25th June 2034”.

New condition 2

“At least six months prior to 25th June 2034 a Decommissioning Plan shall have been submitted to the Planning Authority. This will include details of:

- a) works for the decommissioning and removal of all turbines;*
- b) the treatment of ground surfaces and the restoration of the site to its former condition, or other such condition as is approved by the Planning Authority;*
- c) environmental management provisions;*
- d) a traffic management plan;*
- e) timescales for the above elements;*
- f) appropriate aftercare following site restoration*

The approved Decommissioning Plan shall be implemented in accordance with the timescales set out therein”.



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Additional Conditions to be Reviewed

This document also provides a means by which to comment on the relevance of the other original and existing DLWF permission conditions, with a view that this will be considered by SBC when preparing a revised set of conditions going forward. As can be seen from **Appendix III**, and given that DLWF is currently operating, conditions which relate to construction practices are no longer considered relevant and no longer serve a planning purpose. For ease of reference, we consider that the following conditions are no longer relevant:

Table 1: Conditions from existing DLWF permission which are no longer relevant

Condition number (of DLWF permission)	Condition Wording
5	Details of the turbine design, including details of materials and colour, and of all ancillary equipment and buildings to be submitted for the approval of the Planning Authority prior to the commencement of the development.
8	Details of the proposed access from the A68 trunk road and of the associated lay-by to be submitted for the approval of the Planning Authority prior to the commencement of the development.
9	Vehicular access from the A68 trunk road and associated lay-bys to be constructed to the satisfaction of the Planning Authority prior to the commencement of on-site construction works.
10	All parking associated with the construction and maintenance of the site will require to be accommodated within the site boundaries and provided prior to the commencement of construction work.
11	The details of any on-site parking area to be submitted to and approved by the Planning Authority prior to the commencement of the development.
12	The details of any construction compound to be submitted and approved by the Planning Authority prior to the commencement of the development.
13	Any construction compound and parking area shall be removed, the uses discontinued, and any works required for the reinstatement of the land shall be carried out within six months from completion of construction works.
14	Any spoil produced in the course of development shall either be wholly removed from the site or tipped only in locations which have been agreed previously with the Planning Authority.
17	Full details of any proposed visitor facilities shall be submitted to and approved by the Planning Authority prior to the commencement of the development.



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Condition number (of DLWF permission)	Condition Wording
20	The exact position of the turbines and the location and alignment of the access roads to be agreed by the Planning Authority prior to the commencement of development.
24	No development shall take place within the application site area until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant, agreed by the Regional Archaeologist and approved by the Planning Authority.
26	All archaeological sites shall be protected to the satisfaction of the Planning Authority during construction works.

It is recommended that the above conditions are removed from the new Decision Notice.

Conditions which relate to operational conditions are still relevant and serve a planning purpose. Due to the fairly straightforward reason for the removal of these conditions, this has not been included in the description of the proposals and is not considered within the review of policy implications provided in this document.

In any case, SPR would seek to discuss the proposed conditions with SBC to ensure the final set of conditions imposed continue to be relevant and reasonable, and in line with Circular 4/1998: The Use of Conditions in Planning Permissions.

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4. SUPPORTING TECHNICAL INFORMATION

Physical Characteristics of the Development

As outlined above, DLWF is an existing windfarm which consists of 26 wind turbines of 63.5m to tip height, with an output capacity of 660 kilowatts (kW) per turbine (17MW in total). The model of turbine is the 'Vesta V47'. The overall size of the site is approximately 450 hectares (ha), although the actual footprint of the windfarm, including access tracks, ancillary buildings, hard-standings and cable trenches, only covers 2% of this area.

The wind turbines each consist of a tower of 40m height and three turbine blades, each with a diameter of approximately 47m, which results in the afore-mentioned overall tip height of 63.5m. Each turbine is based on a reinforced concrete foundation, approximately 12m in diameter.

The turbines are accessed off the A86 road by a loose hard-core surfaced track. As the A68 divides the site, there are two access tracks which fork to the east and to the west. The tracks are 4.5m wide and approximately 7km long (including both forks).

Transformers measuring 2mx2mx2m are situated adjacent to the base of each turbine. These link to the electrical substation on the site via electrical cabling which runs in trenches along the access track.

At the end of the proposed extended operational period, DLWF will be decommissioned, or a further application will be made for permission to extend its operational life.

Decommissioning would involve the removal of all above ground infrastructure, including demolition of the control building. The top surface of the wind turbine foundation bases would be broken up and removed to approximately 1m below ground level and all cabling cut out at the same depth. The area would then be reinstated with a final layer of topsoil over the foundations. Tracks would either be left for use by the landowner or covered in topsoil. This approach is considered to be less environmentally damaging than seeking to remove all foundations, underground cables and tracks entirely. A decommissioning method statement would be prepared and approved by the relevant statutory consultees prior to decommissioning of the site in line with the newly proposed condition 2.

Baseline

Given that the proposal is to extend the duration of the windfarm's operation on the site, the baseline for likely effects is considered to comprise the site as found in the current day, that is, with the operational windfarm present. This reflects the screening of the development under category 13 of Schedule 2 of the EIA Regulations as *"any change to or extension of development where that development is already authorised, executed or in the process of being executed"*.

On this basis and given that the proposal is to extend the life of an existing development, no further natural resources such as land, soil, or water will be utilised. Whilst limited waste may be generated by the replacement of parts, and servicing of machinery and lubricated parts, this will be managed in accordance with existing regulatory requirements and waste management good practice.

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The baseline also includes DLWFE operating until September 2034, i.e. the proposed operating extension date for DLWF.

Landscape and Visual Effects

The site is directly adjacent to DLWFE which includes turbines at either end of DLWF. The topography of the site is relatively flat with the exception of the peak of Dun Law (393m).

The Lammermuir Hills Special Landscape Area (SLA) (formerly known as the Lammermuir Hills Area of Great Landscape Value (AGLV), including within the original 1996 Environmental Statement (ES) which accompanied the 96/01130/FUL application/permission) now lies partly within the eastern site boundary, due to revisions to the extents of the SLA made in 2012 which have extended the extent of the SLA into the site boundary.

The landscape and visual effects arising from the operation of DLWF are described in the Dun Law Landscape and Visual Assessment (LVA), which forms part of the 1996 ES. The main change to the landscape and visual baseline since 1996 is the introduction of other operational windfarms in the local area, in particular DLWFE which is immediately adjacent to the east and west. In addition, smaller changes to the local landscape have resulted from incremental changes in areas of forestry plantation and operational changes at Soutra Hill Quarry.

Since the 1996 ES, there have been changes in landscape policy in relation to wind energy development, as well as the designation of SLAs in place of earlier Area of Great Landscape Value (AGLVs). Several documents of relevance have been published since the 1996 ES. The most recent include:

- SBC Local Landscape Designations Supplementary Planning Guidance (2012);
- SBC Wind Energy Consultancy Update of Wind Energy Landscape Capacity and Cumulative Impact Study (2016);
- SBC Supplementary Guidance Renewable Energy (2018);
- SNH National Landscape Character Assessment for Scotland, published in 2019 which updates the 1998 Borders Landscape Assessment.

A brief reappraisal of the landscape and visual effects of DLWF has been undertaken (see **Appendix IV**). This reappraisal follows the principles contained within the Guidelines for Landscape and Visual Impact Assessment, 3rd Edition (GLVIA3). As DLWF has already been constructed, the reappraisal focuses on likely effects during operation only. The key findings of this appraisal are outlined below:

Landscape Effects

The SNH landscape character types (LCTs) which typically form the baseline for assessing landscape effects were just emerging when the Dun Law ES was produced in 1996. The Borders Landscape Assessment (SNH Review No. 112, ASH Consulting Group) was published in 1998, but has since been superseded by SNH's National Landscape Character Assessment for Scotland which was published in 2019. The 2019 LCTs are shown with a zone of theoretical visibility (ZTV) in **Figure 3** in **Appendix I**.



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The original Dun Law ES considers LCTs in the baseline, many of which broadly follow the same boundaries as the current SNH LCTs. In the 1996 ES, effects on the local landscape character are discussed more generally, stating that: *“The windfarm would not affect the physical form of the landscape but would introduce unfamiliar vertical elements. The form of the turbines and movement of the blades will combine to make them new elements in the landscape.”* (LVA para 6.1.2).

The LVA does make reference to potential landscape effects on specific character areas, such as the Moorfoot Hills Plateau, Upland Fringe Areas and Upper Lauderdale Valley.

The reappraisal in **Appendix IV** considers whether the increase in duration of operation of DLWF is likely to result in any significant effects on landscape character, over and above those identified in the 1996 ES. It also considers the likely effects of removing DLWF given the current baseline, which includes DLWFE. The reappraisal focuses on the following current SNH LCTs:

- Plateau Grassland – Borders (LCT 91);
- Dissected Plateau Moorland (LCT 90);
- Upland Valley with Mixed Farmland (LCT 115);
- Plateau Grassland – Lothians (LCT 267);
- Lowland Farmed Plains – Lothians (LCT 275);
- Lowland River Valleys – Lothians (LCT 270); and
- Upland Fringes – Lothians (LCT 269).

The table in **Appendix IV** considers the implications of the 12-year life extension for predicted landscape effects. New judgements have been made to inform the reappraisal, relating to sensitivity (informed by susceptibility and value) and magnitude (informed by scale of change, geographical extent, duration and reversibility), as recommended by GLVIA3. The reappraisal considers the effects in the context of the current landscape baseline, which includes DLWFE and other windfarms.

The original DLWF ES (1996) considered the landscape effect on the Lammermuir Hills AGLV. Since the original ES in 1996, the Lammermuir Hills AGLV has been replaced by the Lammermuir Hills SLA, which is similar in extent to the AGLV and includes the DLWF turbines east of the A68. New or revised local landscape designations have also been identified within Midlothian and East Lothian since 1996. Current local landscape designations within 5km of DLWF are listed below:

- Lammermuir Hills SLA (Scottish Borders);
- Fala Rolling Farmland and Policies SLA (Midlothian);
- Humber Headwaters SLA (East Lothian);
- Fala Moor SLA (Midlothian);
- Lammer Law & Hopes to Yester SLA (East Lothian).

Several other SLAs are located in the wider area to the north. All local landscape designations within 15km of DLWF are shown, with the ZTV, on **Figure 4** in **Appendix I**.

It would be normal practice to examine the effects of a proposed development on the ‘special qualities’ of a landscape designation. However, as these SLAs have been defined since DLWF was built, their importance clearly does not rely on the absence of wind turbines in this location. The continuing presence of DLWF in the landscape

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would not undermine the special qualities of any current landscape designations, and these have not been reappraised.

In summary, based on the reappraisal in **Appendix IV**, it is considered that an increase in the operational life of DLWF of approximately 12 years will result in the landscape effects identified in the ES, as modified by the presence of DLWFE, being experienced for a longer period of time. The area across which significant effects are experienced will not change, and in fact may be smaller than previously assessed due to the presence of DLWFE. There will be no new likely significant effects.

There will be no increase in the scale or geographical extent of the effects, as these terms are set out in GLVIA3. Duration of effect also informs the judgement on magnitude of change, and the additional duration of 12 years is likely to be defined as medium-term, in the context of the 25-year permissions that apply to DLWF and DLWFE. Compared to the current baseline with the windfarms in place, the life extension will mean the continuation of very localised significant effects within the Plateau Grassland – Borders LCT. The change in the duration of effects will not give rise to any new significant effects.

Visual Effects

The original DLWF ES (1996) considered effects on visual receptors at a number of locations. The following visual receptors were found to experience a significant effect:

- Residential receptors within the Leader Valley and at Gilston on the B6368;
- Road users on the A68 and B6368;
- Recreational users and walkers travelling along the path from Soutra Aisle to the south of Turf Law; and
- Recreational users at the elevated hill summits within the western fringe of the Lammermuir Hills.

The original DLWF ES (1996) did not consider effects on visual receptors walking along the Southern Upland Way, which is one of Scotland's 'Great Trails'. Theoretical visibility of DLWF is possible from a short section of the Southern Upland Way, near the town of Lauder, approximately 11.3km from the site.

The visual receptors identified in the original DLWF ES, along with users of the Southern Upland Way, are listed in **Appendix IV**, which considers the implications of the 12-year life extension for predicted effects on views and visual amenity. New judgements have been made to inform the reappraisal, relating to sensitivity (informed by susceptibility and value) and magnitude (informed by scale of change, geographical extent, duration and reversibility), as recommended by GLVIA3. The reappraisal considers the effects of DLWF in the context of the current landscape baseline, which includes DLWFE and other windfarms.

Based on the reappraisal in **Appendix IV**, the proposed life extension of DLWF will result in effects on views and visual amenity being experienced for a longer period of time by approximately 12 years. There will be no change in the receptors affected, and no increase in the scale or geographical extent of any effect. The increased duration will mean the continuation of significant effects on a small number of nearby receptors, but will not give rise to new significant effects, given the current baseline with DLWF and DLWFE in place.



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Cumulative Effects

A number of windfarms have been consented since DLWF was built. The closest operational or consented windfarms are:

- DLWFE immediately to the north-east and south-west;
- Keith Hill to the north-east;
- Toddleburn to the south-west;
- Pogbie and its extension to the north.

Other windfarms in the local area that have been constructed include Fallago Rig to the east, Longpark to the south, and Falahill and Carcant to the west. All operational and consented windfarms within 15km are shown in Figure 5 of **Appendix I**.

Cumulative effects are considered in the Update of Wind Energy Landscape Capacity and Cumulative Impact Study (SBC, 2016), which includes consideration of the operation of DLWF and adjacent operational schemes. It does not advise on the potential cumulative effects of life extensions.

When considered in their totality, cumulative effects on the landscape and on visual receptors are likely to be significant, given the number of windfarms in the area. DLWF forms the central part of a large group of turbines, and its cumulative interactions are limited when considered separately from DLWFE. The potential for likely significant effects to arise from other windfarms has been assessed in the ESs for those subsequent windfarms. The life extension will not give rise to any change in the pattern of windfarms or any new cumulative interactions, and there will be no new significant effects.

The additional cumulative effects which arise because of the interaction of DLWF with other windfarms will not change in nature but will increase slightly in duration. This is unlikely to lead to any new significant effects. A new cumulative assessment of effects upon landscape and visual receptors was not considered necessary, given that the potential for likely significant effects has been assessed previously in the ESs for subsequent windfarms.

Landscape and Visual Implications of Removing DLWF

The landscape and visual effects arising from the continued operation of DLWFE, should the original DLWF be decommissioned, should also be considered. If DLWF is decommissioned at the end of its 25-year permission in July 2022, DLWFE would continue to be operational for an additional 12 years, and this is therefore likely to result in different landscape and visual effects than those previously assessed.

Currently, the A68 road cuts through the site of the windfarm and its extension. Both the original scheme and the extension are present to the east and west of the road. The central portion of the turbine group makes up DLWF, with the turbines of DLWFE located on the eastern and western edges of DLWF. If DLWF was decommissioned, the operational turbines at DLWFE would be left as two distinctly separate groups of turbines located on either side of the A68, approximately 2.3km apart.

If DLWFE was operational without DLWF, views from the surrounding landscape would be altered, particularly from the road network. In views from the A68 cutting through the site and to the north of the site, the turbines would no longer appear as one large group separated by the road, but as two distinctly separate groups.

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However, from locations further south along the A68, the eastern block of DLWFE would be screened by intervening landform, therefore only the western turbines would be visible, appearing as one windfarm. Likewise, in views from the B6368 (Gilston) to the west, only the western turbines of DLWFE would be visible. However, views from further north-west along the B6368, near Soutra Hill, would experience DLWFE as two separate clusters of turbines with a noticeably large gap between the clusters.

Recreational receptors walking along the track from Kirktonhill to Dere Street, or at elevated hill summits, would also have visibility of DLWFE. Whilst there would be extensive visibility of DLWFE from elevated hill summits in the Lammermuir Hills to the east, visibility from the track to the south (Kirktonhill to Dere Street) would be limited, with only the western cluster of turbines visible.

Whilst these effects have not been examined in detail, it is likely that the decommissioning of DLWF would not simply result in a cessation of significant effects, but would cause a different pattern of significant effects to arise from the remaining DLWFE turbines, as well as from the other operational schemes in the immediate area, such as Pogie and Keith Hill.

Ecology (excluding Ornithology)

With respect to designations, the River Tweed Special Area of Conservation (SAC) lies approximately 2km to the south of the site boundary at its closest point, whilst the Fala Flow Site of Special Scientific Interest (SSSI) (and also Special Protection Area (SPA) and Ramsar site) lies approximately 2.5km to the north-west at its closest point.

Both the DLWF and DLWFE ESs identify the key ecological features of the site. Whilst ecological legislation and policy has progressed since the preparation of the original ES (1996), habitats and species considered to be of conservation value 23 years ago continue to be the focus of conservation efforts today.

Distribution and Abundance of Receptors

A Phase 1 Habitat survey was completed in May 1996 for DLWF and in August and October 2002 to inform the DLWFE proposal. No further surveys were required in 2005 when the DLWFE ES was prepared, as site conditions, including land management remained the same.

The site was heavily influenced through livestock grazing prior to construction of DLWF and DLWFE. In addition to this, habitats of ecological importance, including priority habitats such as acid and wet dwarf shrub heath and dry and wet bog habitat, were found to be degraded during surveys in 2002 as a result of successional change to grassland habitat. These habitats were restricted to small areas that were largely unaffected by DLWFE (2005). It is expected that these habitats will have undergone further successional change over time to support more grassland communities, unless active habitat management and restoration has been undertaken in the intervening years.

Minor significant effects were identified in relation to habitat loss during construction. It is considered that most potentially significant effects would be related to the construction phase. Given that DLWF has been operational for nearly 20 years, further effects relating to habitat loss are not considered likely.

Whilst protected species legislation was less well understood when the DLWF ES was prepared, the DLWFE ES takes into consideration the presence of protected and

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notable species, including otter, water vole and badger within the site. No signs of water vole or badger were recorded; however, signs of otter were identified, including a single otter spraint in one location within the site. No further signs of otter were recorded during the survey.

Both the DLWF ES and the DLWFE ES concluded that providing standard mitigation and good construction practice were implemented, as detailed in the ESs, effects on protected species would not be significant.

Bat species were not previously surveyed in detail as this was not a requirement at the time for either DLWF or DLWFE. The original habitat data suggested that the site did not support optimal habitat for bats, specifically, the site does not support contiguous navigable vegetation, such as hedgerows or tree lines, whilst the higher altitude and exposed nature of the site reduces the frequency of weather conditions with suitable foraging opportunities (i.e. mild nights, low wind speeds). Based on the original habitat survey data, the original scheme does not appear to have affected significantly valuable bat habitat.

As discussed in **section 2** above, SBC raised concerns with respect to the consideration given to SNH's recent guidance on 'Bats and onshore wind turbines - survey, assessment and mitigation' (2019). The additional information provided in response to this is summarised below and provided, in full, as **Appendix V**.

Species considered to be at high risk to wind turbines and known to exist in the area include noctule, common pipistrelle, Nathusius' pipistrelle and soprano pipistrelle. In particular, SBC raised the potential for noctule bats to be present since they are known to fly further into open land and were recorded previously during the development of the nearby Pogbie and Rowantree windfarms.

SNH's guidance states that for life extension proposals, potential impacts on bats should be assessed before permission is granted. The guidance suggests that if no surveys or monitoring has been undertaken, the methods proposed for new developments should be used as the basis for assessing the risk. However, during a meeting with SNH and related discussions, SNH advised that this approach is currently being reconsidered because the level of survey effort being requested for a life extension application could be disproportionate to its likely impact on bats, particularly for operational wind farm sites where impacts on bats have not been identified as a concern.

SPR has provided SNH and SBC with further supporting data to seek to demonstrate that impacts on bats are not of concern for DLWF. Noctule and nathusius' pipistrelle bats are two of the rarer species which exist in south Scotland and were subject to a regional study in 2017³. As the predicted occurrence of these species was mapped and published with the report, these maps were overlain with the Dun Law wind turbines. This demonstrated that neither species are predicted to occur at DLWF, with the closest occurrence for Nathusius' pipistrelle over 16km west and for noctule, 2km to the north.

Other sources of contextual information for neighbouring windfarm applications were also considered. For example, surveys were conducted for Keith Hill Windfarm in 2008

³ <https://www.nature.scot/snh-commissioned-report-1008-survey-high-risk-bat-species-across-southern-scotland>



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by David Dodds Associates⁴ which covers the now operational Pogbie Windfarm and lies immediately adjacent to DLWF to the north of the eastern array. The surveys combined transect surveys and fixed point deployments in both summer and autumn, within the proposed windfarm, with an additional driven transect in autumn, from the fort south of Crib Law, via the A68, and around the minor roads of Fala, Humble, Leaston and Stobshiel, to identify any evidence of noctule breeding activity. The results showed that zero noctule and Nathusius' pipistrelle activity was recorded during all activity transects, with a total of 4 noctule passes recorded from the fixed-point detectors during summer, and 1 noctule pass during autumn. Overall, these results are consistent with an expectation that occurrence of these species is likely to be low at this location. The autumn driven vehicle transects recorded a cluster of 9 noctule passes near the fort south of Crib Law. It was hypothesised that these individuals could be using this location for breeding and that they could have travelled from the south (Lauderdale) along the Leader catchment. This location is distant from DLWF and unconnected in terms of habitat suitable for bats, so it is unlikely that use of this area would indicate activity at the windfarm. Two noctule registrations were also recorded on the A68 close to DLWF, in proximity to a block of plantation woodland. Since noctule bats are associated with woodland, it is likely that usage of this area was due to the presence of this habitat.

The other bat species potentially at risk from windfarms are common and soprano pipistrelle. Both of these species are relatively common and widely distributed. They were widely recorded at Pogbie windfarm, although abundance is more difficult to infer. SPR has been monitoring bats at certain operational windfarms intensively since 2016. A consistent pattern between all studies is that activity is positively correlated with temperature and negatively correlated with wind speed. These conditions are most regularly encountered at lower altitude sites and/or those which have features which provide shelter, particularly woodland.

DLWF is more than 350m above sea level and is more than 200m from woodland, which is the minimum buffer distance recommended by EUROBATS to reduce impacts on bats⁵. In combination with the absence of habitat considered favourable to bats such as watercourses, scrub, tree lines, woodland, hedgerows and the absence of suitable roosting locations such as buildings, the site provides poor quality habitat for bats. For these reasons, SPR screened out DLWF as a site of operational risk to bats and has conducted no targeted operational monitoring on this basis.

Although bats are small and can be difficult to detect, bat carcass records have been reported from other projects which has led to further investigation. However, from a summary of bat activity acquired from 10 operational windfarms which have been

⁴ Keith Hill Potential Wind Farm Site Humble, East Lothian: Bat Surveys 2008. David Dodds Associates.

⁵ https://www.eurobats.org/sites/default/files/documents/publications/publication_series/pubseries_no6_english.pdf



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monitored, Dersalloch windfarm, monitored for bats in compliance with a planning condition, is most similar to DLWF in that it is of similar altitude, habitat and land use. Although a small number of bat passes were recorded, overall usage was low and zero carcasses were found. Whilst it is not possible to estimate carcass detection rates for bats since monitoring has not been conducted, no bat carcasses have ever been found at DLWF as part of more routine site inspections.

Overall, SPR consider it highly unlikely that noctule or Nathusius' pipistrelle bats occur at DLWF in sufficient abundance to be at risk of significant impact due to turbine collision. It is considered that common and soprano pipistrelle species are likely to occur infrequently, when weather conditions are favourable, but are unlikely to occur in sufficient abundance to have any plausible likelihood that a significant impact due to collision could occur.

Based on this supporting information, SNH has confirmed that the risk to bats of extending the life of DLWF is not likely to be significant and that no bat survey work is required to support the life extension application.

Ornithology

Description of important ornithological features (IOFs) likely to be significantly affected by the proposed development

IOFs are species considered to be of High or Moderate nature conservation importance (**Table 1**) likely to be present within the proposed development site or surrounding area. The importance of ornithological features detailed in **Table 1** is based on guidance in SNH (2018a⁶). IOFs are generally those species deemed sensitive to windfarm development, as per SNH (2018a) guidance, such as wildfowl, raptors, and waders. Small passerine birds (e.g. pipits, finches, buntings, thrushes) are not considered as IOFs as impacts would have no effect on their populations because survival rates of small passerines in Britain are naturally low, and populations are generally relatively high. Bird species that have high natural adult mortality rates tend to produce large, but often variable, numbers of young each year. For such species, low levels of additional mortality will have little influence on their population dynamics which tend to fluctuate from year to year. In contrast, species with low natural mortality and low reproductive output are very sensitive to any additional mortality to their populations (Forrester et al. 2007⁷).

⁶Scottish Natural Heritage (2018a) *Assessing Significance of Impacts from Onshore Wind Farms Out-with Designated Areas*.

⁷ Forrester, R.W., Andrews, I.J., McInerny, C.J., Murray, R.D., McGowan, R.Y., Zonfrillo, B., Betts, M.W., Jardine, D.C. and Grundy, D.S. (2007). *The Birds of Scotland*. Scottish Ornithologists Club, Aberlady.



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Table 1: Definition of Important Ornithological Features

Importance	Definition
High	<p>Populations receiving protection due to inclusion as features of a SPA, proposed SPA, Ramsar Site, SSSI or which would otherwise qualify under selection guidelines.</p> <p>Species present in nationally important numbers (>1% national breeding population).</p>
Moderate	<p>The presence of target species listed in Annex 1 of the Birds Directive (but population does not meet the designation criteria under selection guidelines).</p> <p>The presence of breeding species listed on Schedule 1 of the Wildlife and Countryside Act 1981 (as amended).</p> <p>The presence of species noted on the latest Birds of Conservation Concern (BoCC) 'Red' list (Eaton et al. 2015⁸).</p> <p>Regularly occurring migratory species, which are either rare or vulnerable, or warrant special consideration on account of the proximity of migration routes, or breeding, moulting, wintering or staging areas in relation to the windfarm.</p> <p>Species present in regionally important numbers (>1% regional breeding population).</p>
Low	All other species populations not covered by the above categories.

Designated Sites in the Vicinity of DLWF

The site is approximately 1.2km west of Fala Flow SPA, SSSI, and Ramsar site, designated for pink-footed goose *Anser brachyrhynchus*. Based on the likely maximum connectivity range of any IOF (up to 20km for geese, as per SNH, 2016 guidance on SPA connectivity⁹), three other SPAs have pink-footed goose as a qualifying feature (**Table 2** and **Figure 6 of Appendix I**), and connectivity to the development site is possible. Under the terms of the Habitats Regulations Appraisal (HRA) process, information to inform an Appropriate Assessment is required. Component SSSI and Ramsar sites also require consideration within an EIA context.

⁸ Eaton M.A., Aebischer N.J., Brown A.F., Hearn R.D., Lock L., Musgrove A.J., Noble D.G., Stroud D.A. and Gregory R.D. (2015). *Birds of Conservation Concern 4: the population status of birds in the United Kingdom, Channel Islands and Isle of Man*. British Birds 108, 708–746.

⁹ Scottish Natural Heritage (2016) *Assessing Connectivity with Special Protection Areas (SPAs)*. Version 3, June 2016.



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The Firth of Forth SPA, SSSI and Ramsar site is also host to a number of non-breeding wader and wildfowl species, and passage Sandwich tern, but no likely significant effects are predicted due to the distance from the site (17km) and lack of suitable habitat within, and therefore no further assessment is considered necessary.

The Moorfoot Hills SSSI (8.6km away) and Hadfast Valley SSSI (13km away) are designated due to their breeding bird assemblage but based on likely foraging ranges of species present (as per SNH, 2016), no connectivity is likely to occur, and no further assessment is considered necessary.

Table 2: Ornithological Designated Sites

Name	Distance	Qualifying interests	Status
Fala Flow SPA, SSSI, Ramsar	1.2km	Pink-footed goose, non-breeding	Favourable Maintained Dec 2009
Moorfoot Hills SSSI	8.6km	Breeding bird assemblage	Favourable Maintained Apr 2015
Hadfast Valley SSSI	13km	Breeding bird assemblage	Favourable Declining Jul 2012
Gladhouse Reservoir SPA, SSSI, Ramsar	14km	Pink-footed goose, non-breeding	Unfavourable Declining Dec 2009
Firth of Forth SPA, SSSI, Ramsar	17km	Waders and wildfowl (inc. pink-footed goose), Sandwich tern (passage)	Favourable Maintained Mar 2015 (pink-footed goose)

Baseline Information on IOFs at, or adjacent to, DLWF

Baseline surveys and impact assessments are detailed within the DLWF and DLWFE ESs and associated technical appendices. A summary of survey results is presented below for both projects. Ornithology-related planning conditions are also summarised.

DLWF ES and Ornithological Planning Conditions

A report on the baseline ecological (including ornithological) interests of the DLWF site was included in the original ES: Ecological Study of Dun Law Proposed Wind Farm Site (May 1995), undertaken by SWT Environmental Services. Ornithological interest was recorded during an extended Phase 1 Habitat survey in May 1995.

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The report summarises that the site is used occasionally by wintering flocks of geese for feeding but does not appear to be part of a regular flight path, roosting or feeding ground. Breeding waders present include curlew, oystercatcher and lapwing. Other species recorded were golden plover, 'partridge', skylark, meadow pipit, wheatear, willow warbler, greenfinch, siskin, robin, 'thrush', chaffinch, linnets, buzzard, and carrion crow. It was noted that ring ouzel had been recorded at Headshaw Burn Cleuch (South Scotland Breeding Bird Atlas 1988-1994 record).

No systematic impact assessment was included with the report, which concluded only that *"the presence of geese on site intermittently should not cause any problems for development"*, although it was acknowledged that there was concern from consultees that insufficient evidence existed to be able to discount significant effects.

Given this point, conditions 27-29 of the planning permission (July 1997) were related to ornithological effects. Condition 27 stated that breeding bird monitoring should take place, pre-, during, and post-construction, to safeguard bird habitats within the application site area. Condition 28 stated that a programme of collision monitoring should be conducted during the time of peak presence of pink-footed goose at Fala Flow, and Condition 29 stated that construction activities should not commence during the period of 1st April to 30th June.

DLWFE ES and Ornithological Planning Conditions

Baseline ornithological surveys were undertaken between May 2002 and March 2003 (flight activity surveys, breeding bird surveys and winter walkovers), subsequent to DLWF becoming operational. During these surveys, one breeding pair of merlin was found in 2002 and 2003, some 500m from the nearest existing turbine and 200m from the nearest proposed turbine of DLWFE. In previous years, breeding attempts were made elsewhere within 1km of the nearest proposed turbine. Merlin also foraged over the site, as did hen harrier and short-eared owl. Hen harriers were present infrequently in autumn and winter.

Peregrines are known to have bred within 2km, although the species was absent during baseline surveys. Barn owl may also hunt over the site. Two male black grouse were recorded lekking in the northern part of the application area in spring 2002 and 2003, whilst seven males were recorded in the same area in February 2003. A number of locations in this area were thought to be used for lekking and roosting, some located as close as 250m from the nearest proposed turbine.

Breeding wader species within the application site included oystercatcher (2 pairs), lapwing (7 pairs), snipe (8 pairs), curlew (15 pairs) and redshank (2 pairs).

Observations in 2002 recorded a single flock of around 50 pink-footed geese over the application site in November and a small flock of greylag geese over the site in October. Other data sources did not suggest that the site is regularly crossed by migratory geese.

Most of the effects on IOFs during construction and operation of DLWFE were judged to be negligible. The exceptions were: the potential effects of deforestation, displacement and collision risk on merlin; construction disturbance for black grouse; and collision risk to hen harrier, peregrine, short-eared owl and barn owl.

The significance of effects during construction on merlin was considered to be moderate adverse and potentially significant. Following tree removal, artificial nests for

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merlin were to be provided in suitable parts of the new forest edge, to reduce risks to minor adverse. Residual impacts associated with displacement and collision risk were considered to be unchanged (moderate adverse) according to the ES Ornithology chapter's Summary of Impacts table.

The level of significance of effects on black grouse was considered to be minor adverse. The mitigation section stated that there would be no construction activities within the application site to the east of the A68 road from March to May, to reduce the risk of disturbance to lekking black grouse. In the event that this was not feasible, construction activities within 500m of the identified lekking area would be scheduled during the period 0900-1700 hours. It was proposed that a Habitat Management Plan would enhance habitat around the periphery of the site for black grouse during the operational period. Collision risk to hen harrier, peregrine, short-eared owl and barn owl was considered to be of minor adverse significance.

There was no recognised cumulative impact assessment undertaken. The Cumulative Impacts section simply stated that *"All predicted impacts take account of the additive effects due to the existing Wind Farm and other land uses (especially forestry)"*.

Condition 29 related to the Habitat Management Plan (HMP), which was to take into consideration management measures for merlin and black grouse. The HMP was produced in June 2006, and management included the installation of an artificial nest for merlin, a black grouse management area and a habitat enhancement area. The HMP was designed to run for 25 years from commissioning to decommissioning, unless results of monitoring advised amendment/cessation.

For merlin, tree felling restrictions during the breeding season were outlined, with an artificial nest to be in place prior to the subsequent breeding season (this was installed in March 2008). In the black grouse management area, a 5.3ha area of low density native broadleaved woodland was created, with vegetation management in the remainder (a total of 9.3ha). There was an exclusion of grazing by marked fencing to reduce collision risks. Monitoring of tree establishment was undertaken as required, and most recently surveyed in 2017. Fencing repair work was undertaken in August 2019 with general maintenance undertaken in early 2020.

Subsequent to the planning permission, SPR confirmed in November 2008 that they were unable to reach agreement with the relevant landowner for the creation of the habitat enhancement area (considered separate to the black grouse management area), and that no alternative locations were available. As such, it was suggested that a financial contribution to SBC for promotion of biodiversity and habitat improvement initiatives would be a suitable replacement. This has been completed, with funding provided to organisations including the Tweed Forum.

DLWF and DLWFE Post-construction Monitoring

Collision Monitoring

In response to Condition 28 for DLWF, a programme of searches for pink-footed goose collision victims was undertaken between October and December 2000, which

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corresponds with the peak presence of the species at Fala Flow (ESS, 2001¹⁰). No geese, or any other bird species victims were recorded.

Breeding Bird Monitoring

In response to Condition 27 for the DLWF application, breeding wader monitoring was carried out between 1999 and 2001 in the pre-, during- and post-construction periods (ESS, 2002¹¹). An area of 2.5km² encompassing the turbine locations, plus a 500m buffer, was surveyed, alongside a control site of similar size. Five wader species were considered in the assessment: lapwing, curlew and redshank (Red-listed) and oystercatcher and snipe (Amber-listed). When totalling counts of all species, numbers of pairs slightly increased from the pre- to post-construction period, with 23 pairs pre-construction, 25 pairs during construction and 27 pairs post-construction. Numbers of lapwing and curlew increased from 10 to 14 pairs, and 8 to 9 pairs respectively. Numbers of the other three species were relatively low and remained consistent between years. Statistical analyses led to the conclusion that there was no evidence of a change in numbers of any of the wader species studied.

In 1999, one pair of short-eared owl was recorded within the wider survey area (although breeding was not observed), with a breeding attempt recorded within the control site in the same year.

In relation to the Conditions for both DLWF and DLWFE, a wader monitoring project has been carried out in partnership with the Royal Society for the Protection of Birds (RSPB). Year 10 of monitoring has just been completed, with analysis and publication planned for later in 2020.

Breeding bird surveys were conducted in 2010, 2011, 2012 and 2014 (RSPB, 2014¹²), representing years 10 to 15 post-construction at DLWF, and years 1, 2, 3 and 5 post-construction at DLWFE. A study area of up to 500m around all original and extension turbines was covered as well as 3-5 control areas totalling a similar survey area.

A total of 63 species were recorded within the survey area over the survey period, which was similar to the 64 species recorded in the control areas. Generally, the species assemblage was similar to that recorded during baseline surveys for DLWF and DLWFE, with the addition of some mainly common species of low conservation importance, but also three further species of medium nature conservation importance not previously recorded: goshawk, peregrine and woodcock (no noted breeding evidence).

Analysis of results showed that there was little evidence of strong changes over time in the abundance of common waders or passerines during the study period. There was no evidence that the magnitude of changes in the abundance of curlew, lapwing, snipe, meadow pipit or skylark differed either between the windfarm areas and control sites, or within different windfarm areas. In contrast, oystercatchers increased significantly within the original windfarm, but not within the extension, buffer or controls. The

¹⁰ ESS (2001). *Calibrated Study of Wintering Pink-footed Goose Potential Victims and Scavenging Activity by Foxes and Dun Law Windfarm 2000*. Environmentally Sustainable Systems Ltd.

¹¹ ESS (2002). *Changes in Populations of Wading Birds Breeding at Dun Law Wind Farm, 1999-2001*. Environmentally Sustainable Systems Ltd.

¹² RSPB (2014). *Breeding bird monitoring at Dun Law wind farm 2010-2014*. Royal Society for the Protection of Birds.



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distribution of lapwing showed a significant negative relationship with proximity to turbines, with the strength of this relationship increasing over time. Similarly, for snipe, there was a significant increase in displacement from turbine locations over time. Curlew distribution was not found to be related to turbine locations, whereas oystercatchers were significantly more likely to occur close to turbines, although this showed no change over time.

Raptor flight activity was recorded during breeding bird surveys. The duration (in seconds) of each flight, and the time spent at each height was noted. Fewer flights were made, by all raptors (mainly buzzards), within the windfarm areas compared to the control areas.

Black Grouse and Merlin Monitoring

As required by Condition 27 for DLWFE, breeding black grouse and merlin monitoring has been carried out. Surveys in 2008, 2010, 2011 and 2012 (NRP, 2008¹³, 2010¹⁴, 2011¹⁵, 2012¹⁶) did not record any lekking black grouse within the DLWFE site plus a 1.5km buffer, although one female was observed in flight and then feeding in April 2011.

No evidence of breeding merlin was recorded from 2008 to 2012. Although birds were seen at the site in 2008, there was no evidence that they bred there. There was no evidence that the artificial merlin nest installed in 2008 had been used in any survey year. In 2013, two separate visits to monitor the artificial merlin nest could not locate the nest (NRP, 2013). A search was made in the vicinity and no evidence of occupation was found, e.g. droppings/prey remains.

In 2008, hen harrier and peregrine were observed hunting in the survey area but there was no evidence of breeding. An active barn owl nest was found within the survey area in 2008.

Summary of IOFs Present

In total, 18 species were recorded during DLWF surveys and 63 during DLWFE surveys. The more detailed survey work is likely to be the main reason why more species were recorded during DLWFE surveys where a full year was covered compared to a single survey visit. During monitoring for DLWF in 1999-2001, 24 species were recorded, and during post-construction surveys of Dun Law and Extension Wind Farm in 2008 to 2014, 63 species were recorded.

Given that surveys for DLWFE were conducted more recently than DLWF (16-17 years ago compared to 24 years ago) and that they are considerably more thorough, it is considered most appropriate to rely on the DLWFE survey results and assessment to inform the likely effects of the life extension on IOFs. Therefore, the IOFs likely to be impacted by the development are those detailed in Table 3 below.

¹³ NRP (2008). *Dunlaw Extension Windfarm: Report on Ornithological Surveys 2008*. Natural Research Projects Ltd.

¹⁴ NRP (2010). *Dunlaw Extension Windfarm: Report on Ornithological Surveys 2010*. Natural Research Projects Ltd.

¹⁵ NRP (2011). *Dunlaw Extension Windfarm: Report on Ornithological Surveys 2011*. Natural Research Projects Ltd.

¹⁶ NRP (2012). *Dunlaw Extension Windfarm: Report on Ornithological Surveys 2012*. Natural Research Projects Ltd.



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Table 1: Summary of Important Ornithological Features Recorded

Species	Status	Nature Conservat-ion Importance	DLWF 1995	DLWF 1999-2001 monitor-ing	DLWFE 2002-03	DLWF 2008-13 monitor-ing	DLWF & DLWFE 2010-14 monitor-ing
Barn owl	Schedule 1	Medium			✓*	✓	
Black grouse	Red-listed	Medium			✓	✓	✓
Curlew	Red-listed	Medium	✓	✓	✓		✓
Golden plover	Annex I	Medium	✓				✓
Gos-hawk	Schedule 1	Medium					✓
Grey partridge	Red-listed	Medium	✓		✓		
Greylag goose	Migratory	Medium			✓		✓
Hen harrier	Annex I, Schedule 1, Red-listed	Medium			✓	✓	
Herring gull	Red-listed	Medium			✓		✓
Lapwing	Red-listed	Medium	✓	✓	✓		✓
Merlin	Annex I, Schedule 1, Red-listed	Medium			✓	✓	
Pere-grine	Annex I, Schedule	Medium	✓*		✓*	✓	✓



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Species	Status	Nature Conservat- ion Importance	DLWF 1995	DLWF 1999- 2001 monitor -ing	DLWFE 2002-03	DLWF 2008-13 monitor -ing	DLWF & DLWFE 2010-14 monitor -ing
	1						
Pink-footed goose	SPA, migratory	High	✓		✓		
Red-shank	Red-listed	Medium		✓	✓		✓
Short-eared owl	Annex I	Medium		✓	✓		✓
Wood-cock	Red-listed	Medium					✓

**not recorded during baseline surveys but historic breeding records within study area according to ES chapters.*

Description of likely effects of the proposed development

As DLWFE ES covers the DLWF site, is more recent, and is based on more thorough survey work, it is considered appropriate to use this to inform likely significant effects of the life extension at DLWF.

Table 4 below summaries the significance of effects on IOFs, as predicted in the DLWFE ES Ornithology chapter Summary of Impacts table.

Table 4: Effects on Important Ornithological Features at DLWFE

IOF	Impact	Significance	Mitigation	Residual Effect	Monitoring (1999 to 2014)
Black grouse	Deforestation	Negligible	None	No effects	No lekking birds recorded.
	Construction disturbance	Minor	Temporal restrictions	Minor	
	Displacement	Minor	Habitat Enhancement Plan	Minor	
	Collision risk	Minor	None	Minor	



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IOF	Impact	Significance	Mitigation	Residual Effect	Monitoring (1999 to 2014)
Merlin	Deforestation	Moderate	Artificial nest construction	Minor	No breeding evidence and no uptake of artificial nest.
	Construction disturbance	Minor	None	Minor	
	Displacement	Moderate*	None (Artificial nest construction would be beneficial)	Moderate*	
	Collision risk	Moderate*	None	Moderate*	
Hen harrier	Deforestation	Negligible	None	Negligible	Small number of flights in 2008. No breeding evidence
	Construction disturbance	Negligible	None	Negligible	
	Displacement	Negligible	None	Negligible	
	Collision risk	Minor	None	Minor	
Peregrine	Deforestation	Negligible	None	Negligible	Small number of flights in 2008. No breeding evidence
	Construction disturbance	Negligible	None	Negligible	
	Displacement	Negligible	None	Negligible	
	Collision risk	Minor	None	Minor	
Short-eared owl	Deforestation	Negligible	None	Negligible	Recorded during pre- and post-construction monitoring – no further information
	Construction disturbance	Negligible	None	Negligible	
	Displacement	Negligible	None	Negligible	
	Collision risk	Minor	None	Minor	
Barn owl	Deforestation	Negligible	None	Negligible	Nest site within survey area in 2008
	Construction disturbance	Negligible	None	Negligible	

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IOF	Impact	Significance	Mitigation	Residual Effect	Monitoring (1999 to 2014)
	Displacement	Negligible	None	Negligible	
	Collision risk	Minor	None	Minor	
All other IOFs	Deforestation	Negligible	None	Negligible	Wader species and abundance similar pre- and post-construction. Some evidence that some wader species' distribution changes in relation to turbine proximity. Fewer raptor flights recorded in windfarm areas.
	Construction disturbance	Negligible	None	Negligible	
	Displacement	Negligible	None	Negligible	
	Collision risk	Negligible	None	Negligible	

*magnitude of impact on regional population given as "low", which would suggest that a minor adverse and not significant effect is a more realistic conclusion.

DLWFE is immediately adjacent to DLWF, it is at a similar altitude and is also located on similar upland habitat types (semi-improved acid grassland, wet modified bog, blanket bog, wet heath/acid grassland mosaic) as detailed within the Phase 1 habitat survey map from the DLWFE ES. As a result, the bird species potentially present on both sites are likely to be similar with the target species of merlin, black grouse and breeding waders being recorded during the baseline surveys for DLWFE, with pink-footed goose present in the wider area, potentially connected to nearby SPAs.



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A reasonable approach to predicting the likely ornithological significant effects of the life extension to DLWF is to assume that, due to the proximity of the site, the impacts will be similar in nature to those predicted by the DLWFE ES (Table 4). However, the magnitudes of effect may be less given that DLWF (26 turbines) is smaller than DLWFE (35 turbines). Furthermore, only displacement and collision risk impacts identified during the operational phase will continue to persist during the life extension as construction impacts will not re-occur.

Merlin and black grouse were not recorded during the baseline survey for DLWF and were not a consideration within the ES. This may be due to lack of specific breeding raptor and black grouse surveys rather than an absence of these species. Neither species was recorded during monitoring in 1999-2001, albeit surveys undertaken were not targeted to these species. The survey results within the DLWFE ES show that one breeding pair of merlin bred successfully within 500m of the existing DLWF turbines in 2002 and 2003 (the windfarm became operational in 2000). Due to the lack of specific raptor surveys for DLWF, it is not possible to establish the importance of DLWF to merlin before the construction and operation of this site. Nesting and/or foraging usage is, however, considered likely based on these findings.

Deforestation, displacement and collision risk impacts on merlin were the only identified unmitigated significant effects arising from DLWFE. An artificial merlin nest was erected and monitored with the aim of reducing the level of significance to minor adverse. Between 2008 (when the artificial nest was deployed) and 2014, no evidence of breeding has been observed, and the species has only rarely been recorded.

Black grouse were recorded lekking in the northern part of the DLWFE area in 2002 and 2003, albeit absent during pre-, during and post- construction monitoring for Dun Law in 1999-2001. Again, it is not clear how important the DLWF site would be for the species in the absence of the development, but as it was reported that a number of locations in this area are probably used for lekking and roosting, then at least occasional site utilisation should be considered likely.

An HMP was developed for black grouse to mitigate potentially significant effects on this species. This was a condition of the permission and has been implemented and monitored. From 2008 to 2014, no lekking activity was recorded, with only a single female observed in 2011.

In the absence of robust pre-construction baseline information for all target species, the DLWFE ES and monitoring of both DLWF and DLWFE can be used as a proxy for the importance of the adjacent DLWF site. Adopting this approach, it can be concluded that there is potential for displacement of merlin and black grouse to continue as a consequence of DLWF Life Extension (collision risk is also possible, but considered a low risk due to the low activity levels as well as the flight behaviour of both species), with displacement and collision impacts also possible for breeding waders and other non-breeding raptor species recorded during baseline surveys. It is not clear whether any possible reductions in merlin and black grouse presence since baseline surveys are a result of site-specific conditions or part of wider population trends, although the HMP for black grouse may, over time, begin to help mitigate effects arising from both wind farms given that both sites will affect the same local population.

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Potential Cumulative Effects

Cumulative effects on IOFs may occur due to potential impacts associated with DLWF in conjunction with other windfarm projects or other activities. There was no cumulative assessment in the DLWF ES chapter, with the DLWFE ES stating that “*All predicted impacts take account of the additive effects due to the existing windfarm and other land uses (especially forestry)*”.

SNH (2018b¹⁷) guidance states that a cumulative assessment should be undertaken at the appropriate geographical scale, using the correct reference population. For breeding birds, this should be the Natural Heritage Zone (NHZ) that the project is found within, which in this case is NHZ 20: Border Hills.

According to SNH’s windfarm GIS database¹⁸, there are currently around 40 projects either operational, consented or at application stage, which is considerably more than when the impact assessments for DLWF and DLWFE were conducted. The risk of a significant cumulative effect has therefore increased since the ES chapters were published. However, the ornithological assessments for these subsequent schemes/proposals will have included both DLWF and DLWFE, and it is reasonable to assume that the potential for likely significant cumulative effects, including from these two operational projects, will have been considered fully. Given this, no additional cumulative effects would be predicted for the DLWF life extension.

Additional Information in Relation to the Fala Flow SPA

As discussed in **section 2** above, SBC raised concerns with respect to the proximity of Fala Flow SPA as a wintering pink-footed goose roost and therefore the potential for impacts of DLWF life extension on this qualifying interest. SPR subsequently provided SBC and SNH with some further supporting information in relation to this, which is summarised below, and provided, in full, in **Appendix V**.

The qualifying interests of Fala Flow SPA are the wintering population of 2400 pink-footed geese *Anser brachyrhynchus*. Fala Flow SPA was last assessed on 13th December 2009 and was found to be in favourable condition, with the latest available 5-year winter average population count from 2006/7 to 2010/11 at 43361. The report¹⁹ also identified that geese predominantly fly north and west from Fala Flow to favoured feeding areas in Midlothian and East Lothian and very rarely were seen flying southeast in the direction of DLWF.

Given the proximity of DLWF to Fala Flow SPA (1.2km) and previous evidence of some pink-footed geese activity during the development phase, Condition 28 of the DLWF permission required carcass searching to be undertaken under turbines during the time of peak presence of pink-footed geese at Fala Flow SPA. No dead birds were recorded and no pink-footed geese were observed using the site.

Since 2010, SPR has also undertaken carcass surveys at every turbine in their portfolio as part of their Environmental Management System which is ISO14001

¹⁷ SNH (2018b) *Assessing the cumulative impacts of onshore wind farms on birds*. SNH Guidance Note
¹⁸ <https://gateway.snh.gov.uk/natural-spaces/dataset.jsp?dsid=WINDFARM> [accessed November 2019]

¹⁹ Brown, AW and LM. Brown (2011). Pink-footed Goose Status at Fala Flow SSSI/SPA and links to feeding areas in winters 2009/10 and 2010/11



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certified. The approach, which has been reviewed by the Scottish Windfarm Bird Steering Group (SWBSG)²⁰ is integrated into the weekly external site inspections, which are undertaken by field operations staff during which each turbine is visited and various checks are completed. The method is particularly effective for searching at a large scale, i.e. for large numbers of turbines and/or long periods of time (>5 years), as it has relatively low precision but allows estimates to be made of the total number of fatalities which have occurred over a 10 year period. The resultant calculations using the best available data, estimate that the median number of pink-footed geese collisions which could have occurred between 2010 – 2020 is 3 or less, and that there is a 95% probability that the total number will be less than 15.

Furthermore, it should be noted that reviews of post-construction monitoring at windfarms across the UK and Europe have never found a pink-footed goose carcass, albeit that there are knowledge gaps since not every windfarm within the range of pink-footed geese has undertaken collision mortality surveys. Nevertheless, it has been concluded, in a report to the SWBSG, that *“the available evidence shows pink-footed geese are not likely to be at risk from collision mortality with wind turbines”*²¹. In addition, following a comprehensive review, in 2013, SNH published new information updating the wind turbine collision avoidance rate for geese to 99.8%. It was concluded that *“All the lines of evidence examined point to a single, consistent conclusion which is that geese do not collide with wind farms in numbers that are of conservation concern”*²² Finally, according to the SWBSG dossier for this species, pink footed geese are increasing in number in Scotland, with the current population estimated at over 150,000²³.

On the basis of the above, SPR concluded that the proposed DLWF Life Extension would not have a likely significant impact on the qualifying interests of Fala Flow SPA. SNH has confirmed subsequently that, based on the additional information provided, it is not considered that the proposal would be likely to have a significant effect on the pink-footed geese interest of Fala Flow SPA. SNH also advised that whilst SBC will need to carry out a Habitats Regulation Appraisal (HRA) for the life extension application, this can be based on the fact that the information available to inform the required assessment shows that the integrity of the site will not be affected.

²⁰ The SWBSG was formed to examine the relationship between bird populations and wind farms, and to act as a platform for dialogue between the renewables industry, conservation organisations and government on these issues. The Group has representatives from the Scottish Government, SNH, Scottish Renewables and RSPB Scotland.

²¹ http://www.swbsg.org/images/1605_Precision_and_bias_of_bird_fatality_estimates_from_two_contrasting_carcass_detection_strategies.pdf

²² <https://www.nature.scot/avoidance-rates-wintering-species-geese-scotland-onshore-wind-farms>

²³ http://www.swbsg.org/images/1_Anser_brachyrhynchus.pdf



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Hydrology, Hydrogeology, Geology and Soils

The DLWF ES addressed agriculture and land management, whilst the DLWFE ES presented more in-depth information on hydrology, geology and soils.

The site of DLWF consists predominantly of moorland vegetated by heather and grass with forestry to the south of Dun Law and extending to Turf Law. There are no areas of Class 1 Priority peatland found on the site; however, the deepest areas of peat vary in thickness between 1 and 3.6m.

The extent of disturbance to soils, including peat, has already occurred through the construction of the windfarm and the proposal to extend the operation of the windfarm will not affect the site's geology and soils and geology further. Therefore, no significant effects on geology and soils are considered likely.

The site has several watercourses, namely the Linn Dean Burn and Leader Water, Windycleugh Burn and Headshaw Burn, with most of the site draining into these four burns.

With regard to flood risk, the continued operation of the windfarm will prolong the presence of impermeable features in the land, such as hardstandings around the turbines and buildings. While this could potentially result in increased or expedited run off from the site which may result in localised flooding or flooding further downstream, given the limited extent of hard surfacing associated with the windfarm, and the continued implementation of good practice measures, no significant effects are anticipated in relation to flood risk.

The greatest potential for significant effects is associated with runoff/ sedimentation, which are largely attributed to the construction phase such as the potential sedimentation of watercourses and private water supplies as a consequence of soil erosion and the pollution risk to both these hydrological receptors. The DLWFE ES acknowledged that the construction of the windfarm, associated infrastructure and forestry felling may result in increased surface runoff.

However, the mitigation measures set out within the DLWFE ES (e.g. drainage structures and spillways) reduced the overall flood risk to minor. Additionally, maintenance inspections of tracks, drains, watercourse crossings and surrounding land have also been carried out to monitor any impeded drainage and potential flooding of the surrounding land.

Considering the immediate adjoining location of DLWF to DLWFE, which features similar ground and hydrological conditions, and that no flooding incidents have been reported throughout its life to date, it is not anticipated that any significant flood related effects or impacts associated with sedimentation will occur from the proposal to extend the life of DLWF.

With regard to water quality, existing good practice measures to reduce the risk of a pollution incident during the operation of the windfarm will be continued. This includes the storage of oil, fuel and chemicals in accordance with SEPA's good practice (PPG) guidance, including the use of impermeable bases within appropriately sized bunds. Emergency plans will also be retained (and updated as appropriate), and will cover fire procedures, emergency contact arrangements and the provision of spill kits at appropriate locations across the site.

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In summary, no significant effects on hydrology and hydrogeology are considered likely as a result of the life extension proposals.

Cultural Heritage (including archaeology)

As the proposal to extend the life of DLWF does not involve any new ground disturbance, no significant direct effects on either previously recorded or unrecorded archaeological interests are considered likely.

Whilst indirect effects on the setting of cultural heritage features beyond the site boundary were not considered in the original DLWF archaeological assessment (Alexander, 1995), a full assessment was included in the DLWFE ES (Chapter 9), within a study area extending to 15km from the site. Although the assessment methodology employed was different to that in place today, the latest guidance at the time was followed. At the time, Historic Scotland (now Historic Environment Scotland) (HES) advised that there were no effects expected on Listed Buildings or Historic Garden and Designed Landscapes within the study area; therefore, the assessment focussed on assessing the effects on the settings of Scheduled Monuments. Significant effects were identified on the settings of five Scheduled Monuments during the operational phase of DLWFE. This assessment was undertaken at a time when DLWF was already operational and part of the baseline environment. Since that time, other windfarms in close proximity to both DLWF and DLWFE (Toddleburn, Pogbie, Pogbie Extension and Keith Hill being of particular relevance) have been consented or are currently under construction, adding to the cumulative impact in combination with both DLWF and DLWFE.

A supporting reappraisal of setting effects has been undertaken and is included in **Appendix VI**. The purpose of this cultural heritage appraisal is to consider whether the proposal to extend the operational life of DLWF, to align with the operational life and decommissioning phase of DLWFE, would give rise to any additional significant effects on cultural heritage interests to those reported in 2005. The appraisal comprises an evaluation of the predicted effects on the settings of those Scheduled Monuments that were identified in the 2005 assessment of DLWFE as being subject to significant adverse effects and the degree to which those effects were also relevant to DLWF. The appraisal also considers whether the proposed life extension of DLWF would have significant adverse effects on cultural heritage (including cumulatively in the context of the current baseline). The assessment employs a methodology that has been led by guidance produced in recent years from HES (2016) and others.

Given the cumulative baseline of additional windfarms in this locality, it is not considered that the proposal to extend the operational life of DLWF would give rise to any additional significant indirect effects on cultural heritage. One significant effect is likely to persist however, and that is in relation to the setting of Dere Street Roman road (SM2962). The 2005 DLWFE assessment concluded that there would be an in-combination effect (from the addition of the DLWFE turbines in the context of a baseline including DLWF). It is also noted that both developments were consented without objection from Historic Scotland (now HES).

Noise



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General guidance and policy in Scotland concerning noise, both in general and that associated with windfarm developments specifically, is presented in the following documents:

- Planning Advice Note 1/2011: Planning and Noise
- The Scottish Government's Web Based Advice on Onshore Wind Turbines (last updated in May 2014).

This references the methodology presented in the ETSU guidance on 'The Assessment and Rating of Noise from Windfarms' (ETSU-R-97) which remains accepted good practice for assessing the effects of noise from windfarms. This sets out limits for operational noise from windfarms which apply to the total cumulative noise levels. Although pre-dating the release of ETSU-R-97, the assessment work undertaken for DLWF was broadly consistent with this guidance. The noise assessment presented in the DLWFE ES was undertaken in line with ETSU-R-97 and demonstrated that the existing DLWF turbines, combined with the (then) proposed turbines DLWFE, would not result in an exceedance of the noise criteria set out in line with the ETSU-R-97 guidance.

As DLWF has already been constructed, it is only necessary to consider the operational noise impacts of the windfarm. Operational noise, both from each of DLWF and DLWFE in isolation and cumulatively, is not anticipated to change from the present situation which, as set out above, is considered to be the baseline. This was previously considered acceptable based on the cumulative assessment presented in the DLWFE assessment, and this assessment remains relevant. As such, no significant effects are considered likely.

Shadow Flicker

Under certain combinations of geographical position, time of day and time of year, the sun may pass behind a turbine rotor and cast a shadow over neighbouring properties. When the blades rotate, the shadow flickers on and off, an effect known as 'shadow flicker'.

The Scottish Government's Web Based Advice on Onshore Wind Turbines states that *"In most cases, where separation is provided between the wind turbines and nearby dwellings (as a general rule, 10 rotor diameters), 'shadow flicker' should not be a problem."*

Shadow flicker was considered in the original ES and was not considered to have a significant effect. There are no properties within a x10 rotor diameter distance (470m) of the site which could be subject to prolonged shadow flicker effects; therefore, no significant effects are anticipated in relation to shadow flicker should the windfarm life be extended.

Aviation and Defence Interests

Since the construction of DLWF, onshore wind technology has seen rapid progress with turbines gradually increasing in height. The current turbines at DLWF are 63.5m to tip height and are well below the requirement for aviation lighting.

Whilst impacts upon telecommunications were briefly addressed within the original 1996 ES, aviation was not considered. However, effects on these topics were included and discussed in more detail within the DLWFE ES (2005). Following a technical



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assessment undertaken by the Taylor Brothers (2005), it was concluded that no signal interference was expected. Consultation was also undertaken with aviation authorities such as the Ministry of Defence (MoD) and the Civil Aviation Authority (CAA) with no objections raised in relation to DLWFE.

All subsequent developments for aviation and telecommunications will have taken the presence of DLWF into account and therefore, no significant effects are considered likely as a consequence of the extended operation of the windfarm. Relevant stakeholders will also be consulted in relation to the proposed life extension of DLWF as part of the Section 42 application process.

Access and Transport

The site is accessible from two access tracks which branch off from the A68, one of the main routes linking Edinburgh to the Scottish Borders. As the windfarm has been in operation for several years, significant effects are likely to have already occurred during the construction phase (e.g. construction vehicles and turbine delivery).

The windfarm generates minimal vehicular traffic which is largely associated with periodical site maintenance visits. As such, the life extension of DLWF is not expected to have any new significant effects in relation to access, traffic and transport.

Socio-Economics, Tourism and Recreation

It is considered that the extension of the operational life of DLWF would yield positive effects. In line with the Scottish Government 'Good Practice Principles for Community Benefits from Onshore Renewable Energy Developments' (November 2018), SPR will continue to provide a community benefit fund should the life of the windfarm be extended; this would enable communities already benefiting from the operational DLWF to continue to deliver initiatives for the betterment of their area. Likewise, the potential extension of the employment created as a result of the operation of the windfarm is also considered to be positive.

There are no core paths or cycle paths within, or in close proximity to, the site. However, the Dere Street Roman Road Heritage Path passes through the western part of the site. Access to the Dere Street route and other onsite tracks by walkers would remain possible if the life of the windfarm was extended. As noted above, theoretical visibility of DLWF is possible from a short section of the Southern Upland Way, near the town of Lauder, approximately 11.3km from the site. However, due to the limited visibility, and intervening distance, it is considered that the effects on views experienced from this route are unlikely to be significant.

Given the windfarm has been in situ for approximately twenty years, it is not considered likely that significant effects to recreation and tourism will arise from its continued operation on the site.

Climate Change

It is relevant to note that extending the life of the windfarm will result in the continued generation of electricity from a renewable resource which, compared to fossil fuel based generating methods, will reduce the amount of carbon dioxide from long-term carbon stores being emitted into the atmosphere. The extension of the life of the windfarm is



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anticipated to save up to approximately 35,093 tonnes²⁴ of carbon dioxide per year from being produced (compared to utilising fossil fuels to generate electricity). As such, extending the life of the windfarm by approximately a further 12 years is therefore likely to avoid up to approximately 421,000 tonnes of carbon dioxide emissions. It is considered that this will help prevent effects which may occur as a result of climate change.

²⁴ Scottish Government (2019) Renewable Electricity Output Calculator



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5. PLANNING POLICY REVIEW

As explained above, an application to vary a condition essentially seeks permission to develop without complying with conditions previously imposed on the grant of planning permission 96/01330/FUL. Whilst Section 42 of the Act allows for this, Section 25 of the Act still requires that planning applications be determined in accordance with the Development Plan, unless material considerations indicate otherwise. In this case, it is therefore considered necessary to determine whether the replacement of Condition 1 with the new conditions proposed in Section 3 would be in accordance with the policies set out in the Development Plan.

This section provides an overview of the key Local Development Plan (LDP) policies of relevance to the application, as well as other material considerations including national planning and energy policies and guidance. The compliance of the proposal with these policies and material considerations is also discussed within this section

The relevant development plan in this instance is SESplan 2013 and the Scottish Borders Local Development Plan (LDP) 2016. With regards to SESplan, in May 2019, the Government rejected the Proposed SESplan2. It is therefore understood that SESplan 2013 is still the relevant strategic development plan for this Scottish Borders area at this time. Scottish Borders Council is currently reviewing its LDP through the preparation of LDP2; and as this process is still at an early stage (i.e. Main Issues Report Stage with no Proposed Plan yet produced for public consultation), it is noted that this will not yet form a material consideration in the assessment of this Section 42 proposal. Scottish Borders Council Statutory Supplementary Guidance: Renewable Energy (July 2018) also forms part of the Development Plan for the Scottish Borders, having been prepared under Part 2 of the Town and Country Planning (Scotland) Act 1997, specifically Section 22 as amended by the Planning etc. Scotland Act 2006.

SESplan 2013

The principles of SESplan have been fed into the Scottish Borders LDP as discussed further below; however, it is still important to note some of the high-level policies which should be considered in the assessment of these proposals.

In terms of the Spatial Strategy, **SESplan Policy 1B: The Spatial Strategy, Development Principles**, sets out the key strategy aims as they relate to development proposals. The Policy states that Local Development Plans will:

- *Ensure that there are no significant adverse impacts on the integrity of international, national and local designations and classifications, in particular National Scenic Areas, Special Protection Areas, Special Areas of Conservation, Sites of Special Scientific Interest and Areas of Great Landscape Value and any other Phase 1 Habitats or European Protected Species;*
- *Ensure that there are no significant adverse impacts on the integrity of international and national built or cultural heritage sites in particular World Heritage Sites, Scheduled Ancient Monuments, Listed Buildings, Royal Parks and Sites listed in the Inventory of Gardens and Designed Landscapes;*
- *Have regard to the need to improve the quality of life in local communities by conserving and enhancing the natural and built environment to create more healthy and attractive places to live;*



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- *Contribute to the response to climate change, through mitigation and adaptation; and*
- *Have regard to the need for high quality design, energy efficiency and the use of sustainable building materials.*

Commentary in response to SESplan Policy 1B

As noted in more detail in response to the LDP policies below, it has been concluded, through assessment, that the continued operation of DLWF would not result in unacceptable adverse significant effects upon natural or built heritage features such as landscape, ecology, ornithology, Scheduled Monuments, etc. Importantly, the continuation of the operational life of DLWF will contribute to the need to respond to climate change through the continued production of renewable energy. The proposals are therefore considered to accord to with Policy 1B.

SESplan Policy 10 - Sustainable Energy Technologies, seeks to promote sustainable energy sources and identifies that LDPs will “set a framework for the encouragement of renewable energy proposals that aims to contribute towards achieving national targets for electricity and heat, taking into account relevant economic, social, environmental and transport considerations, to facilitate more decentralised patterns of energy generation and supply and to take account of the potential for developing heat networks”.

Commentary in response to SESplan Policy 10

As noted in the detailed responses to the various LDP policies below (e.g. ED9), the extension of the life of the windfarm by approximately a further 12 years is likely to avoid up to approximately 421,000 tonnes of carbon dioxide emissions. It is considered that this will help prevent effects which may occur as a result of climate change and is in accordance with the principles of Policy 10.

SESplan Conclusions

Where further detail is provided in the following commentary and where the SESplan links to the LDP policy considerations, it is concluded that the proposed operational life extension would be consistent with the principles and policies of SESplan 2013 as adopted.

Scottish Borders Council Local Development Plan 2016

Scottish Borders Council adopted its current LDP on 12th May 2016. It provides the planning framework for the Council area until 2021 when it will be replaced with the new Local Development Plan (LDP2). Reflecting the adopted SESplan it focuses on economic development, housing and Infrastructure.

The SBC LDP notes that the Council faces a number of challenges in the future, and that the LDP has a role in meeting these challenges. In terms of tackling climate change, the LDP acknowledges at the outset that:

“Encouraging renewable energy is seen to be a key part of the Government response to climate change, and this supports the emphasis towards a low carbon economy. In the Scottish Borders the main thrust has been through the provision of on shore wind farms. The council has now undertaken work on the potential landscape capacity for wind energy development because of possible adverse and cumulative impacts arising. In bringing together its overall policy approach to commercial renewable energy



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production, the plan takes into account a range of potential impacts on matters such as landscape, biodiversity, air quality, soils and communities.”

The two key outcomes reflecting the LDP’s vision from a climate change perspective are:

- *“Key Outcome 9: The focus of development on sustainable locations”; and*
- *“Key Outcome 10: The development of the area’s full potential for electricity and heat from renewable sources, in line with national climate change targets, giving due regard to relevant environmental, community and cumulative considerations.”*

The LDP sets out a ‘vision’ of what the Scottish Borders will look like in 2025. This includes the statement on page 15 that:

“In 2025 the Scottish Borders will continue to be an excellent place in which to live and work, with improved job opportunities, housing availability and connectivity. Development will be sustainable and meet the challenges of a changing climate. The built and natural environment will continue to be high quality and support economic development and provide for recreational and leisure activities”.

The plan aims to *“protect and enhance the natural and built environment”* and to *“integrate climate change adaption requirements such as flood prevention and sustainable renewable energy production”*.

Aims of the LDP include that: *“Climate change will also benefit from the promotion of renewable electricity as heat and power generation from renewable sources will help to address the effects of climate change and encourage the adaptation to a low carbon economy.”* In addition, the LDP aims *“To integrate climate change adaptation requirements such as flood prevention and sustainable renewable energy production”*.

The following policies are considered relevant to the assessment of the proposed Section 42 application and commentary in response to each is provided to confirm the conformity of the proposed development with each relevant policy.

Policy PMD1: Sustainability

“In determining planning applications and preparing development briefs, the Council will have regard to the following sustainability principles which underpin all the Plans policies and which developers will be expected to incorporate into their developments:

- a) The long-term sustainable use and management of land;*
- b) The preservation of air and water quality;*
- c) The protection of natural resources, landscapes, habitats, and species;*
- d) The protection of built and cultural resources*
- e) The efficient use of energy and resources, particularly non-renewable resources;*
- f) The minimization of waste, including wastewater and encouragement to its sustainable management;*
- g) The encouragement of walking, cycling and public transport in preference to the private car;*
- h) The minimisation of light pollution;*
- i) The protection of public health and safety;*
- j) The support to community services and facilities;*
- k) The provision of new jobs and support to the local economy;*



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- l) *The involvement of the local community in the design, management and improvement of their environment*

Commentary in response to Policy PMD1: Sustainability

The proposals seek the amendment to planning condition 1 of the 96/01130/FUL permission to allow the continued operation of the existing DLWF to tie in with the approved operational lifetime of the DLWFE; an extension of the operational life by 12 years to 2034. The continued use of the land for this purpose is considered to be a sustainable use for the land which will continue to allow a valuable renewable energy resource to contribute to the overall climate change aims of the LDP.

With regards to air quality, as the project involves the extension of the duration of an existing windfarm, it is not anticipated to result in any significant air emissions and no significant effects are anticipated as a result of the proposals. With regard to water quality, existing good practice measures to reduce the risk of a pollution incident during the operation of the windfarm will be continued. This includes the storage of oil, fuel and chemicals in accordance with SEPA's good practice (PPG) guidance, including the use of impermeable bases within appropriately sized bunds. Emergency plans will also be retained (and updated as appropriate), and will cover fire procedures, emergency contact arrangements and the provision of spill kits at appropriate locations across the site. The proposed extension to the operational life of DLWF is not expected to result in any significant effects on air or water quality.

With regards to the protection of landscapes, full details of this assessment are contained earlier in this document in **Section 4**. However, it is noted that where landscape effects have been considered in relation to the continued operation of DLWF for an additional 12 years, the assessment has concluded that the landscape effects identified in the 1996 ES, as modified by the presence of DLWFE will be experienced for a longer period of time and that the area across which significant effects are experienced will not change, and in fact may be smaller than previously assessed due to the presence of DLWFE. There will be no new likely significant effects. There will be no increase in the scale or geographical extent of the effects and when compared to the current baseline with the windfarms in place, the life extension will mean the continuation of very localised significant effects within the Plateau Grassland – Borders Landscape Character Type.

The impacts of the proposals on habitats and species have been discussed in **Section 4** of this document within the ecology and ornithology sections. With regards to protected species, it has been assessed that, as there have been limited changes in land management on site, it is considered unlikely that baseline habitat conditions will have significantly changed since the existing previous assessments were prepared. The distribution and abundance of protected species are likely to have altered to some extent since the surveys in 2002, with species expanding and contracting routinely, as well as from other factors such as climate change and changes in land use in the surrounding area. However, it is not considered that the proposal is likely to result in any new significant effects on protected species. With regards to impacts upon ornithological interests, the supporting technical information has concluded that there is potential for displacement of merlin and black grouse to continue as a consequence of DLWF Life Extension (collision risk is also possible, but considered a low risk due to the low activity levels as well as the flight behaviour of both species), with displacement and collision impacts also possible for breeding waders and other non-breeding raptor species recorded during baseline surveys. It is not clear whether any possible

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reductions in merlin and black grouse presence since baseline surveys are a result of site-specific conditions or part of wider population trends, although the HMP for black grouse may over time begin to help mitigate effects arising from both wind farms given that both sites will affect the same local population.

With regards to the protection of cultural and built resources, the proposal to extend the operating lifetime of DLWF has required the evaluation of the effect of the continued operation of DLWF on Scheduled Monuments, which were considered to be subject to significant effects on their setting as a result of the operation of DLWF and DLWFE. Overall, it is concluded that extending the operating lifetime of DLWF to match that of DLWFE would not result in any additional significant effects of cultural heritage interest.

Where the proposals seek the continuation of an existing renewable energy resource, it is considered that the Section 42 application would constitute an efficient use of resources as per Policy PMD1.

The sustainability principles reflected in criteria (f) – (l) are less relevant to the proposed development; however, it is noted that the continuation of DLWF will involve extended community benefit payments, as well as the potential extension of the employment created as a result of the operation of the windfarm over a longer period of time.

Given the above, and the information contained in **Section 4** and relevant appendices, it is considered that the proposed Section 42 application to extend the operational life of the existing DLWF is compliant with Policy PMD1.

Policy PMD2: Quality Standards

"Sustainability

- a) *In terms of layout, orientation and energy supply, the developer has demonstrated that appropriate measures have been taken to maximise the efficient use of energy and resources, including the use of renewable energy and resources such as District Heating Schemes and the incorporation of sustainable construction techniques in accordance with supplementary planning guidance. Planning applications must demonstrate that the current carbon dioxide emissions reduction has been met, with at least half of this target met through the use of low or zero carbon technology;*
- b) *It provides digital connectivity and associated infrastructure;*
- c) *It provides for Sustainable Urban Drainage Systems in the context of overall provision of Green Infrastructure where appropriate and their aftercare and maintenance;*
- d) *It encourages minimal water usage for new developments;*
- e) *It provides for appropriate internal and external provision for waste storage and presentation with, in all instances, separate provision for waste and recycling and, depending on the location, separate provision for composting facilities;*
- f) *It incorporates appropriate hard and soft landscape works, including structural or screen planting where necessary, to help integration with its surroundings and the wider environment and to meet open space requirements. In some cases, agreements will be required to ensure that landscape works are undertaken at an early stage of development and that appropriate arrangements are put in place for long term landscape/open space maintenance; and*



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g) *It considers, where appropriate, the long-term adaptability of buildings and spaces.*

Placemaking and Design

- h) *It creates developments with a sense of place, based on a clear understanding of the context, designed in sympathy with Scottish Borders architectural styles; this need not exclude appropriate contemporary and /or innovative design,*
- i) *It is of a scale, massing, height and density appropriate to its surroundings and, where an extension or alteration, appropriate to the existing building,*
- j) *It is finished externally in materials, the colours and textures of which complement the highest quality of architecture in the locality and, where extension or alteration, the existing building,*
- k) *It is compatible with, and respects the character of the surrounding area, neighbouring uses, and neighbouring built form,*
- l) *It can be satisfactorily accommodated within the site,*
- m) *It provides appropriate boundary treatments to ensure attractive edges to the development that will help integration with its surroundings,*
- n) *Its incorporate, where appropriate, adequate safety and security measures, in accordance with current guidance on 'designing out crime'.*

Accessibility

- o) *Street layouts must be designed to properly connect and integrate with existing street patterns and be able to be easily extended in the future where appropriate in order to minimise the need for turning heads and isolated footpaths,*
- p) *It incorporates, where required, access for those with mobility difficulties,*
- q) *It ensures there is no adverse impact on road safety, including but not limited to the site access,*
- r) *It provides for linkages with adjoining built up areas including public transport connections and provision for buses, and new paths and cycleways, linking where possible to the existing path network; Travel Plans will be encouraged to support more sustainable travel patterns,*
- s) *It incorporates adequate access and turning space for vehicles including those used for waste collection purposes.*

Green Space, Open Space & Biodiversity

- t) *It provides meaningful open space that wherever possible, links to existing open spaces and it is in accordance with current Council standards pending preparation of an up-to-date open space strategy and local standards. In some cases, a developer contribution to wider neighbourhood or settlement provision may be appropriate, supported by appropriate arrangements for maintenance;*
- u) *It retains physical or natural features or habitats which are important to the amenity or biodiversity of the area or makes provision for adequate mitigation or replacements."*

Commentary in response to Policy PMD2: Quality Standards

As this policy seeks to “ensure that all new development, not just housing, is of a high quality and respects the environment in which it is contained” (LDP, page 24), it is considered that the specific criteria are not all directly applicable in this instance.



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Where there is a presumption in the policy to “ensure that it (new development) does not negatively impact on existing buildings, or surrounding landscape and visual amenity of the area” (LDP, page 24), it is noted that with regards to the visual effects of the proposals to extend the operational life of DLWF, there will be no change in the receptors affected, and no increase in the scale or geographical extent of any effect. The increased duration will mean the continuation of significant effects on a small number of nearby receptors for a longer period of time, but will not give rise to new significant effects,

Policy ED9 – Renewable Energy Development

“The Council will support proposals for both large scale and community scale renewable energy development including commercial wind farms, single or limited scale wind turbines, biomass, hydropower, biofuel technology, and solar power where they can be accommodated without unacceptable significant adverse impacts or effects, giving due regard to relevant environmental, community and cumulative impact considerations.

The assessment of wind energy proposals will include the following considerations:

- *The onshore spatial framework which identifies those areas that are likely to be most appropriate for onshore wind turbines;*
- *Landscape and visual impacts, to include effects on wild land, taking into account the report on Landscape Capacity and Cumulative Impact (2013) as an initial reference point, the landscape and visual impact assessment for a proposal (which should properly address the issues raised in the 2013 report), and other relevant landscape, visual and cumulative impact guidance, for example that produced by Scottish Natural Heritage;*
- *All cumulative impacts, including cumulative landscape and visual impact, recognising that in some areas the cumulative impact of existing and consented development may limit the capacity for further development;*
- *Impacts on communities and individual dwellings (including visual impact, residential amenity, noise and shadow flicker);*
- *Impacts on carbon rich soils (using the carbon calculator), public access, the historic environment (including scheduled monuments and listed buildings, and their settings), tourism and recreation, aviation and defense interests and seismological recording, telecommunications and broadcasting installations, adjacent trunk roads and road traffic;*
- *Effects on the natural heritage (including birds), and hydrology, the water environment and flood risk;*
- *Opportunities for energy storage;*
- *Net economic impact, including local and community socio-economic benefits such as employment, associated business and supply chain opportunities;*
- *The scale of the contribution to renewable energy generation targets, and the effect on greenhouse emissions;*
- *The need for conditions relating to the decommissioning of developments, including ancillary infrastructure, and site restoration; and*
- *The need for a robust planning obligation to ensure operators achieve site restoration.*



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Developers must demonstrate that they have considered options for minimising the operational impact of wind turbine proposals, including ancillary development such as tracks”.

Commentary in response to Policy ED9: Renewable Energy Development

The existing DLWF sits within an area identified in the ‘wind energy spatial framework’ as an area with potential for wind farm development; in this regard the proposed development (extension of the operational lifetime of DLWF) is considered appropriate in this regard.

The existing DLWF is not located within or adjacent to any areas of Wild Land. As noted in response to Policy DM1 above, there will be no increase in the scale or geographical extent of the effects and when compared to the current baseline with the windfarms in place, the life extension will mean the continuation of very localised significant effects within the Plateau Grassland – Borders LCT.

The supporting technical information (**Section 4** and **Appendix IV**) demonstrates that when considered in their totality, cumulative effects on the landscape and on visual receptors are likely to be significant, given the number of windfarms in the area. DLWF forms the central part of a large group of turbines, and its cumulative interactions are limited when considered separately from DLWFE. The potential for likely significant effects to arise from other windfarms has been assessed in the ESs for those subsequent windfarms. The life extension will not give rise to any change in the pattern of windfarms or any new cumulative interactions, and there will be no new significant effects. The additional cumulative effects which arise because of the interaction of DLWF with other windfarms will not change in nature but will increase slightly in duration. This is unlikely to lead to any new significant effects.

In relation to residential receptors/visual impact on residential receptors, it has been assessed that the extension of the operational life of DLWF until 2034 will not affect any new receptors and the continuation of the significant effects on the small number of nearby receptors will be for a period of 12 years but the proposals will not give rise to any new significant effects. With regards to noise impacts on receptors, the cumulative noise from both DLWF and DLWFE, or each in isolation are not expected to change from the current situation. The noise levels associated with the existing windfarm (DLWF and DLWFE) are considered acceptable based on the information presented in the DLWFE ES which remains relevant. There are no significant effects considered likely as a result of the extension of the operational life of DLWF. In addition, there are no properties within a x10 rotor diameter distance (470m) of the site which could be subject to prolonged shadow flicker effects; therefore no significant effects are anticipated in relation to shadow flicker should the windfarm life be extended.

The extent of disturbance to soils, including peat, has already occurred through the construction of the windfarm and the proposal to extend the operation of the windfarm will not affect the site’s geology and soils and geology further. Therefore, no significant effects on geology and soils are considered likely.

The extension of the life of the windfarm is anticipated to save up to approximately 35,093 tonnes of carbon dioxide per year from being produced (compared to utilising fossil fuels to generate electricity). As such, extending the life of the windfarm by approximately a further 12 years is therefore likely to avoid up to approximately



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421,000 tonnes of carbon dioxide emissions. It is considered that this will help prevent effects which may occur as a result of climate change.

As described in response to Policy PMD1, the proposal to extend the operating lifetime of DLWF has required the re-evaluation of the effect of the continued operation of DLWF on cultural heritage assets, including Scheduled Monuments (**Section 4** and **Appendix VI**). It is not considered that the proposal to extend the operational life of DLWF would give rise to any additional significant direct or indirect effects on cultural heritage.

With regards to aviation and telecommunication effects, the supporting technical information contained in **Section 4** identifies that no significant effects are considered likely as a consequence of the extended operation of DLWF. It is expected that this will be confirmed via the statutory consultation process of the Section 42 application.

As noted in response to Policy PMD1 with regards to impacts on the natural heritage interests on and around the site, it is considered unlikely that baseline habitat conditions will have significantly changed since the existing previous assessments were prepared and it is not considered that the proposal is likely to result in any new significant effects on protected species.

With regards to flood risk, it is noted that given the limited extent of hard surfacing associated with the windfarm, and the continued implementation of good practice measures, no significant effects are anticipated in relation to flood risk as a result of the extended operational life of DLWF. With regard to water quality, existing good practice measures to reduce the risk of a pollution incident during the operation of the windfarm will be continued. Therefore, no significant effects on hydrology and hydrogeology are considered likely as a result of the life extension proposals.

Regarding economic benefits of the proposed extension to the operational life of DLWF, should the life extension proposals be found acceptable, community benefits will continue and there will be continued employment associated with the ongoing operation and maintenance of the windfarm. Whilst the DLWF does not generate a significant number of jobs, it is important to recognise the contribution that DLWF makes to the local economy. It is also important to recognise that economic benefits arise not only in relation to the employees working on the windfarm, but that there are other benefits induced by the proposed life extension. For example, those arising from supply chains associated with the maintenance of the site, those associated with the contractual relationships relating to the sale of generated electricity and to the continued viability of SPR, a major employer of over 6,000 people. As such, the anticipated effects of the proposals to the economy are considered to be positive.

With regards to the contribution to renewable energy generation targets, as noted above, the extension of the life of the windfarm is anticipated to save up to approximately 35,093 tonnes of carbon dioxide per year from being produced (compared to utilising fossil fuels to generate electricity). As such, extending the life of the windfarm by approximately a further 12 years is therefore likely to avoid up to approximately 421,000 tonnes of carbon dioxide emissions.

As noted in **Section 3**, the Section 42 application seeks to split the existing condition 1 of permission 96/01130/FUL into two new conditions; one to cover the life extension until 2034 and the second to cover the submission of a decommissioning plan following the cessation of the development.



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It is the intention of this Section 42 application to secure a Decommissioning plan, through a proposed new condition (condition 2). It is envisaged that the Decommissioning Plan would be prepared and agreed with the relevant statutory consultees in advance of its submission to the Planning Authority for approval, at least six months prior to the expiry of the consent.

Given the above and the supporting technical information in this document and appendices, it is considered that the proposed Section 42 application to extend the operational life of DLWF to September 2034 is wholly appropriate in terms of Policy ED9: Renewable Energy Development.

Policy EP1 - International Nature Conservation Sites and Protected Species

"Development proposals which will have a likely significant effect on a designated or proposed Natura sites, which includes all Ramsar sites are only permissible where:

- a) *An appropriate assessment has demonstrated that it will not adversely affect the integrity of the site, or*
- b) *There are no alternative solutions, and*
- c) *There are imperative reasons of overriding public interest including those of social or economic nature*

Where a development proposal is sited where there is likely presence of an EPS, the planning authority must be satisfied that:

- a) *There is no satisfactory alternative, and*
- b) *The development is required for preserving public health or public safety or for other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance to the environment, and*
- c) *The development is not detrimental to the maintenance of the population of a EPS at a favourable conservation status in its natural range"*

Commentary in response to Policy EP1: International Nature Conservation Sites and Protected Species

The site is approximately 1.2km west of Fala Flow SPA, SSSI, and Ramsar site, designated for pink-footed goose *Anser brachyrhynchus*. As outlined in **section 4**, SPR has concluded that the proposed DLWF Life Extension would not have a likely significant impact on the qualifying interests of Fala Flow SPA, a view subsequently confirmed by SNH. SNH also advised that whilst SBC will need to carry out a Habitats Regulation Appraisal (HRA) for the life extension application, this can be based on the fact that the information available to inform the required assessment shows that the integrity of the site will not be affected.

Given this, and the supporting technical information in **Section 4**, it is considered that the proposals will not result in likely significant effects upon international nature conservation sites and is therefore compliant with Policy EP1.

Policy EP2 - National Nature Conservation and Protected Species

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"Development proposals which are likely to have a significant adverse effect, either directly or indirectly, on a Site of Special Scientific Interest or habitat directly supporting a nationally important species will not be permitted unless:

- a) The development will not adversely affect the integrity of the site, and the development offers substantial benefits of national importance, including those of a social or economic nature, that clearly outweigh the national nature conservation of the site.*
- b) The developer will be required to detail mitigation, either on or off site, of any damage that may be caused by development permissible under the exception criteria."*

Commentary in response to Policy EP2: National Nature Conservation and Protected Species

In addition to the SSSI designations noted in response to Policy EP1 above, the Moorfoot Hills SSSI (8.6km away) and Hadfast Valley SSSI (13km away) are designated due to their breeding bird assemblage. However, based on likely foraging ranges of species present, no connectivity is likely to occur and therefore no significant adverse effects are likely in relation to these SSSI designations. In this regard, it is considered that the proposals are in line with the principles of Policy EP2.

Policy EP3 – Local Biodiversity

"Development that would have an unacceptable adverse effect on Borders Notable Species and Habitats of Conservation Concern will be refused unless it can be demonstrated that the public benefits of the development clearly outweigh the value of the habitat for biodiversity conservation.

Any development that could impact on local biodiversity through impacts on habitats and species should:

- a) Aim to avoid fragmentation or isolation of habitats; and*
- b) Be sited and designed to minimise adverse impacts on the biodiversity of the site, including its environmental quality, ecological status and viability; and*
- c) Compensate to ensure no net loss of biodiversity through use of biodiversity offsets as appropriate; and*
- d) Aim to enhance the biodiversity value of the site, through use of an ecosystem approach, with the aim of creation or restoration of habitats and wildlife corridors and provision for their long-term management and maintenance."*

Commentary in response to Policy EP3: Local Biodiversity

Minor significant effects were identified in relation to habitat loss during construction. As most potentially significant effects would be related to the construction phase, further effects relating to habitat loss are not considered likely.

Whilst protected species legislation was less well understood when the DLWF ES was prepared, the DLWFE ES takes into consideration the presence of protected and notable species, including otter, water vole and badger within the site. Both the DLWF ES and the DLWFE ES concluded that providing standard mitigation and good construction practice were implemented, as detailed in the ESs, effects on protected species would not be significant. A more recent review of the potential for bat collision risk, undertaken to inform this application, concluded that no significant effects were considered likely.

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Condition 27 attached to the 96/01130/FUL DLWF permission required breeding bird monitoring to take place pre-, during and post construction to safeguard bird habitats. Attached to the DLWFE permission were similar conditions which also saw the preparation of a Habitat Management Plan (HMP) which was to consider management measures for merlin and black grouse. The HMP was produced in June 2006, and management included the installation of an artificial nest for merlin, a black grouse management area and a habitat enhancement area. The HMP was designed to run for 25 years from commissioning to decommissioning, unless results of monitoring advised amendment/cessation.

For merlin, tree felling restrictions during the breeding season were outlined, with an artificial nest to be in place prior to the subsequent breeding season (this was installed in March 2008).

In the black grouse management area, a 5.3ha area of low density native broadleaved woodland was created, with vegetation management in the remainder (a total of 9.3ha). There was an exclusion of grazing by marked fencing to reduce collision risks. Monitoring of tree establishment was undertaken as required, and most recently surveyed in 2017. Fencing repair work was undertaken in August 2019 with general maintenance undertaken in early 2020.

Subsequent to the planning permission for DLWF, SPR confirmed in November 2008 that they were unable to reach agreement with the relevant landowner for the creation of the habitat enhancement area (considered separate to the black grouse management area), and that no alternative locations were available. As such, it was suggested that a financial contribution to SBC for promotion of biodiversity and habitat improvement initiatives would be a suitable replacement. This has been completed, with funding provided to organisations including the Tweed Forum.

Given the preceding text and the supporting technical information in **Section 4**, it is considered that the proposals will not result in unacceptable adverse effects upon local biodiversity/habitat interests and is therefore compliant with Policy EP3.

Policy EP5 - Special Landscape Areas

"In assessing proposals for development that may affect Special Landscape Areas, the Council will seek to safeguard landscape quality and will have particular regard to the landscape impact of the proposed development, including the visual impact. Proposals that have a significant adverse impact will only be permitted where the landscape impact is clearly outweighed by social or economic benefits of national or local importance."

Commentary in response to Policy EP5: Special Landscape Areas

The original DLWF ES considered the landscape effect on the Lammermuir Hills AGLV. Since the original ES in 1996, the Lammermuir Hills AGLV has been replaced by the Lammermuir Hills SLA, which is similar in extent to the AGLV and includes the DLWF turbines east of the A68. A number of other current local landscape designations lie within 5km of DLWF, as listed in **Section 4**.

Whilst it would be normal practice to examine the effects of a proposed development on the 'special qualities' of a landscape designation, as these SLAs have been defined since DLWF was built, it is evident that their importance clearly does not rely on the absence of wind turbines in this location. The continuing presence of DLWF in the



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landscape would not undermine the special qualities of any current landscape designations, and these have not been reappraised.

Furthermore, it is considered that whilst an increase in the operational life of DLWF of approximately 12 years will result in the landscape effects identified in the ES, as modified by the presence of DLWFE, being experienced for a longer period of time, the area across which significant effects are experienced will not change, and in fact may be smaller than previously assessed due to the presence of DLWFE. There will be no new likely significant effects. In this regard, the proposals are considered to be in accordance with the principles of Policy EP5.

Policy EP7 - Listed Buildings

"The Council will support development proposals that conserve, protect, and enhance the character, integrity and setting of Listed Buildings.

Internal or external alterations and extensions to Listed Buildings, or new developments with their curtilage, must meet the following criteria:

- a) Be of the highest quality;*
- b) Respect the original structure in terms of setting, scale, design and materials, whilst not inhibiting contemporary and/or innovative design;*
- c) Maintain, and should preferably enhance, the special architectural or historic quality of the building; and*
- d) Demonstrate an understanding of the building's significance.*

All applications for Listed Building Consent or applications affecting the setting of Listed Buildings will be required to be supported by Design Statements.

New development that adversely affects the setting of a Listed Building will not be permitted."

Commentary in response to Policy EP7: Listed Buildings

As noted previously in response to Policy PMD1, through the cultural heritage assessment undertaken for the DLWFE ES, HES (HS at that time) advised that there were no effects expected on Listed Buildings within the study area. It is not considered that the proposal to extend the operational life of DLWF would give rise to any new significant effects upon Listed Buildings. It is therefore concluded that the proposals are permissible in terms of Policy EP7.

Policy EP8 - Archaeology

"A. National Archaeological Sites

Development proposals which would destroy or adversely affect the appearance, fabric or setting of the Scheduled Monuments or other nationally important sites will not be permitted unless:

- a) The development offers substantial benefits, including those of a social or economic nature, that clearly outweigh the national value of the site; and*
- b) There are no reasonable alternative means of meeting the development need.*

B. Battlefields

The Council may support development proposals within a battlefield on the Inventory or Historic Battlefields Register, or a regionally significant site, that seek to protect,



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conserve, and/or enhance the landscape characteristics or important features of the battlefield. Proposals will be assessed according to their sensitivity to the battlefield.

C. Regional or Local Archaeological Assets

Development proposals which will adversely affect an archaeological asset of regional or local significance will only be permitted if it can be demonstrated that the benefits of the proposals will clearly outweigh the heritage value of the asset.

In all the above cases, where development proposals impact on a Scheduled Monument, other nationally important sites, or any other archaeological or historical asset, developers may be required to carry out detailed investigations.

Any proposal that will adversely affect a historic environment asset or its appropriate setting must include a mitigation strategy acceptable to the Council."

Commentary in response to Policy EP8: Archaeology

A supporting reappraisal of setting effects has been undertaken and is included in **Appendix VI**. The appraisal comprises an evaluation of the predicted effects on the settings of those Scheduled Monuments that were identified in the 2005 assessment of DLWFE as being subject to significant adverse effects and the degree to which those effects were also relevant to DLWF. The appraisal also considers whether the proposed life extension of DLWF would have significant adverse effects on cultural heritage (including cumulatively in the context of the current baseline).

It is not considered that the proposal to extend the operational life of DLWF would give rise to any additional significant indirect effects. Minor positive effects from decommissioning and removal of the DLWF turbines would occur on the settings of Soutra Aisle and medieval hospital (SM3067/SM7573) and on one hillfort (Kirktonhill Fort SM4628). In each case, the change resulting from removal of the DLWF turbines would, however, be of only low magnitude. One significant effect is likely to persist however, and that is in relation to the setting of Dere Street Roman road (SM2962). The 2005 DLWFE assessment concluded that there would be an in-combination effect (from the addition of the DLWFE turbines in the context of a baseline including DLWF). It is also noted that both developments were consented without objection from HS (now HES).

There are no predicted impacts upon Battlefields or regional or local archaeological assets.

Overall, it has been concluded that extending the operating lifetime of DLWF to match that of DLWFE would not result in any additional significant effects on cultural heritage interest; this is considered to be compliant with Policy EP8.

Policy EP10 – Gardens and Designed Landscapes

"The Council will support development that safeguards or enhances the landscape features, character or setting of:

- a) *Sites listed in the Inventory of Gardens and Designed Landscapes; or*
- b) *Sites included in historic gardens and designed landscape records.*

All development should be carefully sited, be of the highest standards of design using appropriate finishing materials and planting and be informed by and respectful of the

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historic landscape structure. Proposals that will result in an unacceptable adverse impact will be refused.

All applications affecting a Garden or Designed Landscape will be required to be supported by a Design Statement."

Commentary in response to Policy EP10: Gardens and Designed Landscapes

As noted previously in response to Policy PMD1, no effects were identified on Historic Garden and Designed Landscape designations within the study area. It is not considered that the proposal to extend the operational life of DLWF would give rise to any new effects on Gardens and Designed Landscapes. It is therefore concluded that the proposals are permissible in terms of Policy EP10.

Policy IS5 – Protection of Access Routes

"Development that would have an adverse impact upon an access route available to the public will not be permitted unless a suitable diversion or appropriate alternative route, as agreed by the Council, can be provided by the developer."

Commentary in response to Policy IS5: Protection of Access Routes

There are no core paths or cycle paths within, or in close proximity to, the site. However, the Dere Street Roman Road Heritage Path passes through the western part of the site. Access to the Dere Street route and other onsite tracks by walkers would remain possible if the life of the windfarm was extended. As noted in **Section 4**, theoretical visibility of DLWF is possible from a short section of the Southern Upland Way, near the town of Lauder, approximately 11.3km from the site. However, due to the limited visibility, and intervening distance, it is considered that the effects on views experienced from this route are unlikely to be significant. The proposals would not adversely impact upon an access route and are therefore consistent with Policy IS5.

Scottish Borders Council Supplementary Guidance: Renewable Energy (July 2018)

The Supplementary Guidance document seeks to provide further guidance in relation to various renewable energy technologies and provides further clarity on the criteria of Policy ED9: Renewable Energy Developments within the LDP. The criteria of Policy ED9 have been assessed and commented upon previously in this document, so are not repeated again to save duplication. It is therefore submitted that the proposed development is in accordance with that policy as demonstrated above.

The Supplementary Guidance also provides commentary relating to the Council's position regarding repowering (taken to include life extensions), which links to SPP guidance. The Supplementary Guidance notes that "*Para 170 of SPP refers to areas for wind farms being suitable for use "in perpetuity" which relates to the future re-use of sites for repowering. This is a significant change in policy in that turbine sites must now be considered for permanent use which is re-affirmed by the Scottish Government in their paper entitled "Onshore wind planning: frequently asked questions".* Consequently, this makes it even more important that proper scrutiny is given to wind farm life extension proposals to ensure full policy appraisal.

There is an acknowledgement at the national and local level that longer lifespans for wind farms should be considered. Where the preceding information and associated appendices have confirmed the acceptability of the life extension of DLWF, it is

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considered that the proposals are also in line with the Council's Supplementary Guidance on Renewable Energy.

MATERIAL CONSIDERATIONS

National Planning Framework 3 (NPF3) 2014

National Planning Framework 3 (NPF3), which was laid before the Scottish Parliament on 23rd June 2014, is the long-term spatial expression of the Scottish Government's Economic Strategy and plans for infrastructure investment and development priorities over the next 20 to 30 years with a focus on supporting sustainable economic growth and the transition to a low carbon economy. NPF3 acknowledges that:

- We have seized the opportunities arising from our ambition to be a world leader in low carbon energy generation, both onshore and offshore" (NPF3, para 1.2);
- We have a significant wind resource, both onshore and offshore, and electricity generation from wind continues to rise" (NPF3, para 3.4);
- The low carbon energy sector is fast moving and will continue to be shaped by technological innovation and a changing environment. As a result, our strategy must remain sufficiently flexible to adapt to uncertainty and change so we are well placed to make the most of the new opportunities that will undoubtedly emerge (NPF3, para 3.13);
- Wind will continue to make a significant contribution to diversification of energy supplies. We do not wish to see wind farm development in our National Parks and National Scenic Areas. Scottish Planning Policy sets out the required approach to spatial frameworks which will guide new wind energy development to appropriate locations, taking into account important features including wild land (NPF3, para 3.23)

The Planning (Scotland) Act 2019 elevates the status of the National Planning Framework from material consideration to being part of the development plan. The Act also includes a planning purpose for the preparation of the NPF, being "*to manage the development and use of land in the long-term public interest*". Work has already begun on NPF4 and the Government expects to publish a draft in the third quarter of 2020. The final version of NPF4 is expected to be laid before the Scottish Parliament in the third quarter of 2021 with approval in the final quarter of the year. As a result of the adoption of the Planning (Scotland) Act 2019, the next NPF will incorporate Scottish Planning Policy and will have enhanced status as part of the statutory development plan. Until this time, NPF3 remains the relevant publication for the national planning framework.

Scottish Planning Policy (SPP) 2014

Scottish Planning Policy (SPP) is a statement of Scottish Government policy on land use planning. SPP emphasises the importance of tackling climate change and, in particular, addresses the continuing need to reduce greenhouse gas emissions and to develop renewable energy projects. Likewise, SPP forms a material consideration when determining applications. The following paragraphs set out the policy issues which are most relevant to the Section 42 application.



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Sustainable Development and Climate Change

One of the over-arching aims of the SPP is to achieve Sustainable Development. In its overview of principal policies, it states in paragraph 25 that *“achieving a sustainable economy, promoting good governance and using sound science responsibly are essential to the creation and maintenance of a strong, healthy and just society capable of living within environmental limits”* (p.9). SPP emphasises as a ‘policy principle’ that there is a presumption in favour for development that contributes towards sustainable development (below paragraph 27).

Paragraph 28 states that *“The planning system should support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term”*. Paragraph 29 sets out that policies and decisions should be guided by certain principles, the first of these is *“giving due weight to net economic benefit”*.

In relation to climate change, paragraph 19 reinforces the role that the planning system can play in helping to ameliorate adverse climatic effects and realise national targets and states, *“by seizing opportunities to encourage mitigation and adaptation measures, planning can support the transformational change required to meet emission reduction targets and influence climate change”*.

Renewable Energy

Paragraph 154 states that the planning system should *“support the transformational change to a low carbon economy, consistent with national objectives and targets, including deriving:*

- 30% of overall energy demand from renewable sources by 2020;
- 11% of heat demand from renewable sources by 2020; and
- the equivalent of 100% of electricity demand from renewable sources by 2020”.

Paragraph 154 goes on to state that the planning system *“should support the development of a diverse range of electricity generation from renewable energy technologies – including the expansion of renewable energy generation capacity...”*.

In order to achieve this, SPP states that Development Plans *“should seek to ensure an area’s full potential for electricity and heat from renewable sources is achieved, in line with national climate change targets, giving due regard to relevant environmental, community and cumulative impact considerations”* (paragraph 155).

Importantly, paragraph 174 states that, *“Proposals to repower existing wind farms which are already in suitable sites where environmental and other impacts have been shown to be capable of mitigation can help to maintain or enhance installed capacity, underpinning renewable energy generation targets. The current use of the site as a wind farm will be a material consideration in any such proposals”*.

Paragraph 161 states that *“planning authorities should set out in the development plan a spatial framework identifying those areas that are likely to be most appropriate for onshore windfarms as a guide for developers and communities...Development plans should indicate the minimum scale of onshore wind development that their spatial framework is intended to apply to”*.

SPP sets out guidance for local authorities in table 1 that the spatial frameworks should present information on capacity based on the following groupings:



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- Group 1: Areas where windfarms will not be acceptable (National Parks and National Scenic Areas);
- Group 2: Areas of Significant Protection (National and international designations, other nationally important mapped environment interests including areas of wild land) and a 2km community separation distance for consideration of visual impact;
- Group 3: Area for potential for windfarm development.

However, it also sets out within this table that *“Further consideration will be required to demonstrate that any significant effects on the qualities of these areas can be substantially overcome by siting, design or other mitigation”*. This demonstrates that specific design features of windfarm proposals should be taken into account when determining applications in Group 2.

Landscape and Natural Heritage

The SPP provides guidance for the conservation, enhancement and sustainable use of Scotland’s landscape and natural heritage, identified as including flora, fauna, geological and physiographical features, its natural beauty and amenity (Natural Heritage (Scotland) Act 1991)²⁵.

Paragraph 29 of the SPP states that one of the principles which Development Plan policies should adhere to is *“protecting, enhancing and promoting access to natural heritage, including green infrastructure, landscape and the wider environment”*.

In its proposals for protecting landscape and natural heritage resources, paragraph 194 of the SPP states that the planning system should *“facilitate positive change while maintaining and enhancing distinctive landscape character...conserve and enhance protected sites and species, taking account of the need to maintain healthy ecosystems and work with the natural processes which provide important services to communities”*.

Historic Environment

Paragraph 135 states that *“Planning has an important role to play in maintaining and enhancing the distinctive and high-quality, irreplaceable historic places which enrich our lives, contribute to our sense of identity and are an important resource for our tourism and leisure”*. Paragraph 137 goes on to state that the planning system should, *“promote the care and protection of the designated and non-designated historic environment (including individual assets, related settings and the wider cultural landscape) and its contribution to sense of place, cultural identity, social well-being, economic growth, civic participation and lifelong learning”*.

Community Benefit

SPP realises the benefits of developer contributions to local communities and states in paragraph 173 that *“Where a proposal is acceptable in land use terms, and consent is being granted, local authorities may wish to engage in negotiations to secure community benefit in line with the Scottish Government Good Practice Principles for Community Benefits from Onshore Renewable Energy Developments”*.

Flooding and Drainage

²⁵Natural Heritage (Scotland) Act 1991, Available [online] at:
<https://www.legislation.gov.uk/ukpga/1991/28/contents>

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Paragraph 256 advises that “the planning system should prevent development which would have a significant probability of being affected by flooding or would increase the probability of flooding elsewhere”. In addition, paragraph 255 requires all surface water from new development to be treated by a sustainable drainage system (SUDS) to minimise the probability of flooding.

Economic Benefits

Paragraph 93 sets out that the planning system should “give due weight to net economic benefit of proposed development”. Paragraph 94 sets out that “Plans should align with relevant local economic strategies. These will help planning authorities to meet the needs and opportunities of indigenous firms and inward investors, recognising the potential of key sectors for Scotland with particular opportunities for growth, including: energy”.

Climate Change (Emissions Reduction Targets) (Scotland) Act 2019

In April 2019, Scotland’s First Minister declared a global climate emergency, and on 26th September 2019, the Climate Change (Emissions Reduction Targets) (Scotland) Bill was passed. On 31st October 2019, the Bill received Royal Assent resulting in the statutory emissions targets placed on Scotland being the most stringent of any country in the world.

The Act strengthens Scotland’s climate change targets for the reduction of emission levels from an 80% reduction by 2050 (as set out in the Climate Change (Scotland) Act 2009), to 100% by 2045. By 2045, it is not expected that Scotland will have zero climate change emissions, however the low levels that are expected will require to be balanced out by mechanisms which absorb climate change emissions, e.g. tree planting or carbon capture and storage technology which will result in net-zero emissions.

The Act also sets out interim targets over the next 20 years approaching the main 2045 target. In 2020, emissions should be at least 56% lower, by 2030 emissions should be at least 75% lower and by 2040, the emissions should be at least 90% lower than the baseline²⁶. Further to these, the Act requires the Government to set annual targets from 2021 to allow progress to the 2045 targets to be monitored and reported. The effect of the revised targets equates to almost a near doubling of the reduction required from 2020 to 2030; up from 1% per annum reduction to a 1.9% per annum reduction.

There has been recognition by the Government that renewable energy technologies will play a key role in the delivery of the emission reduction targets. The Government is required to lay a climate change plan before the Scottish Parliament within five years of the Bill receiving Royal Assent (i.e. within five years of 31st October 2019). The plan should set out proposals and policies, and contributions required by each sector (energy supply, transport, business and industrial process, residential and public buildings, waste management, land use, land change, forestry and agriculture) towards the achievement of the targets. It is understood that the Government has commenced

²⁶ The baseline is defined in the Climate Change (Scotland) Act 2009 as the “aggregate amount of net Scottish emissions of carbon dioxide for 1990 and net Scottish emissions of each of the greenhouse dioxide for the year that is the baseline year for that gas”.



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consultation on the new climate change plan to reflect the revised targets, however there have been delays as a result of the current Covid-19 crisis.

Climate Change Plan – The Third Report of Policies and Proposals 2017-2032

The Scottish Government published its updated Climate Change Plan (CCP) ²⁷ in February 2018 and subsequently laid it before parliament for approval. The CCP sets out how Scotland can deliver its climate change target of 66% emissions reductions, relative to the baseline, for the period 2018-2032. The CCP includes emissions reduction trajectories for a range of sectors, in addition to indicators for monitoring progress. It confirms the Scottish Government support for the Paris Agreement, which sets the standard for the international response to climate change.

In terms of the electricity sector, the CCP states that:

- *“By 2032, Scotland’s electricity system will supply a growing share of Scotland’s energy needs and by 2030, 50% of all Scotland’s energy needs will come from renewables (page 15).*
- *By 2032, Scotland’s electricity system will be largely decarbonised and be increasingly important as a power source for heat and transport.*
- *Electricity will be increasingly important as a power source for heat and in transport to charge Scotland’s growing fleet of ultra-low emission vehicles”.*

The ‘vision’ set out is that by 2032, Scotland will have reduced its emissions by 66% against 1990 levels. It adds that *“this will be an enormous transformational change”* (page 22).

Chapter 1 of the CCP addresses electricity and states *“our ambition for the electricity sector, as set out in this chapter, is consistent with the Scottish Government’s Energy Strategy published in December 2017. In 2032, Scotland’s electricity system will be largely decarbonised. The system will be powered by a high penetration of renewables, with security of supply and system resilience aided by a range of flexible and responsive technologies”* (page 67).

Policy proposals include:

- *Policy Outcome 1: “From 2020 onwards, Scotland’s electricity grid intensity will be below 50 grams of carbon dioxide per kilowatt hour. The system will be powered by a high penetration of renewables, aided by a range of flexible and responsive technologies;” (page 69) (underlining added)*
- *Policy Outcome 2: “Scotland’s energy supply is secure and flexible, with a system robust against fluctuations and interruptions to supply”. (page 74)*

Implementation ‘indicators’ for policy outcomes 1 and 2 include:

- Increase the amount of electricity generated from renewable sources in Scotland.
- Increase the installed capacity of sites generating electricity from renewable sources in Scotland. By 2030, it is expected that the installed capacity of renewable electricity generation sources will be between 12GW and 17GW.

²⁷ Scottish Government. 2018. ‘The Scottish Government’s Climate Change Plan, Third Report on Proposals and Policies 2018-2032 (RPP3).



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- Increase total community and locally owned renewable energy capacity.
- Increase total renewable capacity in Scotland by planning stage.
- Increase the share of electricity generated from renewable sources, as a proportion of total electricity generated in Scotland.

The Scottish Energy Strategy (2017) – Onshore Wind

Targets for electricity generation are also set out in Scotland’s first Energy Strategy which was published by the Scottish Government, in December 2017, and acts as a free-standing companion document to the CCP. The Strategy sets out a target for Scotland to achieve almost complete decarbonisation of energy, and sets a new 2030 ‘all energy’ target for the equivalent of 50% of Scotland’s heat, transport and electricity consumption to be supplied from renewable sources, with Scotland a world leader in renewable and low carbon technologies and services.

The Scottish Energy Statement (SES) notes that *“in order to achieve our climate goals, Scotland needs to build on the progress made in decarbonising electricity production...this will not be simple, but Scotland is determined to play its part in the global effort to tackle harmful climate change”* (SES, page 23).

The successful expansion of onshore wind has contributed greatly to the growth of renewable energy generation in Scotland. The SES highlights that *“we will push for UK-wide policy support for onshore wind, and take action of our own to prioritise and deliver a route to market – combined with a Land Use Planning approach which continues to support development while protecting our landscapes”* (SES, page 43) and that *“our energy and climate change goals mean that onshore wind must continue to play a vital role in Scotland’s future – helping to decarbonise our electricity, heat and transport systems, boosting our economy, and meeting local and national demand”* (SES, page 43).

There is a focus on delivering development in the right locations, and the SES acknowledges that the replacement and extension of existing wind farm sites with new and larger turbines should be supported, where the assessment of their effects and impacts are deemed to be acceptable.

The SES sets out strategic priorities for renewables and low carbon solutions, with regards to onshore wind it is noted that the Scottish Government has the following actions:

- *“Push for UK-wide policy support for onshore wind and take action of our own to prioritise and deliver a route to market.*
- *Build on the positive and practical provision for onshore wind in our planning system under the next National Planning Framework and Scottish Planning Policy.*
- *Implement the new Onshore Wind Policy Statement, which underlines the continued importance of this established, low cost resource”.* (SES, page 29)

Onshore Wind Policy Statement 2017

The Onshore Wind Policy Statement (OWPS)²⁸, published in December 2017, sets out the up-to-date national policy position in relation to onshore wind. The Ministerial

²⁸ Scottish Government. 2017. ‘Onshore Wind Policy Statement’.



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Foreword sets out that *“there is no question that onshore wind is a vital component of the huge industrial opportunity that renewables more generally create for Scotland”*. It adds that *“our energy and climate change goals mean that onshore wind will continue to play a vital role in Scotland’s future – helping to substantively decarbonise our electricity supplies, heat and transport systems, thereby boosting our economy”*.

Chapter 1 is entitled ‘Route to Market’ and it sets out, in paragraph 2, that onshore wind, as a mature and established technology, is now amongst the lowest cost forms of generating electricity, renewable or otherwise. It adds that *“we expect onshore wind to remain at the heart of a clean, reliable and low carbon energy future in Scotland”*.

Paragraph 3 continues to state that: *“In order for onshore wind to play its vital role in meeting Scotland’s energy needs, and a material role in growing our economy, its contribution must continue to grow. Onshore wind generation will remain crucial in terms of our goals for a decarbonised energy system, helping to meet the greater demand from our heat and transport sectors, as well as making further progress towards the ambitious renewable targets which the Scottish Government has set”*.

Paragraph 4 of Chapter 1 states that given the recognised contribution that onshore wind is expected to make to Scotland’s future energy and renewable targets, that *“this means that Scotland will continue to need more onshore wind development and capacity, in locations across our landscapes where it can be accommodated”*. The Statement continues the current approach as set out in Scottish Planning Policy (SPP) that, whilst there is a very strong need case for further onshore wind development, environmental considerations are factors to be taken into account in the operation of the planning system. This principle is reflected throughout the Statement.

Paragraph 8 of Chapter 1 emphasises the industrial opportunity presented by a growing onshore wind sector and it states that *“the extent to which we can continue to capture these benefits, remains a top priority for Scottish Ministers”*.

Chapter 2 is entitled ‘Repowering’ and at paragraph 35 states, *“The Scottish Government’s position remains one of clear support in principle for repowering at existing sites. This is on the grounds of its potential to make the best use of existing sites, and – through the continued use of established infrastructure, grid connections and strong wind resource provide a cost effective option to deliver our renewable and decarbonisation targets”*.

As noted below, the Scottish Government considers ‘repowering’ to include life extension proposals, where there is no proposed physical change to the turbines or associated infrastructure.

The 2020 Routemap for Renewable Energy in Scotland

On 30 June 2011, the 2020 Routemap for Renewable Energy in Scotland²⁹ was launched to drive forward the renewable revolution, and to meet the Scottish Government’s world-leading green energy targets. The Routemap reflects the challenge of a new target to meet an equivalent of 100% of demand for electricity from renewable energy by 2020 (equating to approximately 16 Gigawatts of installed renewable generation capacity), as well as the target of 11% renewable heat.

²⁹Scottish Government. 2011. ‘2020 Routemap for Renewable Energy in Scotland’.



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The latest update, 2020 Routemap for Renewable Energy in Scotland - Update³⁰ was published in September 2015. This showed that Scotland continues to make progress towards its renewable electricity generation and the latest statistics show that Scotland generated 59.4% of its electricity needs from renewables in 2016³¹. The 2020 Routemap for Renewable Energy in Scotland has provided a basis to support Scotland's renewable energy targets. It has also established a need for a longer-term strategy for renewable energy generation in Scotland, which has now been captured within the Scottish Energy Strategy (2017) and the Onshore Wind Policy Statement (2017).

In terms of existing wind farm repowering, (or life extension), the Routemap states, *"The first tranche of 25-year planning permissions for onshore wind in Scotland is reaching expiry at a time of increasing pressure on land use, including cumulative pressures through onshore wind development. The potential to repower such sites represents an opportunity for Scotland to continue to work towards our renewable energy targets through maximising site availability and enhancing cost competitiveness, and thereby to maintain investment levels at a time of decreasing subsidies. Repowering also offers an opportunity to pursue further Scottish Government policy aims in the context of energy policy development"*.

It goes on to state, *"Repowering may take several forms – from an extension of duration of the original planning permission (where there are no site changes), the replacement of early smaller-scale turbines with modern larger ones in a revised site lay-out, or the replacement of existing large-scale turbines with slightly larger ones, with a possible revised lay-out. Permutations have grown enormously in the past 20 years owing to a greater range of turbine and blade combinations. In each case, a new consent will need to be applied for, notwithstanding the steer in Scottish Planning Policy (para 170) that areas identified for wind farms should be suitable for use 'in perpetuity'. Consents are time-limited, and new wind farms, including on repowered sites, need to continue to be sited and designed to ensure impacts are minimised and to protect residential amenity"*.

Recent Inquiry Decisions and Other Supporting Information

A recent Section 36 Inquiry Report (for Pencloe Wind Farm, East Ayrshire, case reference WIN-190-4, published Dec 2018) reached clear conclusions on how the suite of new policy documents should be interpreted. The Reporter, at paragraph 9.7, stated:

"I see no sign that the Scottish Government is slackening the pace, rather, the latest policy statements on energy and onshore wind indicate that the effort is being intensified. The latest target of generating 50% of energy from renewable sources by 2030 is a deliberately challenging one, which may require around 17GW of installed capacity by that date. The newly adopted Scottish Energy Strategy and accompanying Onshore Wind Policy Statement are explicit that onshore wind will continue to play a vital role in that regard".

Figure 1 below sets out the potential cumulative capacity which could be lost if current windfarm consents in the UK are not extended (based on an assumed twenty-year lifespan).

³⁰ The Scottish Government. (2015). 'Update to 2020 Routemap for Renewable Energy'.

³¹ Scottish Government, 2018, 'Energy in Scotland'.



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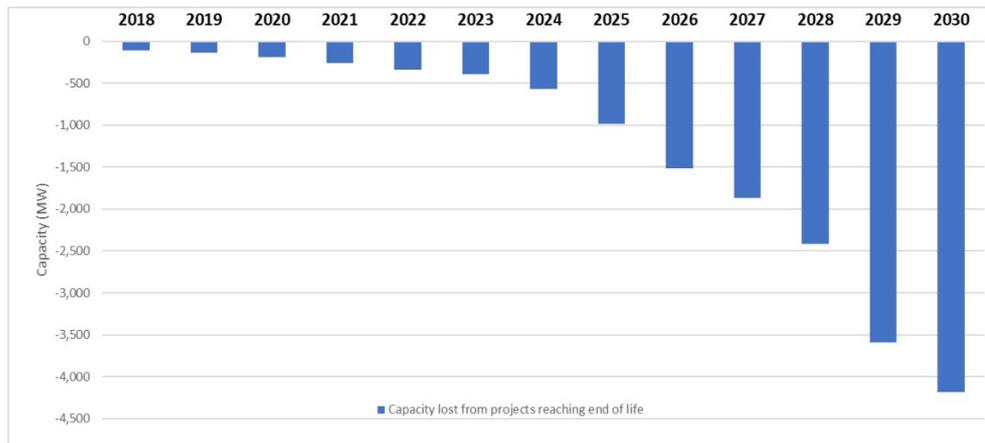


Figure 1: Potential cumulative capacity lost from projects reaching 20 years in age (UK wide) Source: Renewable UK, 2018, 'Repowering Onshore Wind'

Summary of Climate Change and Renewable Energy Material Considerations

As set out above, Scotland's current renewable energy target is to deliver the equivalent of 100% gross annual electricity demand from renewable sources by 2020. This is supplemented by the SES target that by 2030, 50% of all energy demand will be provided by renewable energy.

As acknowledged in recent Inquiry decisions, these targets are ambitious. According to the SES, in 2016, only 54% of Scotland's electricity demand was met by renewables. One of the key messages in the OWPS is the recognition that onshore wind is to play a "vital role" in meeting Scotland's energy needs and a "material" role in growing the economy. It highlights that the technology remains "crucial" in terms of Scotland's goals for an overall decarbonised energy system, and to attain the ambitious renewable targets.

There is therefore a step-change required, and targets such as these should have significant implications for the way in which applications for extending the life of operational onshore wind schemes are supported. It is clear from the Renewable Energy Routemap and OWPS that the Scottish Government considers repowered windfarms, including life extensions, to be key to attaining renewable energy targets, which is particularly relevant in the case of the proposed application for extending the life of DLWF.

Scottish energy policy is a material consideration in the determination of this application, although the SES and OWPS are particularly relevant and contain even greater support for onshore wind development than the remainder of the renewable energy policy framework. Furthermore, as the most recent expressions of Scottish Government policy on renewable energy, and given that they are now adopted, the

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SES and OWPS should be afforded substantial weight in the planning balance when determining the application.



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6. SUMMARY AND CONCLUSIONS

SPR is applying to SBC in accordance with Section 42 of the Act to replace Condition 1 of the original permission with two new conditions, seeking to extend the operation of DLWF. The life extension being sought is approximately 12 years beyond the original permission to enable both DLWF and the DLWFE to continue to operate concurrently until September 2034; after which it is envisaged that both will be decommissioned. No physical changes are being proposed to DLWF.

A key consideration to be taken into account when determining the application is the nature of DLWF as an operational wind farm, which has an existing grid connection and currently exports renewable energy. The precedent for wind energy on the site has therefore already been set.

There are a number of benefits associated with extending the life of DLWF, and these are summarised below.

- The proposed life extension will help to achieve national climate change and renewable energy targets. Extending the life of the windfarm by approximately a further 12 years is likely to avoid up to approximately 421,000 tonnes of CO₂ emissions.
- The proposed extension will continue to contribute towards a diverse and secure national energy supply and continue to offset fossil fuel usage within the electricity supply network.
- The proposed extension will enable the ongoing operation of the windfarm without the need to disturb natural resources such as land, soil and water associated with new development. There will also be no new significant effects on the environment.
- The proposed extension will continue to provide community benefit payments to local community councils to help fund various local projects.
- The proposed extension will provide ongoing employment opportunities associated with site operation and turbine maintenance.
- The proposed variation will enable a joined-up decommissioning and restoration process for both DLWF and its extension.

The life extension proposal therefore offers a significant opportunity to secure continued economic benefits and to contribute to national energy and climate change targets, whilst resulting in minimal environmental harm. As such, the proposed life extension is clearly supported by both national planning policy and also the renewable energy and climate change targets being pursued by the Scottish Government (material considerations for this application). The Scottish Government's latest position on onshore wind is one in favour of maintaining and expanding wind energy capacity where this does not conflict with the environment, and in particular supporting the repowering/life extension of existing windfarms.

A detailed assessment against local planning policy and guidance is included in **Section 5**. This concludes that the proposed life extension complies with the provisions of the Development Plan and local planning guidance. As such, the amended conditions as set out within this Section 42 planning application should be approved.

