

**REPORT TO:** Planning Committee

**MEETING DATE:** 14 January 2025

**BY:** Executive Director – Place

**SUBJECT:** 24/00007/SGC: Energy Consents Unit (ECU) Consultation: Construction and operation of the Crystal Rig solar development within the planning authority areas of Scottish Borders Council and East Lothian Council, Land Approximately 13km South of Dunbar and being an extension to the Crystal Rig Wind Farm

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**Note:** This consultation has been called off the Scheme of Delegation List by Councillor Jardine for the following reason: There has been a significant community interest sufficient to warrant consideration by the Planning Committee

ECU Application No. ECU00004759

ELC Reference No. 24/00007/SGC

Proposal Construction and operation of the crystal rig solar development within the planning authority areas of Scottish Borders Council and East Lothian Council

Location Land approximately 13 kilometres (km) south of Dunbar and being an extension to the Crystal Rig Wind Farm

Applicant Julie Aitken, Fred Olsen Renewables Ltd.

Ward 6: Dunbar and East Linton & 5: Haddington and Lammermuir

## REPORT

In Scotland, any proposal to construct, extend, or operate an onshore electricity generating station with a capacity of 50 megawatts (MW) or over requires the consent of Scottish Ministers under Section 36 of the Electricity Act 1989. Such applications are processed on behalf of the Scottish Ministers by the Energy Consents Unit ("ECU"). Onshore generating stations which will have a capacity of less than 50MW when constructed are not within the scope of the Electricity Act, and such proposals require an application for planning permission to be submitted to the relevant local planning authority. A solar farm falls under this legislation.

The ECU consults East Lothian Council on all Section 36 applications within East

Lothian.

At the Council meeting of 27 February 2024, a new procedure for processing Section 36 consultation requests was approved. It was agreed that once the consultation response has been completed by the Planning Service, it will be placed on the Committee Expedited List. Members then have seven days in which to request referral to Planning Committee. Otherwise, the consultation response is deemed to be accepted and the Service Manager for Planning shall be authorised to proceed on that basis.

The ECU have consulted the Council in respect of a proposed Solar Farm at Crystal Rig. The consultation response completed by the Planning Service is attached as Appendix 1.

### **RECOMMENDATION**

It is recommended that the content of Appendix 1 is approved as the Council's consultation response to the ECU.

## Appendix 1

ECU Application No. [ECU00004759](#)

ELC Reference No. 24/00007/SGC

Proposal Electricity Act 1989 – CONSTRUCTION AND OPERATION OF THE CRYSTAL RIG SOLAR DEVELOPMENT WITHIN THE PLANNING AUTHORITY AREAS OF SCOTTISH BORDERS COUNCIL AND EAST LoTHIAN COUNCIL

Location Land approximately 13 kilometres (km) south of Dunbar and being an extension to the Crystal Rig Wind Farm

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### **ENERGY CONSENTS UNIT (“ECU”) CONSULTATION: THE ELECTRICITY WORKS (ENVIRONMENTAL IMPACT ASSESSMENT) (SCOTLAND) REGULATIONS 2017**

### **APPLICATION FOR CONSENT UNDER SECTION 36 OF THE ELECTRICITY ACT 1989 FOR CONSTRUCTION AND OPERATION OF THE CRYSTAL RIG SOLAR DEVELOPMENT WITHIN THE PLANNING AUTHORITY AREAS OF SCOTTISH BORDERS COUNCIL AND EAST LoTHIAN COUNCIL**

#### **BACKGROUND**

This application is made under the Electricity Act 1989. This Act requires that in formulating relevant proposals, the applicant shall have regard to the desirability of preserving natural beauty, of conserving flora, fauna, geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest, and do what they reasonably can to mitigate any effect which the proposals would have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings or objects.

In considering such proposals, Scottish Ministers must have regard to the desirability of these matters, and the extent to which the applicant has complied with their duty of mitigation. The applicant must also avoid causing injuries to fisheries or fish stocks.

This application has been made to the Scottish Ministers under Section 36 of the Electricity Act 1989 for the construction and operation of a Solar Farm. In the case of S36 applications planning authorities are a consultee to the application process and are not the Consenting Authority.

With regard to paragraph 2(2) of Schedule 8 to the Electricity Act and regulation 8 of the Consents Regulations, if a planning authority makes an objection within the timescale given by regulation 8 (1) and that objection is not withdrawn, the Scottish Ministers must cause a Public Inquiry to be held unless the Scottish Ministers propose to accede to the application subject to such modifications or conditions as will give effect to the objection of the planning authority.

## **SITE**

The Proposed Development Area is part of the Crystal Rig Wind Farm and is located on the East Lammermuir Plateau of the Lammermuir Hills in East Lothian and the Scottish Borders local authority areas.

In conjunction with the operational wind turbines and their associated infrastructure the land is used for rough grazing. The Proposed Development is 13 kilometres (km) south of Dunbar. The majority of the Proposed Development Area is located within the administrative area of Scottish Borders. A small area in the south west of the Proposed Development Area falls within the administrative boundary of East Lothian Council, within the Haddington and Lammermuir Ward.

### **EIA (Scotland) Regulations 2017**

The Applicant has undertaken an Environmental Impact Assessment (EIA) and produced its findings in the EIA Report (EIAR). The EIAR informs readers of the nature of the Proposed Development, likely significant environmental effects and measures of mitigation proposed to protect the environment during site preparation, construction, operation and decommissioning.

No significant issues were raised by our consultees on the content of the EIAR and the adequacy of its coverage of the required subjects although our climate officer raised the point that the application is still lacking details regarding how embodied carbon of the development will be mitigated and how waste will be handled at the decommissioning phase.

## **PROPOSAL**

The proposed development is for a solar farm battery energy storage system of up to 27MW capacity for an operational period of 35 years. The proposal would consist of the following aspects:

- Approximately 55,000 solar panels;
- New and existing access tracks;
- String inverters;
- Transformers;
- CCTV;
- Fences;
- Site signage;

- Underground cabling; and
- Biodiversity enhancement and management.

It is anticipated that the access route to site for Heavy Goods Vehicles (HGV) and Light Goods Vehicles (LGV) will be taken from the north off the A1, Dunbar; however, there is a secondary access point off the B6355 which could be used for operational purposes. The A1 route progresses close to the settlement of Innerwick, to the existing site access of the Crystal Rig Wind Farm.

Once the proposal has reached the end of its operational life, approximately 35 years, it would need to be decommissioned. Following the conclusion of the operational period all PV panels, tables and associated equipment will be removed from the Proposed Development Area and then the site restored to an agreed condition.

## **THE DEVELOPMENT PLAN**

This application is made under the Electricity Act 1989 and not the Planning (Scotland) Act, and therefore the development plan does not have the primacy it normally would for planning decisions. It is still an important material consideration in this instance and informs the Council's consultation response.

The development plan comprises the National Planning Framework 4 ("NPF4"), which was adopted by Scottish Ministers on 13 February 2023, and the adopted East Lothian Local Development Plan 2018 ("ELLDP").

NPF4 identifies 18 National Developments that are significant developments of national importance. National Development 3 of NPF4 (Strategic Renewable Electricity Generation and Transmission Infrastructure) supports renewable electricity generation, repowering, and expansion of the electricity grid.

National Development 3 informs that the electricity transmission grid will need substantial reinforcement including the addition of new infrastructure to connect and transmit the output from new on and offshore capacity to consumers in Scotland, the rest of the UK and beyond.

Whilst National Development 3 references a Scotland wide rather than a specific location, the south of Scotland (including East Lothian) is identified for supporting on and offshore electricity generation from renewables and delivering new and/or upgraded infrastructure directly supporting on and offshore high voltage electricity lines, cables and interconnectors including converter stations, switching stations and substations.

## **National Planning Framework 4**

NPF4 is Scotland's national spatial strategy for Scotland. It sets out spatial principles, regional priorities, national developments, and national planning policy. Policies which are relevant to this proposal are as follows:

- 1 – Tackling the climate and nature crises
- 2 – Climate mitigation and adaptation
- 3 – Biodiversity
- 4 – Natural places
- 6 – Forestry, woodland and trees
- 7 – Historic Assets and Places
- 11 – Energy
- 22 – Flood risk and water management
- 23 – Health and safety

### **Local Development Plan**

The following policies and proposal are relevant to the proposal:

- DC1 (Rural Diversification)
- NH5 (Biodiversity and Geodiversity Interest, including Nationally Protected Species)
- NH7 (Protecting Soils)
- NH8 (Trees and Development)
- NH11 (Flood Risk)
- NH12 (Air Quality)
- NH13 (Noise)
- CH4 (Scheduled Monuments and Archaeological Sites)
- T2 (General Transport Impact)
- T4 (Active Travel Routes and Core Paths as part of the Green Network Strategy),
- DP1 (Landscape Character)
- DP2 (Design)
- SEH2 (Low and Zero Carbon Generating Technologies)

### **REPRESENTATIONS**

East Lothian Council has received no written representations to the proposed development.

### **COMMUNITY COUNCIL COMMENTS**

Two Community Councils responded to the consultation. These responses have also been submitted to the ECU.

East Lammermuir Community Council supported the proposal as it increases the resilience of the energy network but raised the following points that they thought should be addressed in any approved application:

- The need for a comprehensive transport plan to address safety, and minimise impact on the local network;
- A requirement on the developer to join the community liaison group to manage construction traffic;
- More detail on the drainage plan for the site area;
- Minimisation of impact on vegetation adjoining access routes and replacement planting where necessary;

- A requirement for the developers to join the East Lammermuir Biodiversity Community Liaison Group; and
- A plan for decommissioning and bonds to cover compliance.

West Barns Community Council also responded with the following points:

- There are concerns about the cumulative impact on the loss of agricultural land;
- There are concerns about the impact on road safety in the area during the construction phase both at the unlit Innerwick junction (which has a high accident record) and on the narrow rural roads. If approved, the developer should take part in road safety initiatives along with other energy project developers in the vicinity. The developer should contribute towards road safety improvements at junctions on the A1 corridor. The developer should take part in road safety discussions with East Lammermuir Community Council and other concerned individuals/groups;
- There should be a condition to secure contributions to net biodiversity gain in the area. The developer should take part in biodiversity initiatives;
- Consideration should be given to drainage issues in the locality; and
- The developer should make clear representations to the community on any proposed community benefits of the development.

The Council has taken these comments into account and has imposed recommended conditions below to cover the issues raised, where it considers it reasonable to do so.

## **PRINCIPLE OF DEVELOPMENT**

The proposed development would enable the storage of electricity and would contribute to the delivery of infrastructure of national importance. As transmission infrastructure to support renewable energy, it is also part of National Development 3 and is thus supported by NPF4.

As the proposal supports renewable energy, the principle of the proposal is also consistent with Policy 11 of NPF4, which states that development proposals for all forms of renewable, low-carbon and zero emissions technologies will be supported, including enabling works, such as grid transmission and distribution infrastructure.

The LDP 2018 helps to facilitate the transition to a low carbon economy by supporting means of energy generation that help to reduce greenhouse gas emissions. It seeks to support a diverse range of renewable and low carbon energy generation in appropriate locations, taking environmental, community and cumulative issues into account.

This proposal would be located on undeveloped agricultural land covered by Policy DC1 (Rural Diversification) of the LDP 2018.

As an infrastructure proposal, the principle of the proposed development is consistent with Policy DC1.

While the principle of this development is acceptable, there are several other issues that require to be considered. This is in line with Policy 11 of NPF which lists thirteen criteria relating to the design and mitigation of energy related developments that require to be addressed to determine their compliance with the Development Plan.

## **CLIMATE**

Policy 1 of NPF4 states that when considering all development proposals significant weight will be given to the global climate and nature crises.

The Scottish Governments Climate Change Plan sets out the national Scottish Government's pathway to achieve the ambitious targets set by the Climate Change (Scotland) Act 2009, as amended by the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019, and the commitment to end Scotland's contribution to climate change by 2045.

The Climate Change Plan notes operating a zero-carbon electricity system will mean finding new ways to provide a range of technical services and qualities currently provided by fossil fuel and nuclear generation. Solar Power is one technology which helps achieve these goals.

The Council's Sustainability and Climate Change Officer has provided comments stating that generally the EIA is fine although the content of the proposal lacks detail regarding how embodied carbon of the development will be mitigated and how waste will be handled at the decommissioning phase. It is recommended that, should consent be granted for this proposal, a condition will be required to provide full details of site decommissioning and restoration.

At its meeting on 27 August 2019 the Council approved a motion declaring a Climate Emergency. Thereafter, at its meeting on 3 September 2019 the Council's Planning Committee decided that a condition requiring a developer to submit for the approval of the Planning Authority a report on the actions to be taken to reduce the carbon emissions from the completed development should be imposed on consents for relevant development proposals. This can be secured by a conditional grant of consent.

## **LANDSCAPE AND VISUAL IMPACT**

The proposal is located adjacent to the wind turbines that comprise the Crystal Rig wind farms I – IV. To the southwest of the existing turbines and northwest of the location of the Crystal Rig IV turbines.

This is a different form of development to anything within the uplands of the Lammermuir Hills at present.

The majority of the site lies within the Scottish Borders. At the western end of the development the end of nine solar arrays extend within East Lothian. Existing tracks within East Lothian will be used to access the proposal. A new cable route will be required alongside the existing track. This will extend into East Lothian by approximately 142m to



reach the existing substation. The direct landscape impact on East Lothian is therefore minimal.

Each solar table containing 52 solar PV panels has been shown to be no more than 3m in height and approximately 32.5m long by 4m wide. These will be set in long rows side by side over 500m long in places and in rows north to south. This gives a mass of area covered by solar PV panels forming two areas of arrays with a right of way between. They will be raised above the ground on legs and angled at 20° to the south.

The Council previously agreed several viewpoints at EIA scoping stage and these have been assessed as part of the LVIA. There were initial concerns about possible visibility from significant high points in East Lothian, notably Lammer Law and Meikle Says Law beyond the 5km study area. These hill tops both have high amenity value and are both within Special Landscape Areas (SLA). Visibility of solar panels at this scale in the hills could significantly impact on the appreciation of the landscape from these.

The ZTV has been extended to include Lammer Law and Meikle Says Law. This ZTV showed no theoretical visibility from the summit of Lammer Law would occur due to screening from intervening landform. It predicted that between 1-200 PV tables could be visible from the summit of Meikle Says Law. A wireline was produced to predict the extent of this visibility. This showed that only one PV table would be visible at a distance of 8.02 km due to screening by intervening landform. This would not be a significant effect on the appreciation of the landscape from this viewpoint.

The ZTV in figure 4.4 shows limited and enclosed visibility of the proposal, with the majority of the visibility in East Lothian kept to the bowl landscape where Crystal Rig wind farms are located. The ridge line running between Clints Dod and Spartleton less than 1km to the west of the site constrains the majority of views of the proposals in views to the west. The rising land of the Lothian Edge at Deuchrie Edge and Halls Edge curtails views 4km to the north. Bransley Hill curtails views 3km to the east. There is predicted minimal visibility outwith this bowl or from the SLAs in East Lothian. What visibility there is beyond the immediate bowl landform is from the summits of the hills running north to south from Rangely Kip to Bleak Law to the west. Where there is visibility, this is predicted to be of up to 200 PV tables with only the summit of Rangely Kip having greater visibility, predicted to be up to 400 PV tables.

### **Landscape Impact**

The LVIA has considered the landscape impact on the Lammermuir Moorland SLA. It appears to assess the wrong boundary for this mentioning the wind farm of Crystal Rig and the Whiteadder Reservoir within this assessment. Nonetheless potential effects on this SLA would occur through visibility of the proposed development from beyond the site boundary and that this would occupy a relatively small part of a much larger SLA. It would also be seen within the context of other man-made features, principally the operational Crystal Rig Wind Farms Phases I, II, III and the consented Crystal Rig IV wind farm and Aikengall Wind Farm. The size and scale of the change would be small due to the low profile of the development, with the main effects occurring at elevated locations at Eachil Rig, Clints Dod and Rook Law to the northwest and at the eastern boundary of the SLA adjacent to the solar PV array. No

special qualities of the SLA would be affected by the Proposed Development such that there would be a significant adverse effect on the integrity of this SLA.

The LVIA does not assess the landscape impact on the Whiteadder SLA, although it does note that theoretical visibility within the Whiteadder valley is predicted to be limited with the proposed development visible from a number of hill tops, but owing to the low profile would not alter or affect the panoramic views obtained. The ZTV in fact only shows the hilltop of Spartleton to have visibility of the development from within the Whiteadder SLA. The Whiteadder SLA is focussed on the Whiteadder Reservoir and it appears unlikely that the proposed development would affect any of the special qualities of the Whiteadder SLA.

### **Visual Impact**

#### **Herring Road**

The LVIA notes that the value of potential views from this route are considered to be High as this is a long-distance heritage route that is well promoted and popular for recreation. It notes that the susceptibility of receptors along this route is considered to be High as this is an identified walking route where walkers' main attention is on the surrounding landscape. The majority of the route where the ZTV predicts visibility of the proposed development is within the Crystal Rig wind farm. The wind turbines form prominent man-made features changing the feeling of being in moorland to being in a wind farm landscape. The naturalness of the setting is detracted by the turbines, manmade tracks, drainage ditches, and concrete hardstanding areas. The proposal adds an additional development type to the landscape, however this is in an area that is already reduced in naturalness due to wind turbines and overhead pylons.

**Viewpoint 1** (figure 4.6) is from the historic Herring Road now a Core Path route. It is within and close to the eastern boundary of the Lammermuir Moorland SLA. The proposed development sits to the east 290m from this viewpoint. This is side on to the traveller on the core path and beyond the dominant overhead pylon line.

**Viewpoint 2** (figure 4.7) is also from the Core Path route along the Herring Road route further north and with the Crystal Rig wind farm area. The proposed development lies 450m southeast from this viewpoint. It sits in front of the view of Spartleton Hill from here. However this view is already impacted by the overhead pylons that runs east to west to the south of the Crystal Rig wind farm.

The LVIA notes that overall, a 1 km section of this path would experience views of the Proposed Development to the east which would form the foreground towards the Crystal Rig Wind Farm. It states that this would be close but occupy only a small to medium extent of the overall view. It notes that the low profile of the solar PV arrays would reduce the size and scale of the change. It also notes from close range, it would be possible to see the deer fence and CCTV cameras spaced along the periphery, but these would not be as visible as the mass of solar panels. For the section of the Herring Road within 1km of the proposed development the LVIA predicts a major-moderate adverse and significant effect from the development.

An additional four wirelines (figure 4.10) have been produced at various points along the Herring Road Core Path route through the Crystal Rig wind farm. These indicate that the proposed development will be visible beyond the wind turbines and around the base of Spartleton Hill. Its low profile leads it to be contained by the landform reducing its prominence and impact in an area where the wind turbines are the dominant element surrounding the viewer.

#### Spartleton

**Viewpoint 3** (Figure 4.8) is from the northern slopes of Spartleton Hill within the Whiteadder SLA. This is a popular summit for walkers visiting the Lammermuir Hills with the hill top commanding extensive views across the surrounding uplands in all directions. This includes close views of the Crystal Rig Wind Farm to the north east and views to the Whiteadder Reservoir to the southwest. The development lies 1km northwest from here. As indicated in the Cultural Heritage viewpoint 3 (Figure 7.5b) there is no visibility of the proposed development from the cairn at the top of the hill. However, as you head north off the top of the hill visibility opens up of the landscape and the development site can clearly be seen on the improved grassland to the south of the existing Crystal Rig wind turbines and the overhead power line. The tables and PV panels will be tilted towards the viewer in this view. As noted in the LVIA the solar array will occupy 55° of the view from this viewpoint. The development would appear as two large geometric blocks contrasting with the surrounding moorland and semi-improved farmland in comparison to the nearby wind turbines in which the moorland can still be perceived. Part of the western array would be screened due to land sloping away to the north. The effect of the proposal would be major-moderate adverse and significant from here.

#### Rook Law, Clints Dod and Eachil Rig

Figure 4.10e considers the impact on the views from the core path route at Rook Law. This is a popular summit with hill walkers and is also located within the Lammermuir Moorland SLA. It is representative of the hilltops of Eachil Rig, Clints Dod and Rook Law which are situated approximately 1.4 - 2.7 km to the north west of the proposed solar PV array. The LVIA notes that from the summit views are extensive over the surrounding uplands as well as farm land to the north and close views to Crystal Rig wind farm to the east. Visibility of the proposed development is limited to mainly up to 200 tables over a small proportion of the view. Extensive views of undeveloped open moorland are still visible to the north, west and south. The development would have a moderate adverse but not significant effect here.

#### Rangely Kip, Bleak Law and Moss Law

The LVIA has also assessed the impact on Rangely Kip, Bleak Law and Moss Law where the ZTV predicts visibility from the summits. These hill summits are located between 3.3 to 3.9 km to the west of the proposed development. The LVIA notes that these summits are not as popular but are visited by some walkers who access from the surrounding rough tracks. There are extensive views from the summits over both the upland plateau to the east and south, and the lowland plain to the north and west. The summit of these hills form the boundary between the Danskin to Whitecastle SLA to the northwest and the Lammermuir Moorland SLA to the southeast.

As noted above views of the proposed development from these summits is predicted in the ZTV to be limited, of up to 200 PV tables, with only the summit of Rangely Kip have greater visibility of up to 400 PV tables. The PV solar arrays would be low in profile and occupy part of the mid-ground when looking east towards the Crystal Rig Wind Farm which would form the background. The size and scale of change to the views of the landscape would be low from here. The development would have a moderate adverse but not significant effect here.

The proposal introduces a new type of development into an area dominated by wind turbines. The proposed development is large in scale but of a low height. This low height, combined with its proposed location within the 'bowl' landscape where Crystal Rig wind farms are located, helps to limit its wider visibility. The assessment has shown that the proposals will have a major-moderate adverse and significant effect on views within 1km of the proposed development.

However, these views are from within the existing wind farm or contain views of wind turbines where the wind turbines and overhead pylons have already reduced the sense of naturalness of the moorland. The development does not have a significant impact on the Special Landscape Areas of East Lothian or on the landscape or views beyond 1km from its boundary. Given this the Council does not object to the proposals on landscape grounds.

## BIODIVERSITY

The Councils Biodiversity Officer commented that The EIA report states:

*'It is proposed that the cable will be laid within existing tracks and therefore impacts to natural habitats will be minimised as far as possible. Furthermore, it is considered likely that the unsurveyed areas around the cable route are highly modified improved grassland habitats with little to no conservation value based on site knowledge and aerial imagery.'*

A scoping report for the proposed development was commented on by consultees in 2023. Comments made at the time in relation to the application with respect to East Lothian's wildlife included:

- including the Lammermuir Local Biodiversity Site
- recommending that TWIC was used for comprehensive biological records
- consider the impact on mountain hare populations
- surveys and assessments for reptiles and amphibians including great crested newt and
- other biodiversity enhancement as stated in NPF 4 mitigation for any adverse effects.

Responses to the above addressed in the EIAR include-

- Lammermuir Local Biodiversity Site scoped out.
- TWIC records included.
- mountain here have been considered in this application the habitat within the proposed development is predominantly Purple Moor grass which is not considered to be optimum mountain hare habitat and the East Lothian section of the application site is below 300 metres in elevation. The applicant has therefore concluded that mountain here will not be impacted.
- No ponds were present within the site boundary or within 500 metres of the application site and therefore great crested newts are not considered within the

application. Reptiles are considered to be present without need for additional survey and the implementation of embedded mitigation would be sufficient to result in no significant effect.

The requirement under National Planning Framework 4 policy 3 ensures the planning and implementation of habitat enhancement for positive biodiversity impacts. This application has used a biodiversity metric system to determine this. An outline habitat management plan is presented within the EIAR and it is proposed that a detailed HMP will be produced and this should be secured by planning condition.

Habitat management plan shall include riparian tree planting, compensatory habitat creation for ground nesting birds, creation of a scrape to support wetland birds and conservation management within the Solar Developable Area to take into consideration habitat loss in particular marshy grassland within the application area.

### **Conclusion**

With the embedded mitigation within the Construction Management Plan and enhancements for biodiversity within the Habitat Management Plan, which should be secured through condition, being carried out in full, there is no objection to the proposal from a biodiversity perspective subject to the appropriate conditions being added.

Should consent be given for this proposal, it is recommended that, in order to manage the local impacts of the proposal on biodiversity, a number of conditions are required. These would seek to secure proposed biodiversity measures are carried out sufficiently, and for a long-term management plan to be in place. This would involve a condition requiring a Landscape and Ecological Mitigation and Management Plan (LEMMP) covering a 30-year period to be produced to detail proposals for landscape and biodiversity mitigation and enhancement to be attached to the consent.

In order to secure effective monitoring of and compliance with the environmental mitigation and management measures associated with the development, it is recommended that an Ecological Clerk of Works be appointed to monitor the development. If considered more acceptable by the ECU, the Council would be equally content were a Planning Monitoring officer to be appointed instead. This would require a change to recommended condition 19 below.

Subject to the imposition of and compliance with the recommended conditions, the proposal would conform to NPF4 Policy 3 and Policy 6.

### **TRANSPORT AND ACCESS**

The proposal is noted as being for 55,000 solar panels with associated access tracks and infrastructure located within land associated with the existing Crystal Rig windfarms based primarily within the Scottish Borders but with construction access routes through East Lothian through the existing windfarm sites, utilising existing tracks and local roads C123 and C122 onto the A1 at the Innerwick junction. This route has already been established for construction of the existing wind farms in the area.

During the 35-year operational phase transport movements would be minimal at only 2-3 visits per month and therefore there is no need for any impact assessments to consider the operational life of the project. Further, the traffic associated with decommissioning would be less than the construction phase and therefore there is no need for assessment of this phase either. It is therefore recognised and agreed that the construction phase results in the most significant impacts and only the impacts during this phase require assessment in the EIA.

It is noted that there will be no abnormal loads required and that delivery of components will be via 16.5m articulated or 'low loader' vehicles. It is noted that the construction period will be approximately 12 months in duration and that the maximum monthly movements would be 248 HGVs and 880 cars / light goods vehicles, which would correspond to an average of 11 HGVs and 40 car / light goods vehicle traffic movements per day (over a 22-day working month). Whilst this level of construction traffic would not result in a significant impact on the capacity of the road network (and on this basis, no mitigation measures required in relation to capacity enhancements), it would contribute to the deterioration of the public road network along the assigned route and would therefore contribute to the need for co-ordinated repairs during the construction period alongside that of the Crystal Rig IV Wind Farm project.

No prospective construction dates are quoted in the documentation; however, it may be that there is an overlap with the Crystal Rig IV project construction and therefore co-ordination between the projects in relation to the dilapidation impacts would be welcomed.

A draft CEMP has been submitted and the content of that document is considered to be broadly acceptable. In addition to this, a Construction Traffic Management Plan is proposed to be undertaken – it is recommended that this be secured through a relevant planning condition.

Assuming the appropriate conditions are attached to the application there are no objections to this planning application from a transportation perspective.

## **HISTORIC ENVIRONMENT**

The Council's Archaeology/Heritage Officer was consulted on the proposal and no objections have been raised to the application.

It is recommended that, if consent is granted for this proposal, a condition is imposed to effectively manage and monitor the impacts on the historic environment.

## **NOISE, VIBRATION AND AMENITY**

The applicant has undertaken an Acoustic Design Specification report which looks at the noise impact of the proposed battery energy storage system on nearby land uses, known as "noise-sensitive receptors". A number of receptors have been identified and impacts have been assessed on them, with calculations provided for operational noise levels on the site.

The Council's Senior Environmental Health Officer has been consulted and no objections were raised to the application.

In relation to the impacts of the development associated with noise, vibration and amenity, the proposed development would be generally compliant with NPF4 policy 23 and LDP 2018 policy NH13.

## **FLOOD RISK**

The proposed development is supported by a Flood Risk Assessment and a Drainage Statement. Consultation was undertaken with the Council's Flood Risk Manager and no objections were raised.

Whilst the proposal appears to be broadly compliant with NPF4 policy 22 and LDP 2018 policy NH11, it is recommended that, should consent be granted for this proposal, a number of conditions will be required in order to secure the additional information or clarification/corrections within existing reports. It is recommended that ongoing liaison between the applicant/agent, SEPA and the Council's Flood Risk Manager will be required.

## **FIRE RISK**

Scottish Fire and Rescue Services advises that there is currently no statutory requirement for Fire and Rescue Services (FRSs) to engage in the planning process of Solar Farms and BESS sites. However, The National Fire Chiefs Council (NFCC) encourages early engagement with the local FRS, continuing throughout the planning process, and have therefore provided a guidance document. This document relates specifically to grid scale BESS, in open air environments, using lithium-ion batteries.

The Council recommends that the ECU should satisfy themselves that either the proposed Solar Farm and associated infrastructure would not result in an unacceptable fire safety risk or that the matter of fire risk is competently dealt with under other legislation.

## **CONCLUSION**

The principle of the Crystal Rig Solar Farm is acceptable under NPF4 National Development 3, and applicable NPF4 policies in relation to the contribution towards national priorities for achieving net zero through decarbonisation of the electricity energy network and tackling the climate crisis.

The principle of development is accepted, based on the assessment against Local Development Plan 2018 policies. Assuming the conditions attached to this response are made a requirement of any approval of this application, the Council raises **no objections** to the proposal with the on the following matters which would have significant impacts for East Lothian.

## **RECOMMENDATION:**

1. That the Scottish Government Energy Consents Unit is informed that East Lothian Council does not object to the granting of consent under Section 36 of the Electricity Act 1989 for the reasons set out in this report; and
2. That the East Lothian Chief Planning Officer be authorised to undertake any required further discussions with the Scottish Government Energy Consents Unit to resolve any further points arising from the proposal; and
3. That if consent is granted then it be subject to the following conditions:

## **RECOMMENDED CONDITIONS**

- 1 The development hereby approved shall begin before the expiration of 3 years from the date of this permission.

Reason:

To ensure that the development is commenced within a reasonable period.

- 2 Prior to the commencement of development details of the finishing colours for all of the components of development shall be submitted to and approved in writing by the Planning Authority. Development shall thereafter be carried out in accordance with the details so approved.

Reason:

In the interests of the visual amenity of the area.

- 3 Prior to the commencement of any development a report on the actions to be taken to reduce the Carbon Emissions from the completed development shall be submitted to and approved in writing by the Planning Authority. This shall include the provision of renewable technology for all new buildings including the consideration of any opportunities for heat recovery systems, where feasible and appropriate in design terms. The details shall include a timetable for implementation.

Development shall thereafter be carried out in accordance with the report so approved.

Reason:

To minimise the environmental impact of the development.

- 4 Prior to the commencement of development, a Landscape and Ecological Mitigation and Management Plan (LEMMP) covering a 35-year period shall be submitted for the approval of East Lothian Council.



The LEMMP must include details of enhancements for landscape and biodiversity mitigation and enhancement. This should be informed by the ecological survey work and consider the ongoing long-term management of biodiversity enhancement measures. To include:

- a. A full planting plan and planting schedule and specification
- b. A program of management, replacement planting, thinning and pruning with a typical 12-month cycle showing the detail and frequency of when different aspects of the landscape maintenance specification occur on site

The submitted LEMMP proposals should also accord with the following requirements:

- Field margins surrounding the development should be supplemented with a local native wildflower seed mix to encourage the development of suitable habitat and nectar for pollinator species. Vegetation management is suggested to retain diverse wildflower rich swards.
- Planting of native hedgerows or scattered trees around the margins of the development to compensate for loss of habitat.
- The LEMMP shall include a report investigating the impact of the removal of any vegetation, stone walls or hedgerows (to facilitate vehicular access) on local lichen, amphibian and reptilian populations. This report shall also include appropriate measures (and a timetable for implementation) to replace and enhance this habitat.
- If reptiles are found during construction works will stop and an ecologist contacted for advice
- The LEMMP shall include a Species Mitigation and Management Plan (including Mountain Hare, Great Crested Newts, other riparian species and breeding birds).
- Where removal of habitat suitable for bird nesting is required, this should ideally take place outside the nesting bird season, or if that is not possible a nesting bird check should be carried out immediately prior to the works. A buffer zone to exclude works will be established while the nest is active.
- A buffer zone to exclude works shall be established around riparian areas.
- Precautionary measures to protect mammals during construction.

The submitted LEMMP proposals shall include a timetable for implementation, and management thereafter. Development shall thereafter be carried out in accordance with the LEMMP proposals so approved.

Reason:

In the interests of safeguarding biodiversity interests.

- 5 A full planting plan shall be submitted for the approval of the local planning authority before commencement of development. This plan should include full biodiversity enhancement in addition to:
  - Any native woodland;
  - Native riparian planting;

- Native hedgerow and hedgerow trees to all boundaries of the site and to either side of the access tracks; and
- Details of mitigation and reinstatement for any hedgerows, trees of vegetation required to be removed as part of site access arrangements.

A full landscape maintenance and management plan for the life of the development shall be included with the planting plan to show how the landscaping will be established and developed.

Thereafter, the development shall be implemented and complied with in accordance with the approved details, unless otherwise approved in writing by the Planning Authority.

Reason:

In the interests of managing the landscape and visual impacts of the development

- 6 No external lighting shall be installed on site unless and until details of it have been submitted to and approved by the Planning Authority.

Reason:

In the interests of the visual amenity of the area.

- 7 Prior to the commencement of development, a Construction Traffic Management Plan (CTMP) for the construction phase of the development shall be submitted to and approved in writing by the Planning Authority. The CTMP shall, unless otherwise approved in writing by the Planning Authority, include the following details:

(i) details of any changes in access routes to the site from the A1;

(ii) details of all temporary signage and traffic management measures deemed necessary on the local road network;

(ii) details of measures to reduce the number of construction vehicles;

(iv) vehicle tracking of all vehicle types for the turning movements along the assigned access route on the local road network from the A1;

(vi) updated information on programme, vehicle types and the construction traffic trip generation;

(x) arrangements for road maintenance and cleaning;

(xi) detail of how building materials and waste will be safely stored and managed on site;

(xii) details of wheel washing facilities which must be provided and maintained in working order during the period of construction. All vehicles must use the wheel

washing facilities to prevent deleterious materials being carried onto the public road on vehicle wheels;

(xiii) Details of how the behaviour of contractor and subcontractor drivers will be monitored and enforced with particular regards to vehicle speeds;

(xiv) a Staff Travel Plan to include measures to minimise dependency on the private car to and from the construction compounds;

(xv) Summary of the arrangements for road maintenance, dilapidation surveys and repairs during the construction programme; and

(xvi) measures for regular liaison with local community councils, local residents and other energy developers working within the local area, to inform them of traffic associated with the construction of the development.

The CTMP shall also include a timetable for implementation of the measures above.

The development shall thereafter be carried out in accordance with the approved CTMP unless otherwise approved in writing by the Planning Authority.

Reason: In the interests of road safety and in the interest of the promotion of sustainable modes of transportation.

- 8 Prior to the commencement of development, a Stage 1 and 2 Road Safety Audit shall be submitted to and approved by the Planning Authority, which shall be undertaken for the preliminary and detailed design of the site access for the construction and operational phases of the development alongside any other temporary and permanent works proposed on the local public road network. Following submission of the audits, Designers Responses should be provided and the issues raised will be required to be resolved to the satisfaction of the Overseeing Authority as part of the detailed design process for the proposed site access and other works.

Reason: In the interests of road and vulnerable user safety.

- 9 Prior to the commencement of the development a programme for monitoring the condition of the public roads to be used by construction traffic shall be submitted to and approved in writing by the Planning Authority. Thereafter the approved programme of monitoring shall be implemented. Any remedial works required to those public roads shown by the monitoring as arising from the construction of the development shall be undertaken by the applicant within 3 months of the completion of the final monitoring undertaken, unless an alternative means of securing the works is approved in writing by the Planning Authority. Any damage to the road surface as a direct result of the construction process of this development that is identified during the monitoring which could result in a significant risk to road safety should be repaired immediately, together with general repairs undertaken on a regular basis and periodic resurfacing where necessary, full details to be agreed with the Planning Authority.

Reason: To ensure that damage to the public road network resulting from the proposed development is rectified.

- 10 Prior to the commencement of development, the following details shall be submitted to and approved by the Planning Authority:

- A final Drainage Plan is submitted for approval (currently only indicative); and
- Discharge rate and attenuation calculations.

Development shall thereafter be carried out in accordance with the details so approved.

Reason:

To ensure the development is appropriately protected against flood risk and does not give rise to increased flood risk elsewhere.

- 11 No development shall take place on the proposed site until the applicant has undertaken and reported upon a programme of archaeological work (Archaeological Evaluation by Trial Trenching) in accordance with a written scheme of investigation which has been submitted by the applicant (or their agent) and approved by the planning authority.

The programme of work should comprise a field evaluation by trial trenching which should be reported upon initially through a Data Structure Report (DSR) submitted to East Lothian Council Archaeology Service (ELCAS). All work should be carried out under the terms of a Written Scheme of Investigation (WSI) which will need to be approved by ELCAS (on behalf of the planning authority) prior to work commencing.

The area to be investigated should be no less than 10% of the total site area.

Reason:

In the interests of the historic environment including archaeological remains.

- 12 The Development will disconnect from the grid and cease to import or export electricity no later than the date falling thirty-five years from the date of Final Commissioning. The total period for operation of the Development, decommissioning and restoration of the Site in accordance with this condition shall not exceed thirty-six years from the date of Final Commissioning without prior written approval of the Scottish Ministers in consultation with the Planning Authority.

Reason:

To ensure the development only operates within its designed and planning lifespan.

- 13 If the Development fails to export electricity via the grid connection for a

continuous period of twelve months, then it shall be deemed to be redundant and unless otherwise agreed in writing with the Planning Authority, the Company shall undertake the decommissioning, restoration and aftercare of the Site as required by other stated conditions.

Reason:

To ensure that if the Development becomes redundant the equipment is removed from the site, in the interests of safety, amenity and environmental protection.

- 14 No development shall commence unless and until a Decommissioning, Restoration and Aftercare Strategy has been submitted to, and approved in writing by, the Planning Authority. The strategy shall include measures for the decommissioning of the Development and restoration and aftercare of the site, and shall include, without limitation, proposals for the removal of the above ground elements of the Development, confirmation of the status of subterranean elements of the Development (retention, removal, or other such proposal), the treatment of ground surfaces, the management and timing of the works and environmental management provisions.

Unless the Development has been deemed to be redundant under condition 13, no later than twelve months prior to decommissioning of the Development or the expiry of the section 36 consent (whichever is the earlier) a Detailed Decommissioning, Restoration and Aftercare Plan, based upon the principles of the approved Decommissioning, Restoration and Aftercare Strategy, shall be submitted for the written approval of the Planning Authority.

If the Development has been deemed to be redundant under condition 13, no later than twelve months from the date the Development has been deemed to be redundant, a Detailed Decommissioning, Restoration and Aftercare Plan, based upon the principles of the approved Decommissioning, Restoration and Aftercare Strategy, shall be submitted for the written approval of the Planning Authority.

The Detailed Decommissioning, Restoration and Aftercare Plan shall provide updated and detailed proposals, in accordance with relevant guidance at that time, for the removal of above ground elements of the Development, the treatment of ground surfaces, confirmation of the status of subterranean elements of the Development (retention, removal, or other such proposal), the management and timing of the works and environment management provisions which shall include (but is not limited to):

- (a) a site waste management plan (dealing with all aspects of waste produced during the decommissioning, restoration and aftercare phases);
- (b) details of the formation of any construction compounds, welfare facilities, any areas of hardstanding, turning areas, internal access tracks, car parking, material stockpiles, oil storage, lighting columns, and any construction compound boundary fencing;

- (c) a dust management plan;
- (d) details of measures to be taken to prevent loose or deleterious material being deposited on the local road network, including wheel cleaning and lorry sheeting facilities, and measures to clean the site entrances and the adjacent local road network;
- (e) a pollution prevention and control method statement, including arrangements for the storage and management of oil and fuel on the site;
- (f) details of measures for soil storage and management;
- (g) a surface water and groundwater management and treatment plan, including details of the separation of clean and dirty water drains, and location of settlement lagoons for silt laden water;
- (h) details of measures for sewage disposal and treatment;
- (i) temporary site illumination;
- (j) the construction of any temporary access into the site and the creation and maintenance of associated visibility splays;
- (k) details of watercourse crossings; and
- (l) a species protection plan based on surveys for protected species carried out no longer than eighteen months prior to submission of the plan.

The Development shall be decommissioned, the site restored, and aftercare undertaken in accordance with the approved Detailed Decommissioning, Restoration and Aftercare Plan, unless and until otherwise agreed in writing in advance with the Planning Authority.

Reason:

To ensure the decommissioning and removal of the Development in an appropriate and environmentally acceptable manner and the restoration and aftercare of the site, in the interests of safety, amenity and environmental protection.

- 15 No development shall commence unless and until a bond or other form of financial guarantee in terms reasonably acceptable to the Planning Authority which secures the cost of performance of all decommissioning, restoration and aftercare obligations are submitted to the Planning Authority.

The value of the financial guarantee shall be agreed between the Company and the Planning Authority or, failing agreement, determined (on application by either party) by a suitably qualified independent professional as being sufficient to meet the costs of all decommissioning, restoration and aftercare obligations.

The financial guarantee shall be maintained in favour of the Planning Authority until the date of completion of all decommissioning, restoration and aftercare obligations.

The value of the financial guarantee shall be reviewed by agreement between the Company and the Planning Authority or, failing agreement, determined (on application by either party) by a suitably qualified independent professional no less

than every five years and increased or decreased to take account of any variation in costs of compliance with decommissioning, restoration and aftercare obligations and best practice prevailing at the time of each review.

Reason:

To ensure that there are sufficient funds to secure performance of the decommissioning, restoration and aftercare conditions attached to this deemed planning permission in the event of default by the Company.

- 16 Prior to commencement of development details of measures to seek to maximise local employment opportunities relating to the proposed Solar Farm shall be submitted to and approved by the Planning Authority. Those measures shall include a timetable for implementation. Development shall thereafter be carried out in accordance with the details so approved.

Reason:

In the interests of the local economy

- 17 Development shall not commence unless and until the Planning Authority has approved in writing the terms of appointment by the Company of an independent Ecological Clerk of Works (ECoW). The terms of appointment shall;

- a) Impose a duty to monitor compliance with the ecological and hydrological commitments provided in the supporting information lodged with the application and the Construction and Environmental Management Plan;
- b) Require the ECoW to report to the Company's nominated construction project manager any incidences of non-compliance with the ECoW works at the earliest practical opportunity;
- c) Require the ECoW to submit a monthly report to the Planning Authority summarising works undertaken on site; and
- d) Require the ECoW to report to the Planning Authority any incidences of non-compliance with the ECoW Works at the earliest practical opportunity. The ECoW shall be appointed on the approved terms throughout the period from Commencement of Development, throughout any period of construction activity and during any period of post construction restoration works.

Reason:

To secure effective monitoring of and compliance with the environmental mitigation and management measures associated with the Development.

- 18 No development shall take place until a Habitat Management and Enhancement Plan (HMEP) has been submitted to and approved by the Planning Authority, which shall include on-site and off-site measures as appropriate to restore and enhance habitats including broadleaved woodland, neutral grassland, lowland meadow, mixed scrub and native hedgerow. The HMEP shall also include a timetable for implementation of the measures identified within it. The HMEP shall be designed to maximise

biodiversity enhancement, in combination with HMEP's for other nearby energy developments.

The development shall thereafter be carried out in accordance with the approved Habitat Management and Enhancement Plan unless otherwise approved in writing by the Planning Authority.

Reason:

To ensure the development results in the management and enhancement of biodiversity.