

Appeal Decision Notice

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Decision by Timothy Brian, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: P/PPA/210/2006
- Site address: Keith Hill, Humbie, East Lothian, EH36 5PN
- Appeal by Mr Sandy Hodge against the decision by East Lothian Council
- Application for planning permission reference 09/00010/FUL dated 22 January 2009 refused by notice dated 2 September 2009
- The development proposed: Erection of 10 wind turbines and ancillary infrastructure including external transformers and associated hardstandings and underground cabling, access tracks, substation and control building and one meteorological mast
- Dates of site visits by Reporter: 31 January and 10 February 2010

Date of appeal decision: 15 February 2010

Decision

I dismiss the appeal and refuse planning permission.

Preliminary matters

(i) I note that a separate application to Scottish Borders Council for the section of the proposed access road lying within its jurisdiction has been held in abeyance pending the outcome of this appeal.

(ii) The main parties to this appeal referred in their evidence to Scottish Planning Policy 6: Renewable Energy (SPP 6), which has now been superseded by the new consolidated Scottish Planning Policy (SPP), published on 4 February 2010. However, I am satisfied that the new SPP does not materially affect the parties' cases, or my decision on the appeal.

Reasoning

1. The determining issues in this appeal are the landscape and visual impacts of the proposal, including cumulative impacts and the effect on the Lammermuir Hills Area of Great Landscape Value, having regard to the provisions of the development plan and national planning policy.

Landscape impact

2. The appeal site lies at the western end of the Lammermuir Hills, which are designated as an Area of Great Landscape Value (AGLV). Development affecting such an area will only be permitted under structure plan policy ENV1D where it can be demonstrated that the objectives and overall integrity of the designated area will not be compromised, or the social or economic benefits of the development outweigh the interest of the site. Local plan policy NH4 states that development that harms the landscape character and appearance of AGLVs will not be permitted.

3. The appellant's landscape consultants carried out a landscape and visual assessment as part of the environmental impact assessment of the proposal, and have produced a further report in response to the council's reasons for refusal. The environmental statement (ES) notes that Keith Hill is on the edge of the *North Lammermuir plateau* landscape character area (LCA), at the transition of the upland landscape forming the boundary between East Lothian and the Scottish Borders. The site lies within the *plateau grassland* LCA, and the land cover is mainly improved and semi-improved grassland with conifer shelter belts. The ES acknowledges that the introduction of 10 wind turbines (100m high) in an area of transition between uninhabited upland and settled farmland would inevitably modify landscape character.

4. However, the *plateau grassland* LCA already contains the long established windfarm at Dun Law 1, which comprises 26 turbines (63.5m high to blade tip) on either side of the A68. The ongoing development of Dun Law 2 will add a further 35 turbines (75m high to blade tip) on either side of the A68. Manifestly, this large windfarm has already affected the character of the existing landscape in this area, and forms part of the context of the appeal site. The approved development of a further six turbines (76m high to blade tip) at Pogbie, adjacent to the appeal site, will add to that perception.

5. Local plan policy NRG3 states that the council will have regard to the findings and recommendations of the 'Landscape Capacity Study for Wind Turbine Development in East Lothian (May 2005)' in assessing such proposals. The study notes the following characteristics of the *plateau grassland* LCA: a broad, gently undulating plateau with large horizontal scale and open character; uniform grassland cover, interrupted by long coniferous shelterbelts; and forestry, the A68 and existing windfarm development. The study concludes that this LCA has low-medium sensitivity to wind turbine development, and moderate to high capacity for development.

6. However, the landscape capacity study also concludes that "*the number of turbines that could be accommodated will be limited by the necessity to minimise impacts on the North Lammermuir Platform by siting turbines away from the 'rim' of the scarp (a subtle ridge of ground which provides a degree of containment to the shallow bowl landform on the top of the plateau) and to avoid intrusion on extensive views from the A68 over East Lothian.*" The study considered that smaller (65m) turbines would have a better visual relationship with existing turbines, but should be designed as an extension to the existing windfarm in order to attain a cohesive pattern of development. Larger turbines (120m) were

expected to conflict with the scale, spacing and sequence of blade movement of existing turbines at Dun Law if located close by.

7. I recognise that: the study only considered two alternative 'development typologies'; the larger turbines were 20m higher than those proposed on the appeal site; the average height and the efficiency of wind turbines has increased since 2005; and there has been an increasing recognition of the urgency of tackling man-made climate change. However, I am satisfied that the general guidance which it contains remains sound. Indeed, it might be seen that the doubling of size of the nearby Dun Law windfarm, and the recent planning permission for a small windfarm at Pogbie adjacent to the appeal site, would have implications for the residual capacity of the area to accommodate additional turbines.

8. I agree with the council and Scottish Natural Heritage (SNH) that the proposal would have significant adverse impacts on the landscape character of the *North Lammermuir platform* LCA, because of the siting, elevation and height of the turbines. I note that the proposal would bring turbines closer to the rim of the scarp, and therefore conclude that it would intensify the impact of windfarm development on the landscape, especially when viewed from the north. Three turbines in particular (T3, 4 and 6) would be sited on the ridge at 400-435m AOD, and two further turbines (T5 and 10) would be sited over the ridge on the northern side. Unlike the proposed Pogbie scheme, which would site the turbines in a relatively low lying area on the fringe of the plateau, the appeal proposal would develop ten 100m turbines on higher land between 360-435m AOD. Even the extension to Dun Law will keep that windfarm on generally lower ground, below 380m AOD.

9. The contrast between the appeal proposal and the other two windfarms would be especially evident from viewpoints 1 and 2. From there the turbines at Keith Hill would appear on higher ground, and would be more prominent on the skyline because of their elevated position and greater height. For the same reasons the proposed development would also be more prominent when seen from vantage points to the north and west (viewpoints 4-7).

10. The turbines at Keith Hill would be substantially taller than those at Dun Law 1 (63.5m), Dun Law 2 (75m), or Pogbie (76m). Although they would be significantly smaller than the turbines approved at Toddleburn (125m), those turbines would not be an important feature in any of the views of the Keith Hill wind farm.

11. The ES acknowledges that the presence of 100m turbines near the top of the slope (which itself rises around 150m from the farmland at the bottom to the moorland at the top) would reduce the perceived height of the slope, and change the character of this medium scale agricultural landscape. The ES regards the visual sensitivity of the *North Lammermuir platform* LCA as high, and the magnitude of change as high. I agree with the conclusion in the ES that there would be a major and significant effect on that LCA. There would also be a significant effect on the *Lowland plains* LCA (Haddington Plain), which is a low-lying and open agricultural area crossed by a network of roads.

Visual impact

12. I share SNH's concern that approval of the submitted Keith Hill scheme would extend the impact of turbines on the skyline at the west end of the Lammermuirs. This would be apparent in views from the west and north west, including viewpoints 1 (Soutra Aisle), 5 (Fala) and 9 (Peaston), from where the new, taller turbines would be seen in conjunction with those of nearby windfarms at Dun Law and Pogbie. However, even in its own right the proposed windfarm at Keith Hill would have a significant visual impact when viewed from viewpoints 6, 7 and 8. From the village of Humbie (viewpoint 7) Dun Law is not seen, and only the tips of the blades of certain turbines at Pogbie will be visible, whereas substantial parts of the towers and blades of 5 or more of the Keith Hill towers would be seen on the skyline over a distance of about 4km. That would be a significant change, as the new towers would protrude above and beyond the scarp and intrude into relatively unspoiled views of the Lammermuirs from the north side. As such it would be an unwelcome interruption of the ridge which forms such an important backdrop to East Lothian at this point.

13. Overall I conclude that the proposal would have a significant adverse visual impact in its own right, and particularly in combination with other nearby windfarms. Whilst the windfarm at Keith Hill would take access through the Dun Law windfarm, because of its differing layout, elevation and turbine height it would not read as an extension of the existing windfarm.

14. For the reasons given above I conclude that the proposed development would have an adverse effect on the character and appearance of the Lammermuir Hills AGLV.

Other grounds of objection

15. I have also considered the other grounds of concern cited by the objectors, including the potential impact on wildlife, noise and shadow flicker. I agree with the council that planning conditions could restrict noise to a satisfactory level and that shadow flicker would not be a nuisance in this case. Subject to the creation of a replacement habitat there should be no detriment to black grouse in the area.

Development plan policies

16. However, for the reasons already given I conclude that the appeal proposal would harm the landscape character and appearance of the AGLV contrary to local plan policy NH4. Whilst it might be argued that the development would not compromise the overall integrity of the AGLV, it would be contrary to the objectives of designation (structure plan policy ENV1D). It would not be supported by structure plan policy ENV6 which supports the development of renewable energy resources where this can be achieved in an environmentally acceptable manner.

17. Although well sited and designed windfarms could qualify as acceptable development in the countryside under structure plan policy ENV3 and local plan policy DC1, I do not consider that the scheme is well integrated into the rural landscape as required by

the policies, or sited to minimise visual intrusion and landscape impact. I also conclude that the proposal is contrary to local plan policy NRG3: Wind Turbines, as it would change the existing landscape character in an unacceptable way, and would have an unacceptable visual impact on the landscape.

National planning policy

18. There is strong support in principle for the development of renewable energy schemes in statements of Government policy and advice. SPP 6, which was referred to in the parties' written submissions, confirmed the aim to enable Scotland to realise its considerable renewable energy potential, and acknowledged the important contribution of onshore wind power to meeting renewable energy targets. However, SPP 6 also recognised that a balance has to be struck when determining renewable energy proposals, and that a more cautious policy may be applied in areas designated for their regional and local natural heritage value (such as AGLVs). PAN 45: Renewable Energy Technology advises that windfarms should be accommodated where the technology can operate efficiently and environmental and cumulative impacts can be addressed satisfactorily.

19. I do not detect a shift in renewable energy policy in the terms of the new consolidated Scottish Planning Policy which would affect the determination of this appeal.

Other material considerations

20. I note that none of the statutory consultees objected to the proposal, with the exception of Scottish Natural Heritage, and that the appellant questions whether it was appropriate for SNH to object on landscape and visual grounds in this case. However, I have determined the appeal on its merits, having regard to the findings of the environmental impact assessment and the submissions by the appellant and the council, and in the light of my site inspection. I acknowledge the greater efficiency and increased energy output of the 100m turbines proposed in this case, but nonetheless conclude that the appeal proposal is not appropriate on this sensitive site on the edge of the Lammermuir Hills.

This is a true and certified copy as issued to parties on 15 February 2010

T P W BRIAN
Principal Reporter