

The Scawd Law Windfarm Application (ECU00002111)

This Further Representation from Clovenfords & District Community Council was agreed unanimously at our CC meeting on 14th April 2025

1.0 Introduction

Clovenfords & District Community Council (C&DCC) submitted on 25 February 2023 an objection to the Scawd Law windfarm application. We maintain our objection.

In the succeeding two years there have been significant changes to the application, changes to the National & Local Development Planning framework and changes in the local environment, and there is now a greater understanding of the potential impact of the proposal which in part has been reflected in the submission of Further Environment Information (FEI) by the applicant - which itself floats the possibility of a smaller, 6 turbine, development. This further representation from our C&DCC is a response to the changes, improved understanding, and the FEI; and constitutes an update to our original objection which remains in force. We will use the same format as in our 2023 objection.

2.0 Landscape Impact

We recognise the significance of changes that have been made since February 2023 to Scottish Borders Council's (SBC's) Local Development Plan (LDP) to incorporate NPF4 in place of previous National and Strategic Plans. We also recognise that along with the more prominent status afforded to NPF4 in the LDP, the Supplementary Guidance on Renewables (2018) has become – lower status – Supplementary Guidance; however introductory note 1.6 to LDP Policy ED9 does state that this “... guidance may be used to assist in the assessment of renewable energy proposals.” Also, the 1.4 note to Policy ED9 states that the aim of the policy “... is to support renewable energy, to guide development to appropriate locations, and to advise on factors to be taken into account in considering proposals.”

In line with the above we contend that the Scawd Law proposal, whether the full proposal for an 8 turbine development or the smaller 6 turbine proposal – both for turbines of 180m tip height - is on a site on the edge of the Moorfoot plateau, with poor topographical screening, and on a site bounding directly onto the Tweed Valley Special Landscape Area (SLA), thus encroaching on this part of the Tweed Valley. In light of the landscape sensitivity of this specific project it is directly and significantly contrary to the advice of the above Supplementary Guidance.

As we stated in February 2023 potential visibility of blades & turbines - as shown in the ZTV for both the 8 turbine and for the 6 turbine proposal - extends beyond the Tweed Valley SLA into the Tweed, Ettrick and Yarrow Confluences SLA – adjacent to where our village is located, and the countryside to the east and south of our village will have tip visibility of all the turbines in both the 8 turbine and 6 turbine configurations – at a distance of 9.5km from the proposed windfarm.

SBC's Supplementary Guidance on Local Landscape Designations [this is dated August 2012 – not 2021 as we noted in our Feb 2023 objection], which is an integral part of LDP Policy EP5, explicitly elaborates on the importance of careful management of the potential impact that changes might have on the quality and integrity of these SLA's and specifically states in "Management recommendations" for Tweed Valley [page 23] and for Ettrick and Yarrow Confluences [page 25] the need to "Consider the effects of development on hilltops such as masts or wind farms which may be visible within the valley". Our wider community straddles these SLA's, and we do not think that sufficient consideration has been given to the "effects" on these SLA's.

This is of no small significance in relation to the requirements of NPF4.

Whilst recognising that Special Landscape Areas are not a 'national' designation; the fact that the applicant assesses that there is significant visual impact at Viewpoint 19, Three Brethren, at 11.1km distant from the proposed development – with full visibility of all 8 or of all 6 turbines – and sitting within a Special Landscape Area underlines that the significant landscape and visual impacts are not localised. This is contrary to the requirements of Policy 11 e) ii) of NPF4

There is a similar situation appertaining at Viewpoint 20, Selkirk Common, to the East of Selkirk. This is 18.1km distant from the proposed development and is right on the edge of the Ettrick and Yarrow Confluences SLA. Again, there is full visibility of all 8 or of all 6 turbines and although the applicant assesses the visual impact as 'minor' this must surely be understating the impact on receptors who are identified as walkers – primarily out to enjoy the view of the landscape! We think this is an unreasonable assessment by the developer of the impact given the sensitive landscape setting of an SLA. Viewpoint 20 is representative of the visual impact on the Ettrick and Yarrow Confluences SLA and the eastern extent of that Special Landscape Area is shown in the ZTVs to have visibility of all the turbines on a wide swathe of land stretching from Selkirk past Lindean almost to Melrose.

Approval of the Scawd Law application would not be consistent with following the Local Landscape Designations Supplementary Guidance in respect of protecting Special Landscape Areas.

NPF4 Policy 4, Part d) .. Deals with local landscape designations and states that:-

“Development proposals that affect a site designated as a local nature conservation site or landscape area in the LDP will only be supported where:

“i Development will not have significant adverse effects on the integrity of the area or the qualities for which it has been identified; or

“ii Any significance adverse effects on the integrity of the area are clearly outweighed by social, environmental or economic benefits of at least local importance.

Whilst it is curious that the qualification in subsection ii) ostensibly applies only to the ‘integrity’ of the area. It is clearly the case that the landscape impacts of the proposed windfarm affect “.. the qualities for which...” a Special Landscape Area has been identified. We contend that those landscape impacts are geographically extensive, across a broad area of two adjacent SLAs, and not localised. We also argue below that the actual generating capacity of the proposed windfarm both in its 8 turbine and its 6 turbine iteration is below 50Mw and thus does not justify a ‘national’ designation as a basis for overriding NPF4, Policy 4.

Therefore, we assert that the proposed windfarm does not comply with the requirements of NPF4, Policy 4.

There is incidentally an absurdity exposed when considering Viewpoint 20 - in the relationship between policy and its practical application. In that the wording of Policy 11 e) ii) of NPF4 requires that “Where impacts are localised and/or appropriate design mitigation has been applied, they will generally be considered to be acceptable”. This is generally taken to imply the opposite... I.e. that non-localised impacts will generally be considered to be unacceptable. But here we have a situation where a development seen from Viewpoint 20 at 18.1km distant (so clearly not localised) is evaluated by the developer’s consultant to have a minor impact as the turbines would occupy only a small part of the view, due – inter alia – to distance!

NPF4, Policy 11 emphasises design mitigation of the landscape and visual impact as a potential basis for establishing the acceptability of a proposal. But exactly what mitigation has been applied to the 8 turbine or 6 turbine alternatives for Scawd Law is not clear. The Environmental Impact Assessment (EIA) elaborates on design iteration; but iteration is not per-se mitigation and the 6 turbine option has not been suggested as design mitigation with respect to the landscape and visual impact of the 8 turbine option.

3.0 Visual Amenity

A visualisation at Viewpoint 12 was specifically requested during the EIA scoping process to be representative of the views of the proposed development from the back road which runs from Glenkinnon/Peel, in our district, to Walkerburn. The actual position chosen for this visualisation is closest to the development – but, conveniently for the developer, there are some trees at Viewpoint 12 (the Batta)** obscuring part of the view. Just a few yards further east the view is much more open, and from a higher vantage point. So, the development will actually be much more visible than represented in the visualisation of Viewpoint 12. We raised this in our objection of 25 February 2023 where we pointed out, in relation to the 8 turbine application, that one of the developers sequential route visibility maps, [EIAR Volume 3, Figure 6.10f], covers this minor road and must be read in conjunction with the visualisation of Viewpoint 12 to understand the overall visual impact on sections of the back road. Along most of that road 5 - 8 turbines are shown in 6.10f as potentially visible, which is the reality on the ground.

In the FEI there is a suggestion that the “Moderate adverse and significant effect” of the visibility from Viewpoint 12 in the 8 turbine proposal should be downgraded for the 6 turbine alternative to a “Minor not significant effect”. [6.8.2 of Additional Information Volume 3, February 2025, 1374963, page 86]. This proposal is apparently justified by the observation that foreground trees screen turbines 1 to 6. We contend that this is an incorrect assessment due to the ‘convenience’ of the chosen location for Viewpoint 12, where trees just happen to obscure 6 of the turbines which are clearly in view slightly further east. There is no equivalent to the sequential map (6.10f) for the FEI to reinforce what we argue here; but the reality on the ground, and any unbiased assessment of the view of the proposed development would conclude that for *either* 6 or 8 turbines there will be significant adverse effects.

Moreover, this back road is a tourist route, and this route is a sensitive receptor. Not only part of Sustrans Route 1 of the National Cycle Network, but also part of the Destination Tweed 113 mile ‘Source to Sea’ River Tweed Trail described as “... one of the UK’s newest long-distance routes, showcasing the exceptional natural, built and cultural heritage from Moffat to Berwick-upon-Tweed ...” [<https://destinationtweed.org>] and financed in part from the Borderlands Growth Deal.

There is sequential visibility of Scawd Law turbines (which here are about 6 km distant) and there are repeated intermittent views along in excess of 4 km of this route. As you travel westwards on the back road that view is in front of you. The potential visibility of the proposed development along this route has significantly increased following the wind-damage and subsequent felling of trees after Storm Arwen in 2021, and there will be no less significant and adverse impacts from the 6 turbine proposal than would be expected from the 8 turbine proposal.

We consider the visual intrusion of either the 8 turbine or the 6 turbine proposal from and along this significant and sensitive Tourist route to be unacceptable.

Also unacceptable is the sequential impact, illustrated in Figure 6.10g, of visibility along the route of the Southern Upland Way (SUW). Because of the elevation of this significant cross county cycling and walking tourist route, and also because of the close proximity to the Scaud Law site all along the section around Minchmoor (Viewpoint 17); the tens of kilometres of the SUW illustrated in Figure 6.10g where there will be sequential visibility of all of the turbines represents an unacceptable visual impact.

Moreover, we are not in agreement with the assessment of cumulative impact of Scaud Law with other windfarms from this high vantage point. If Scenario 3 developments are approved there will be 7 wind-farms visible here even without Scaud Law – the addition of the latter in a prominent foreground position could lead this to be considered a ‘windfarm landscape’.

There are four identified Viewpoints along the SUW:– 23, Blake Muir at 11.4km distance; 16, Kirkhouse at 7.8km distance; 17, Minch Moor at 7.8km distance; and 19, Three Brethren at 11.1km. All of these are considered to be receptors of High Sensitivity and assessed as potentially experiencing Moderate adverse and Significant effects from the proposed development. We emphasise that the Southern Upland Way is a national designation, and that these significant adverse effects will be experienced along a long length of this route... and that there is no reasonable basis for assessing these effects at the distances indicated as localised. This is clearly contrary to the requirements of NPF4 – especially Policy 11; and this assessment is valid both for the 8 turbine and for the 6 turbine proposal.

These are not the only unacceptable visual intrusions of the Scaud Law proposal; but these practical illustrations are cited as supportive evidence of our assertion that in certain cases the EIA establishes that there will be significant visual impact – which is not localised - from the proposed development. It is of particular concern that in these examples the sensitivity of receptors to the visual impact will be increased by use by tourists and visitors of these recognised routes, some of which have national designations.

For the reasons elaborated here and in the preceding section, we assert that the proposed windfarm has significant landscape effects that are not localised nor mitigated, so does not comply with the requirements of NPF4, Policy 11.

(** Note:- we identified this in error as Viewpoint 14 in our 2023 submission – it is in fact Viewpoint 12)

4.0 Local Environment Impact

We wish at this time to add little to our observations made on 25 February 2023 under this sub-section. Our concerns in regard to the neighbouring land designations (SSSI & SAC) and in regard to the potential impact of the night-time illumination remain as articulated in 2023 – with one significant exception.

We passed a comment two years ago about there being “... the occasional golden eagle...” because some in our community were aware of rare sightings going back to 2011 when ‘Roxy’ was the sole golden eagle tagged in the South of Scotland which would very occasionally be shown on tag data to fly over our locality.

It is a matter of concern to us that the growth in the population of golden eagles in this locality, and in particular in the land area proposed for this windfarm, seems to have been underestimated and under-reported by the developer – there was little mention of it in the original EIA. But now - the primary reason for issuing the FEI has been concern about the population of, and potential impact of the development on the habitat of, local golden eagles. It is surprising therefore that the data on these birds in the voluminous FEI only goes up to the 2023-2024 breeding season, and even then there seems to be growth in the population. The reasonable conclusion is that the population will continue to grow ... so that the FEI estimate that the potential effects of collision risk are considered to be of low negative magnitude and not significant; may well be optimistic.

As there is a valid argument for regarding the growing local population of golden eagles as being of national significance it seems to us to be reckless to assess the risks of the impact of the development on these birds on the basis of what appears to us to be limited data. It also seems very odd to conclude that a suspensive condition to potentially remove two turbines will give adequate protection to these birds commensurate with their significance.

We make no comment on the potential impact of the proposed development on the Eskdalemuir seismic array but note that there does not yet appear to be any update in regards to the 6 turbine proposal from the MOD after their objection dated March 2023 to the 8 turbine scheme. Calculations in the FEI (Appendix 9.1) utilise a logic for assessing the seismic impact limit of turbines which we understand has not yet been agreed by the Scottish Government – clearly an MOD response to this is essential. We also draw to your attention the very substantial objection at the Greystone Knowe windfarm inquiry where there were proposed turbines of similar height to Scawd Law on a site further away from Eskdalemuir.

5.0 Renewable Energy Production

The 8 turbine proposal for Scawd Law has an actual generating capacity of 48 Megawatts (Mw). The application quotes 60Mw as it adds 12Mw of battery capacity.

Whilst we recognise this complies with the requirements of the Chief Planner it is just confusing.

A battery can smooth out the distribution of power over time but will not add to the generating capacity, and in any case the capacity of a battery is measured in Megawatt Hours – but that has not been stated. Megawatts for a battery is a measure *only* of the maximum rate of discharge. Nowhere in the EIA is there any explanation of the purposes of a battery located on the Scawd Law ridge; and without a statement on the storage capacity of the battery, the purpose can only be guessed at. The FEI with a 6 Turbine proposal, which will have a lower capacity of actual generation (about 36Mw), proposes a ‘larger’ battery. Bringing both turbines and battery up to 60Mw. This seems to us just a ruse to continue to get the development over the artificial 50Mw limit which requires assessment by the ECU against the Electricity Act, and thus to get the proposed wind farm classified as a ‘national’ development. The 8 turbine proposal and especially the 6 turbine proposal do not comprise a national scale of electricity generation and we object to this mechanism which – when the requirements of NPF4 are applied - conveniently serves to reduce the level of scrutiny of the environmental impact of the proposal.

Notwithstanding the inclusion of a battery for this purpose – when it comes to use generating capacity to calculate potential community benefit, the battery is ‘conveniently’ excluded!

The Scottish Government’s quoted ambition for onshore generation capacity by 2030 is 20Gw; Scawd Law’s potential contribution to that of 48Mw (let alone the lower 36Mw) is very small, and in any case, the suggested grid connection is to the new Gala North substation – that is currently estimated to be operational from 2028-9; so, understandably in local discussions, Fred Olsen Renewables Ltd (FORL) officers have indicated they hope for an operational start to Scawd Law in 2030 – 32 [30 August 2024 Communities meeting with Julie Aitken of FORL]. It seems improbable that Scawd Law can contribute to the Scottish Government’s ambition for 2030.

There is an argument that further on-shore wind capacity is not needed in Scotland. The Scottish Government’s Q2, 2024 Energy Statistics state on-shore wind capacity at 9.8Gw, along with current off-shore capacity of 2.9Gw this contributes to a total renewable capacity of 15.6Gw. That dataset also shows a pipeline of on-shore wind projects amounting to 14.7Gw (and a total renewable pipeline of projects planned,

consented or in construction of 51.3Gw). So, at 9.8+14.7, Scotland is on track to meet the Scottish Government's 2030 on-shore capacity ambition of 20Gw without any contribution from Scawd Law, and the total capacity of operational and pipe-line renewable projects could amount to many multiples of the current average demand in Scotland.

The excess of generating capacity vs demand in Scotland and limitations in the physical capacity of the grid to redistribute renewably generated electricity result in significant constraints payments to developers, when the National Energy Systems Operator requires electricity generators to reduce their output to maintain system stability These payments amounted to £390m paid to Scottish Windfarm operators in 2024 [energyvoice.com, 13 January 2025]. According to the Renewable Energy Foundation.... "... any new proposal for wind power in Scotland, which increase potential output, must be expected to increase constraints. Additional capacity therefore has a high probability of some part of its own output being constrained off, reducing the global benefits it can claim to offset environmental harms." [ref.org.uk blog, 17 February 2022]

We recognise that this astonishing mismatch between generation capacity and demand is outwith the control of planning authorities, but it has to have some weight in the balance of costs vs benefits for an individual project.

Apart from the problems of constraint when the national electricity system and/or the grid cannot cope with electricity production and a windfarm operator has to be paid to switch off; there is a reduction in actual output from load factors – principally too little or too much wind. The average load factor for on-shore wind quoted by Renewables UK is 26.3%... so the potential real annual output from Scawd Law could be as low as 122.6Gw hours (or 92Gwh for the 6 turbine alternative). Against typical UK annual electricity demand of 316,520Gwh (2023) this is tiny!

Our C&DCC remain fully aware of the importance of finding sustainable and affordable energy sources – as we said in our 25 February 2023 objection.. "Energy crisis and climate change articles fill my news feed on a daily basis," said one CC member. Nevertheless, we consider that, if approved, the Scawd Law development can only have a minimal impact in reducing the national levels of carbon emissions from electricity generation.

6.0 Local Contribution

We maintain the views which we expressed in February 2025 on local contribution, which we would sum up as: -

Statements can be made about local jobs – but these are relatively few when the turbines are manufactured abroad. Statements can be made about 'community

benefit'; but the £5000 per Mw suggested was originally proposed by the Scottish Government over 5 years ago and there is no mention of uplift for inflation since then; in any case this is not a material planning consideration

A question not addressed in the statement of benefits – and sadly this is commonly the situation for windfarm applications – are the benefits and profits which will accrue to the developer and the landowner over the lifetime of the project if the application is approved.

It would be naïve to conclude that in comparison to the profits for the developer and the landowner over the lifetime of this windfarm there will be any significant local financial benefit to set against the impact on landscape, visual amenity and the local environment.

7.0 Conclusion

It is of some concern to our CC that the developer – in light of representations by consultees about the potential impact of the development on golden eagles - has made the unusual suggestion of a suspensive condition that “Turbines 7 and 8 ... shall not be erected without the consent in writing of the Planning Authority in consultation with NatureScot.” [Natural Power letter to ECU, 21 February 2025]. We have attempted to address here the potential impact of the resultant 6 turbine development alongside our concerns about the 8 turbine development.

But the application to be decided is an application for a windfarm of 8 turbines.

We are firmly of the view that if the developer wants only 6 turbines they should have withdrawn the current application and made a new application for a 6 turbine development. What is presented in the Further Environmental Information feels to us to be dubious in that it is suggesting something that amounts to saying... “please give consideration to a 6 turbine development so that we can come to a private agreement to make the actual development 8 turbines.”

The application to be decided is an application for a windfarm of 8 turbines. The summary in Chapter 10 (page104) of AI: Volume 3, Alternative Layout Report says that removing two turbines will have a negligible effect on the issues of landscape and visual impact which concern us significantly. It should also be noted that the proposed suspensive condition is potentially mitigation for the impact on protected species, it has *not* been proposed as mitigation of impacts on landscape or visual amenity.

We remain of the view that the Scaud Law wind-farm proposal is the wrong scale of development in the wrong place. It will give little contribution to national carbon emissions reduction intentions, at the expense of significant visual impact on the adjacent area of the Tweed Valley Special Landscape Area; indeed, it will potentially

dwarf part of the Tweed Valley and because of the shape of the landform there is little opportunity for mitigation.

It does not comply with the requirements of NPF4, Policy 11 in that significant landscape and visual impacts are not localised, and although in the scoping exercises there were speculative assessments of developments with many more turbines, there has been no mitigation of the 8 turbine proposal in the substantive application.

It also does not comply with the requirements of NPF4, Policy 4 as there will be significant adverse effects on the landscape qualities of two Special Landscape Areas that are not outweighed by social, environmental or economic benefits.

There are unresolved issues of the impact of this proposal on the internationally significant Eskdalemuir seismic array; and,

In addition, the development will potentially have a detrimental impact on the habitat of a nationally important and protected bird species – Golden Eagles – though the details of projected impacts have yet to be unambiguously presented.

We maintain our objection to the proposed Scawd Law windfarm.