

**Katie Butchart**

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**From:** informed@planning.nature.scot  
**Sent:** 28 April 2025 15:30  
**To:** Econsents Admin  
**Cc:** Kirstin Keyes  
**Subject:** NatureScot response - Scawd Law Wind Farm - Additional Information - ECU00002111

Scottish Government Energy Consents Unit

Our ref: CNS/REN/WF/SL

Your ref: ECU00002111

28 April 2025

FAO Kirsten Keyes

Dear Sir

**The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017**

**Electricity Act 1989 Section 36 and Schedule 8:**

**Application for Scawd Law Wind Farm**

**Additional Information**

Thank you for consulting NatureScot on the Additional Information (AI) submitted to support the application for Scawd Law Wind Farm, Scottish Borders.

The AI includes:

- Updated assessments due to a proposed reduction in turbine numbers to be achieved through a suggested planning condition that would prevent construction of T7 and T8, plus an increased Battery Energy Storage System (BESS)
- Updated ornithological impact assessment following further survey and data for golden eagle
- Assessment of the impacts of the proposed development on the breeding golden plover feature of the Moorfoot Hills Site of Special Scientific Interest (SSSI)
- A revised Outline Habitat Management Plan

## **NatureScot Position: Advice**

This response should be read in conjunction with our response dated 2 February 2024.

Our advice remains unchanged in that the inclusion of turbines 7 and 8 could result in significant effects on golden eagle and therefore have a negative effect on biodiversity, and we welcome their proposed removal.

Minimising the impacts of this proposal is even more important now that a second pair of golden eagle have established their territory at Scawd Law, re-enforcing the Moorfoot Hills as a key area for this species at the regional scale. It is our understanding that the Moorfoot Hills is becoming a key area for re-establishing territorial golden eagles from the South of Scotland Golden Eagle Project (SSGEP), itself set up to recover the conservation status of this species.

We consider that the proposed planning condition which would allow turbines 7 and 8 to be constructed only by written permission from the planning authority may be appropriate. This is because we do not believe there are any potential mitigation strategies which could result in the construction of turbines 7 and 8 in their current proposed location that would also ensure the integrity of the golden eagle territory as assessed. Any future request to allow construction of turbines 7 and 8 should follow the standard consenting and EIA processes. This would ensure that sufficient environmental information is made available to decision makers and consultees, in accordance with the EIA Regulations.

We welcome clarification of other points we raised in our response.

We advise that regular contact is made with the SSGEP – now known as Restoring Upland Nature (RUN) - to ascertain the extent of golden eagle activity in this area as this proposal progresses. The golden eagle baseline is quickly changing, with activity levels currently increasing, meaning the data and assessments in the AI for this application are already out of date. We are not seeking updated information from the applicant because it is unlikely to change our assessment on the level of impact at this time.

We welcome the proposal to develop and implement an Operational Monitoring Plan.

## **Appraisal and Advice**

## Golden Eagle

The AI assessment for golden eagle has been difficult to follow in places, for example in presentation of tag data by year without separating out the movements of individual birds.

We welcome the removal of Turbines 7 and 8 from the development proposal to address the potential impacts of their location on the integrity of the territory of the established pair of golden eagle, as demonstrated by the lower impacts predicted by the updated GET model assessment on the 6 turbine layout (AI Volume 3: AI Confidential Appendix 3.3). We note that the barrier effect from these two turbines to movement of the birds within this part of their home range is now acknowledged by the applicant in Section 8.6.22 of Scawd Law AI Volume 2 - Additional Ornithological Information.

We disagree with the presentation of the updated collision rates for golden eagle. The figures appear to have been averaged over four years, yet the birds were only present over the two most recent years, and since we can expect that they will continue to be present, data from the time they established their presence is what should be presented. Therefore, we consider that the 0.05 birds/year should be double that (AI Volume 2 Appendix 8.1 Table 8.1.7) – i.e. only using 2022 onwards =  $(0.04 + 0.14/2) + 0.01 = 0.1/\text{yr}$ .

The AI mentions that in 2024 a second pair of golden eagle established territory in this area, to the east of the already established territory, in Section 8.2.3.5 of Scawd Law AI Volume 2 – AI Confidential Appendix 8.2 Ornithology and in Section 3.2.3.5 of Scawd Law AI Volume 3 – AI Appendix 3.2 - Ornithology Confidential Appendix. No further mention is made of this in the AI, making the assessment of impacts of this wind farm proposal on the single pair of golden eagle out of date.

Whilst it would be possible for the applicant to work with existing current data to provide an updated assessment for both pairs, this additional assessment would not change our advice that turbines 7 and 8 should be removed from this important ridge.

The establishment of a second pair of golden eagle at this site illustrates the shifting baseline in Southern Scotland for golden eagle and the importance of the Moorfoot Hills to these birds. It also highlights the importance of regular contact with SSGEP for current data as new territories are being established.

It is important to highlight that should eagles nest in a location in close proximity to the proposed windfarm infrastructure, this could become a significant constraint to the project.

We welcome the proposal to develop and implement an Operational Monitoring Plan (OMP) to monitor

the potential impact of the Proposed Amended Development on golden eagle and hen harrier, as proposed in Section 3.7 of Scawd Law Wind Farm Additional Information: Volume 3 Alternative Layout Report - February 2025.

### **Moorfoot Hills SSSI**

We welcome the assessment of the potential effects of the proposal on the breeding golden plover interest of the SSSI and agree with the conclusions drawn that impacts would not be significant.

We welcome our proposed inclusion in discussions over the impact of pinch points along the access route on the habitat features of the Moorfoot Hills SSSI and SAC. Although we had advised in our earlier response of our view that there is no likely significant effect on the qualifying interests of the SAC, either directly or indirectly, from the minor road widening works which would be necessary along the delivery route to facilitate access of turbine components to the proposed site where this is within the SAC, and that we consider it unlikely that this work will affect the blanket bog, upland habitat assemblage, and breeding bird assemblage notified interests of this upland SSSI, it would be prudent for us to be consulted in case the nature and extent of the work required is different to that set out in the EIA Report.

### **Vantage Point Selection**

We appreciate the explanation given of the reason for the changes to VP locations used in 2023 and 2024 for the bird survey work.

### **Ecology**

We agree with the conclusions of the updated assessments for the revised layout that there are no changes to the predicted magnitude or significance of effects.

### **Outline Habitat Management Plan**

We note the revised OHMP. It may be useful to refer to more recent guidance on upland grazing for conservation purposes than the guidance referenced in the OHMP, since practical experience and knowledge of achieving the desired outcomes is going to be more widely available now.

### **Landscape and Visual Impact Assessment**

We provide no comment on the updated LVIA.

We trust this response is useful.

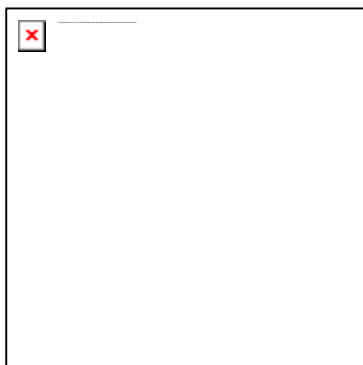
Please contact this office should you wish to discuss our response.

This advice is provided by NatureScot, the operating name of Scottish Natural Heritage.

Kind regards

**Anne Brown**

**National Operations Officer - South**



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