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30 March 2022

Dear Mr Hynd

ELECTRICITY ACT 1989

THE ELECTRICITY WORKS (ENVIRONMENTAL IMPACT ASSESSMENT) (SCOTLAND) REGULATIONS 2017 (AS AMENDED)

SCREENING OPINION OF THE SCOTTISH MINISTERS

IN RESPECT OF A PROPOSED APPLICATION UNDER SECTION 36C OF THE ELECTRICITY ACT 1989 TO VARY THE SECTION 36 CONSENT TO CONSTRUCT AND OPERATE THE MIDDLE MUIR WIND FARM IN THE PLANNING AUTHORITY AREA OF SOUTH LANARKSHIRE COUNCIL

Thank you for your letter dated 21 December 2021 requesting, on behalf of Middle Muir Wind Farm Limited (Banks Renewables) (“the applicant”), a screening opinion in respect of a proposed application under Section 36C of the Electricity Act 1989 to vary the consent granted under section 36 of said Act for Middle Muir Wind Farm.

The proposed varied development is Middle Muir Wind Farm located approximately 2km north west of Crawfordjohn and 4km to the south east of Douglas in the planning authority area of South Lanarkshire Council.

The applicant is proposing to vary the section 36 consent for Middle Muir Wind Farm, granted by Scottish Ministers on 26 September 2014, to extend the period of operation of the generating station by 15 years from 25 years to 40 years.

The proposed variation requires to be screened by the Scottish Ministers in accordance with regulation 7 of the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (as amended) (“the regulations”). Following a request for a screening opinion made under regulation 8(1), Scottish Ministers are required to adopt an opinion on whether the proposed variation is or is not EIA development.

The screening application letter was accompanied by supporting documentation which included a Middle Muir Wind Farm location plan and a screening criteria table. The Screening criteria table assessed the characteristics of the development and potential impacts, and the impacts on biodiversity in particular the Red Moss Site of Special Scientific Interest (SSSI) and Special Area of Conservation (SAC) which is located approximately 500m to the east of the site. Residential amenity was also assessed.

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

The regulations set out (at 8(2)) the information that must accompany a request to the Scottish Ministers to adopt a screening opinion. Regulation 10 requires that the Scottish Ministers must seek that information if it is not included within the application documentation. Scottish Ministers consider the information included in the application letter and supporting documents is sufficient to meet the requirements set out in regulation 8(2), and that the submitted information has been compiled taking into account the selection criteria in schedule 3 of the regulations.

Statutory Consultation

Under regulation 8(5) of the regulations, Scottish Ministers are required to consult the planning authority within whose land the proposed application is situated. The planning authority where consulted and responded on 21 February 2022 advising that, in their view, the proposed varied development constitutes EIA development. A copy of the planning authority's response is annexed to this screening opinion (**Annex A**).

Scottish Ministers' Considerations

EIA development is defined in the regulations, in respect of a variation application, as a proposed variation which is either Schedule 1 development, or Schedule 2 development likely to have significant effects on the environment by virtue of factors such as its nature, size or location.

The proposed variation constitutes Schedule 2 development in terms of the regulations.

In adopting a screening opinion as to whether Schedule 2 development is EIA development, the Scottish Ministers must in all cases take into account such of the selection criteria in Schedule 3 of the regulations as are relevant to the proposed variation, and the available results of any relevant assessment.

The Scottish Ministers have taken the selection criteria in Schedule 3 and all of the information submitted in respect of the screening request into account, and have taken account of the views of the planning authority.

The Guidance Note: Applications for Variation of Section 36 consents sets out at section 27 – 33, information on how variation applications should be considered in relation to the Electricity Works (Environmental Impact Assessment) (Scotland)

Regulations 2017 (as amended). The amendments to the regulations mean that in situations where the proposed variation is unlikely to have significant environmental effects, no EIA report or process would be required in respect of the variation application.

The Scottish Ministers disagree with the planning authority's view, and adopt the opinion that **the proposal does not constitute EIA development and that any application submitted for this development does not require to be accompanied by an EIA report.**

In accordance with regulation 7(2), this opinion is accompanied by the following written statement with reference to the relevant selection criteria within Schedule 3 of the regulations. In accordance with the regulations, a copy of the screening opinion has been sent to the planning authority.

Written Statement

Characteristics of Development

The proposed variation constitutes an extension of 15 years to the period of operation of the generating station from 25 years to 40 years. The proposed variation does not require the carrying out of any building, engineering or other operations in, on, over or under land. The extension of time does not alter the appearance or the dimensions of the existing wind farm. No land, soil, water or areas of biodiversity will be disturbed. There will be no production of waste. No pollution or nuisances will result from the proposal. There is no risk of major accidents or disasters pertaining to the proposed variation and no risk to human health.

Location of Development

There are no building, engineering or other operations taking place to extend the operating life of the wind farm. There are no works or physical changes associated with the proposed variation which could affect the natural environment.

Characteristics of the Potential Impact

Taking account of the above, the proposed variation will not have a likely significant effect on the factors specified in regulation 4(3) of the regulations.

This screening opinion does not constitute pre-application advice, and is provided without prejudice to the assessment of any future application under section 36c of the Electricity Act 1989.

Yours sincerely,

Kirstin Keyes
A member of the staff of the Scottish Government

cc James Wright, South Lanarkshire Council

Screening Checklist Middle Muir Wind Farm – Variation – Life Extension

	Yes/ No	Briefly Describe	Is effect likely to be significant? Significance should be considered in terms of the extent, transboundary nature, magnitude and complexity, probability, duration, frequency and reversibility of any impact(s).
1. Characteristics of the Development			
(a) Scale of the development			
Will the development be out of scale with the existing environment?	No	Middle Muir Wind Farm is operational, comprising 15 wind turbines located c. 4km to the south east of Douglas. The proposed development involves a variation to the existing consent to alter the consented operational life of the Wind Farm only.	Not significant
Will it lead to further consequential development or works (e.g. new roads, extraction of aggregate, generation or transmission of power)?	No	There will be no physical changes made to the Wind Farm and, therefore, no consequential development.	Not significant
(b) Cumulation with other development			
Are there potential cumulative impacts with other existing development or for proposed development in the planning system?	No	The Wind Farm is already in operation and increasing its operational life will not change its scale or effect or result in any additional cumulative impacts with other existing development or development with planning permission.	Not significant
Should the application for this development be regarded as an integral part of a more substantial project? If so, can related developments which are subject to separate applications proceed independently?	No	The proposed development includes the amendment of Condition 1 of section 36 consent EC00003166 to extend the expiry date of the consent by up to 15 years. There will be no physical changes made to the Wind Farm and, therefore, no change to the existing environment.	Not significant
(c) Use of natural resources			

<p>Will construction or operation of the development use natural resources i.e. land (especially undeveloped or agricultural land)?</p> <ul style="list-style-type: none"> • water or fisheries? • minerals or aggregates? • agriculture, forests and timber? • energy including electricity and fuels? • any other resources? 	No	<p>The proposed development will not utilise any further resources than those which were used for the construction of the existing Wind Farm. The operation of the proposed development utilises wind resources to generate renewable energy. However, these are not finite.</p>	Not significant
(d) Production of waste			
<p>Will the development produce wastes during construction or operation or decommissioning?</p> <ul style="list-style-type: none"> • Spoil, overburden or mine wastes? • Household or commercial waste? • Hazardous or toxic substances? • Other industrial processes wastes? • Surplus product? • Sewage or sludge or other sludges from effluent treatment? • Construction or demolition wastes? • Redundant machinery or equipment? • Contaminated soils or other material? • Agricultural wastes? • Any other solid wastes? • Liquid or solid wastes in suspension? 	No	<p>Construction is already complete and there will be no significant additional wastes generated during the operation of the proposed development. All reasonable steps will be taken to ensure that the proposed development adheres with the waste hierarchy principles in terms of preventing, re-using, recycling and recovering waste prior to disposal. Wastes associated with the decommissioning of the project has already been accounted for through technical information supporting the original section 36 consent (ref: EC00005219) including the 2012 Environmental Statement ('ES') as amended by the 2015 ES accompanying the S36C Consent (ref: EC00003166).</p>	Not significant
(e) Pollution and nuisances			
<p>Will the development cause noise and vibration or release of leachates, light, heat energy or electromagnetic radiation during construction or operation or decommissioning?</p> <ul style="list-style-type: none"> • Combustion of fossil fuels from stationary or mobile sources? • Production processes? 	No	<p>There will be no pollutants or hazardous / toxic / noxious substances released to the air during the operational phase of the proposed development.</p> <p>As outlined in the 2012 and 2015 ES, as well as the Environmental Management Plan ('EMP') which was provided as a condition of the permission, measures have</p>	Not significant

<ul style="list-style-type: none"> • Materials handling including storage or transport? • Construction activities including plant & equipment? • Dust or odours from handling of materials including construction materials, sewage and waste? • Any other sources? 		<p>been put in place during the operation of the Wind Farm to ensure there are no escape of wastes or other contaminants to the environment. Extending the operational life of the Wind Farm will not impact upon these mitigation measures.</p> <p>The proposed development will continue the operation of the wind turbines, and therefore the existing level of noise generation will continue beyond the current consented time frame.</p> <p>The Wind Farm has been designed to comply with noise limits contained in ETSU-R-97, the Assessment and Rating of Noise from Wind Farms. The extension of the operation life of the Wind Farm will not result in any additional noise impacts to those for which mitigation measures are already in place. The proposed development will not lead to any increased risk of contamination to surrounding areas. Although regular maintenance of the wind turbines may require the use of oils, greases and other substances, the measures set out through the 2012 ES, the 2015 ES and EMP seek to minimise the risks of contamination to the surrounding area. These measures would continue to be implemented should the operational life of the Wind Farm be extended.</p>	
<p>(f) Risk of accidents, having regard in particular to substances technologies used</p>			
<p>Will there be a risk of accidents during construction or operation of the development which could have effects on people or the environment?</p>	<p>No</p>	<p>The construction phase of Middle Muir Wind Farm is complete. As addressed in the 2012 ES submitted with the original application, there have been no examples of injury to the public as a result of wind turbines (pg. 391). Therefore, it is not expected that increasing the operational life of the Wind Farm, by up to an additional 15 years would</p>	<p>Not significant</p>

		<p>lead to any additional risk of accidents on people or the environment.</p> <p>The maintenance of the wind turbines may require the use of oils, greases and other substances. There are mitigation measures in place in this regard to ensure the risk to people or the environment remains low.</p>	
(g) Risk to human health			
<ul style="list-style-type: none"> Will there be a risk to human health in respect of water contamination or air? 	No	<p>Middle Muir Wind Farm is already in place and operational. No polluting substances are stored at the site. As noted in the EMP, during the operation of the development potential contaminants within the turbine house shall be stored on impermeable hardstanding and containment measures shall be in line with the Pollution Prevention Guidance Notes ('PPGs'). Other measures include oil interceptors, drip trays, washing facilities for contaminated plant and equipment and spill kits. In terms air quality, no significant impact is expected given the small number of maintenance vehicle traffic that is generated by the Wind Farm.</p>	Not significant
2. Location of the Development			
(a) Existing land use			
<p>Are there existing land uses on or around the location which could be affected by the development, e.g. undeveloped land, Greenfield land, homes, other private property, industry, commerce, tourism and recreation, public open space, community facilities, agriculture, forestry, tourism, water catchments, functional floodplains, mining or quarrying?</p>	No	<p>The closest residential development is located c. 1.1km to the south east (of turbine 19). The impact of the Wind Farm on residential amenity has been considered through the technical information supporting consent EC00003166. Although the proposed development would result in an already established and acceptable visual impact being in place over a longer time period, no additional impacts on residential amenity is predicted as a result of any increase to the operational life of the Wind Farm. The proposed development is located in a rural area and, as such, is not in close proximity to any identified sensitive land uses.</p>	Not significant

Are there any areas on or around the location which are occupied by sensitive land uses e.g. hospitals, schools, places of worship, community facilities which could be affected?	No	The proposed development is located in a rural area and, as such, is not in close proximity to any identified sensitive land uses.	Not significant
Is the development located in a previously undeveloped area where there will be loss of greenfield land?	No	The development comprises an extension to the operational life of a Wind Farm that is already in place, and therefore, there will be no further loss of greenfield land.	Not significant
(b) Relative abundance, quality and regenerative capacity of natural resources in the area			
Are there any areas on or around the location which contain important, high quality or scarce resources which could be affected by the development?	No	<p>The Wind Farm is already in operation, and therefore no further effects are anticipated on any scarce resources including ground water, soil or forestry. In terms of the impact of the proposed development on biodiversity, there are mitigation and enhancement measures set out in the Habitat Management Plan ('HMP') submitted as part of the conditions for the original consent. There is no evidence to suggest the extension to the expiry date of the consent would have any additional significant effect on biodiversity.</p> <p>Furthermore, the HMP suggests monitoring should be undertaken in years 1, 3, 5 and 10 with a review of the current HMP actions after 10 years. The results of monitoring will be regularly reported, discussed with stakeholders and used to inform amendments to the HMP.</p>	Not significant
(c) Absorption capacity of the natural environment			
Are there any areas on or around the location which are protected under international or national or local legislation for their ecological, landscape and visual, cultural or other value, which could be affected by the development? Particular attention should be paid to wetlands, watercourses or other waterbodies, the	Yes	<p>Red Moss Site of Special Scientific Interest ('SSSI') and Special Area of Conservation ('SAC') is located c. 500m to the east of the site.</p> <p>No adverse impacts are anticipated from the proposed development beyond those identified in the 2012 ES (as amended by the 2015 ES), for which mitigation measures</p>	Not significant

coastal zone, mountains, forests or woodlands, nature reserves and parks.		have been identified and put in place. It is not anticipated that an increase in the operational life of the Wind Farm by up to 15 years would give rise to any additional significant adverse impacts.	
Are there any areas on or around the location which are densely populated or built up, which could be affected?	No	The area surrounding the Wind Farm is sparsely populated and no significant increase in population is expected during the proposed increase in lifespan of the Wind Farm.	Not significant
Are there any groundwater source protection zones or areas that contribute to the recharge of groundwater resources?	No	No	Not significant
Are there protected species in or around the location, for example European Protected Species, which could be affected?	Yes	<p>As outlined above, a HMP is in place which would continue to assess the effects of the proposed development on biodiversity and provide monitoring results and recommendations.</p> <p>Regarding ornithology, an extension to the operational life of the Wind Farm would increase the total amount of time where there is a risk of collision mortality events for birds. However, as detailed in the 2012 ES, 'Flight of target species at collision risk height over the site were limited and reported collision rates throughout Europe for target species recorded at the development are low. Therefore collision risk is predicted to be low or negligible' (pg. 220). The 2015 ES found the original ES in relation to ornithological receptors remains valid. There is no evidence that the predicted rate of mortality will change and therefore no significant effects on these populations are anticipated as a result of the proposed development.</p>	Not significant
Are there any routes or facilities on or around the location which are used by the public for access to recreation or other facilities, which could be affected?	No	As identified in the EMP, the existing path running through part of the site was safeguarded through the construction and operation of the Wind Farm, as well as the provision of 12km of newly formed on-site access tracks. The proposed development will not have any implications on these paths.	Not significant

<p>Are there any transport routes on or around the location which are susceptible to congestion or which causes environmental problems, which could be affected?</p>	<p>No</p>	<p>The extension of the operational life of the Wind Farm will not generate any significant additional regular traffic movements. The 2012 ES states “if replacement turbine components were required, transport arrangements for abnormal loads and appropriate mitigation would be agreed with the local authorities in advance’ (pg. 327).</p>	<p>Not significant</p>
<p>Are there any areas or features of high landscape or scenic value on or around the location which could be affected?</p>	<p>No</p>	<p>The proposed development will not lead to a change in the landscape from that which is currently in place with the consented Middle Muir Wind Farm. Furthermore, the site itself is not subject to any landscape designations.</p> <p>As identified in the 2012 ES, the additional landscape and visual impacts would not represent a significant addition to the existing impacts within the study area as a whole.</p> <p>There have been no significant changes to the surrounding landscape baseline since operation of the Wind Farm commenced.</p> <p>It should be noted that the significant effects are reversible and upon decommissioning the Wind Farm at the end of the planning consent, the turbines would be dismantled and removed, and the site restored.</p> <p>The 2015 ES found due to the minor nature of the variations, the change would have no additional impact on the landscape and visual effects of the scheme. There have been no significant changes to the surrounding landscape baseline since operation of the Wind Farm commenced.</p> <p>It should be noted that the significant effects are reversible and upon decommissioning the Wind Farm at the end of the</p>	<p>Not significant</p>

		planning consent, the turbines would be dismantled and removed, and the site restored.	
Are there any areas or features of historic or cultural importance on or around the location which could be affected?	No	All effects of the Wind Farm on cultural heritage have been considered through the 2012 ES (as amended by the S36C Consent). An extension to the operational life of the Wind Farm will not lead to any significant effects	Not significant
Are there any areas on or around the location which are already subject to pollution or environmental damage e.g. where existing legal environmental standards are exceeded, which could be affected?	No	No known areas.	Not significant
Is the development in a location where it is likely to be highly visible to many people?	No	The area surrounding the Wind Farm is sparsely populated and no significant increase in population is expected during the proposed increase in lifespan of the Wind Farm.	Not significant
Is the location of the development susceptible to earthquakes, subsidence, landslides, erosion, flooding or extreme or adverse climatic conditions which could cause the development to present environmental problems?	No	Not at present. There is no evidence to suggest that any extension in the operational life of the Wind Farm, for up to 15 years, would lead to a significant change in the incidence of landslides, flooding erosion or extreme / adverse climatic conditions.	Not significant
3. CHARACTERISTICS OF THE POTENTIAL IMPACT			
(a) Magnitude and extent of the impact			
Will the effect extend over a large area?	No	Although the site extends to 693ha, during the operation of the Wind Farm only c. 1.2% of the land is affected. The proposed extension to the operational life of the Wind Farm will not extend the effect of development in terms of land area.	Not significant
Will many people be affected?	No	The proposed development will not increase the risk of additional people being affected.	Not significant
(b) The nature of the impact			
Is the nature of the impact of the proposed development unusual in the area?	No	The Wind Farm is already in place and operational on the site. No development is proposed other than the extension of the operational life of the Wind Farm.	Not significant
(c) The transboundary nature of the impact			

Will there be any potential for transboundary impact?	No	N/A	Not significant
(d) The intensity and complexity of the impact			
Will there be a large change in environmental conditions?	No	The nature of the site will remain the same.	Not significant
Will the effect be unusual in the area or particularly complex?	No	N/A	Not significant
Will many receptors other than people (fauna and flora, businesses, facilities) be affected?	No	As detailed, above, a HMP has been provided for which monitoring will be undertaken at years 1, 3, 5 and 10 with a review of the current HMP plans after 10 years. Monitoring will be regularly reported, discussed with stakeholders and used to inform amendments to the HMP.	Not significant
Will valuable or scarce features or resources be affected?	No	N/A	Not significant
Is there a risk that environmental standards will be breached?	No	N/A	Not significant
Is there a risk that protected sites, areas, features will be affected?	No	N/A	Not significant
(e) The probability of the impact			
Is there a high probability of the effect occurring?	No	N/A	Not significant
Is there a low probability of a potentially high significant effect?	Yes	There is low probability of a high significant effect.	Not significant
(f) The expected onset, duration, frequency, and reversibility of the impact			
Will the effect continue for a long time?	Yes	Operational effects will be temporary duration, lasting for up to an additional 15 years beyond the currently consented 25 years.	Not significant
Will the effect be permanent rather than temporary?	No	Operational effects will be extended for up to an additional 15 years beyond the currently consented 25 years, but will remain temporary.	Not significant
Will the impact be continuous rather than intermittent?	Yes	The operational effects will be temporary in duration, but during the consented period of operation impact will be continuous.	Not significant

If intermittent, will it be frequent rather than rare?	N/A		
Will the impact be irreversible?	No	Following the expiry date of the proposed development, the site would be reinstated in accordance with the conditions set out within the S36C Consent (ref: EC00003166)	Not significant
(g) The cumulation of the impact			
Will there be a cumulative impact with other existing or approved development?	No	The proposed development involves varying the operational life of an existing Wind Farm. No cumulative impacts are therefore expected.	Not significant
(h) The possibility of effectively reducing the impact			
Will it be difficult to avoid or reduce or repair or compensate for the effect?	No	No significant negative effect is anticipated.	Not significant