East Lothian Council

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| ECU Application No. | ECU00004815 |
| ELC Reference No. | 25/00003/SGC |
| Proposal | Electricity Act 1989 – Application to construct and operate a solar development, electricity generating station and associated infrastructure |
| Location | Land located approximately 7.8km Southeast of Dunbar |
| Applicant | Voltalia UK Limited<br>Per Alexander Hamilton<br>The Wheelhouse<br>Bond's Mill Estate<br>Stonehouse<br>Gloucestershire<br>GL10 3RF |
| Ward | 06 Dunbar and East Linton |
| Date | 7 November 2025 |

**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 battery energy storage system is to be treated as an electricity generating station.

The ECU consults East Lothian Council on all Section 36 applications within East Lothian. At the Council meeting of the 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 and battery energy storage system on land located approximately 7.8km southeast of Dunbar, East Lothian. 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.

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**ANNEX A – BIODIVERSITY COMMENTS**

This application is for the installation of solar panels modules, a 150MW capacity Battery Energy Storage System and all associated works to be constructed and operated on land approximately 50m north of Oldhamstocks, and 7.8km southeast of Dunbar. The Site will occupy an area of approximately 184 hectares (ha). The site is entirely located within East Lothian.

In reference to the Solar Farm and BESS Planning Statement and the supplementary information that has been supplied by the applicant, I have the following biodiversity comments to make:

**National Planning Framework 4**

Policy 1 Tackling the Climate and Nature Crises- While I acknowledge the use of solar PV as a key aspect of the move to tackle the climate crisis, and that the applicant has provided information in order to satisfy the compliance in regard to such within the application, I believe that there a number of concerns regarding this application, that if not addressed may result in the nature crisis impact not being fully addressed. Further details of my comments regarding this are detailed in section comments below.

Policy 3 Biodiversity- Please see my comments regarding the issues regarding the enhancement of biodiversity in relation to this application.

East Lothian Council

Policy 4 Natural Places- Please see my comments regarding the Shadow Habitats Regulations Appraisal.

**Local Policy**

***NH1 Protection of Internationally Designated Sites***

I appreciate the use of the precautionary approach and the mitigation measures in the shadow HRA document provided regarding the pink-footed geese and herring and common gull qualifying features of the following Ramsar and SPAs:

- Firth of Forth Ramsar
- Firth of Forth SPA
- Outer Firth of Forth and St. Andrews Bay Complex
- St. Abb's Head to Fast Castle SPA

***NH4 European Protected Species***

*Badger*

The information provided regarding badgers is in part sufficient in that I support the conclusions regarding mitigation measures for the protection of badgers in the construction and operational phase of the application, including badgers in the CEMP and a Species Protection Plan to be conditioned. I would request that the consideration made regarding the potential loss of foraging habitat is included in the use of a metric to determine the level of habitat enhancement that is required in relation to badger foraging habitat.

*Bats*

The Bat Survey Report (Technical Appendix 8.3, ERM, May 2025) makes the following recommendations:

*5.1.1.1 Roost surveys confirmed the presence of habitats within the BSA suitable to support roosting bats. If any trees are to be removed, pruned or disturbed because of the Proposed Development, particularly those identified as FAR and having bat roost suitability, then further surveys to determine the presence of roosting bats will be required.* ***To mitigate potential impacts of the Proposed Development, it is recommended to avoid development of areas in Locations B and D as these are highly suitable for bats.*** *Implementation of dark corridors in these locations within the Site will assist in mitigating the impacts of the Proposed Development on bats.*

It is not clear whether that advice from the ecologist has been followed through to the oHEMP or the EIAR (though the oHEMP is dated prior to the bat survey results), as it appears from Figure 3.2.1 of the oHEMP that this advice has not been applied. At this time, I cannot conclude that due consideration has been made in regard to protection of and mitigation for European Protected Species, or that the advice given by the applicant's ecologist has been applied. **Therefore I would need to object on these grounds at this point.**

*Red Squirrels*

While a number of potential dreys where identified, further mitigation is not deemed necessary as there is no felling specified in the proposal. If this was to change, a Red Squirrel Species Protection

Plan should be produced. This was not detailed clearly in the Technical Appendix 8.2 Protected Species Survey Report (ERM, May 2025) and should have been for avoidance of doubt.

It may be that enhancements to support red squirrels could be included in any future versions of the oHEMP. This would also be in alignment with actions within the East Lothian Local Biodiversity Action Plan.

*Otter and Water Vole*

A number of site surveys were carried out, mostly within the red line boundary, but it is noted that there was an area that the ecologist was not able to access due to lack of permission of the landowners of Oldhamstocks Mains as detailed in Section 2.2 of Technical Appendix 8.2 Protected Species Survey Report. While the conclusions drawn that the watercourses on the site are suitable for otter and water vole, but no evidence of these species was found, restoration and enhancements of these water bodies for these species would be beneficial to be incorporated into the oHEMP. Using landscape restoration techniques for these species will benefit a wide variety of species other than otter and water vole indirectly and should be considered. This would also align the application with actions which align with the East Lothian Biodiversity Action Plan (in consultation phase at present).

***NH5 Biodiversity and Geodiversity Interests including Nationally Protected Species***

Information presented includes-

*Planning Statement 5.4.1.7*

*''The Proposed Development will result in a loss of 61.46 ha of habitats, that are common and widespread, and which support largely common and widespread species. Some protected species, including badger, bats and birds (nesting and foraging) are supported by these habitats; however, no significant residual effects on any IEF is predicted.''*

*Planning Statement 5.4.1.9.*

*''Habitats lost will be compensated through the planting being undertaken within the LBMP; therefore, the Proposed Development will provide habitats of higher value than the baseline agricultural scenario, which will provide a significant, permanent, beneficial effect of low magnitude at the Site level for the following IEFs: Badger and Breeding birds.''*

With an application of this size and potential for impact on a number of Important Ecological Features that were outlined in the EIAR, it would be expected that a metric was utilised to determine the appropriate habitat conservation, restoration and enhancements.

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NPF 4 Policy 3 states that-

*b) Development proposals for national or major development, or for development that requires an Environmental Impact Assessment will only be supported where it can be demonstrated that the proposal will conserve, restore and enhance biodiversity, including nature networks so they are in a demonstrably better state than without intervention. This will include future management. To inform this, best practice assessment methods should be used. Proposals within these categories will demonstrate how they have met all of the following criteria:*

*i. the proposal is based on an understanding of the existing characteristics of the site and its local, regional and national ecological context prior to development, including the presence of any irreplaceable habitats;*
*ii. wherever feasible, nature-based solutions have been integrated and made best use of;*
*iii. an assessment of potential negative effects which should be fully mitigated in line with the mitigation hierarchy prior to identifying enhancements;*
*iv. significant biodiversity enhancements are provided, in addition to any proposed mitigation. This should include nature networks, linking to and strengthening habitat connectivity within and beyond the development, secured within a reasonable timescale and with reasonable certainty. Management arrangements for their long-term retention and monitoring should be included, wherever appropriate; and*
*v. local community benefits of the biodiversity and/or nature networks have been considered.*

The applicant has provided an outline Habitat Enhancement Plan as well as mitigation measures that have been included in the EIAR. The application does not appear to have fully considered the opportunity for inter and intra site green networking other than to plant some new hedgerows, gap up existing hedgerows, plant wildflower seed and add some bird boxes. From the information provided, I have to determine that the ecological connectivity has not been satisfactorily interrogated and or demonstrated and therefore the key requirement of nature networks detailed above in Policy 3b, I cannot find the application in compliance at this time and **therefore I would further object on these grounds.**

I also do not find that the applicant has provided a robust consideration of the points iv. and v. in the application. The application has an inherent assumption that the land will be operational for 40 years and then the site will be handed back and therefore returned to agricultural land. Therefore, it cannot be guaranteed that the biodiversity enhancements that have been proposed can be secured in perpetuity. If the enhancements cannot be taken as such, then it could be argued that they cannot count towards the fulfilment of this policy.

I therefore find that until this has been provided, then **I would not be content that the NPF 4 Policy 3 test has been met, and I would object on these grounds.**

I have concerns over the need for the use of 2m fencing around a significant proportion of the site. While I understand the need for some security fencing, this is presumably not needed around the entire site. There is not a clear need to fence the solar panels area from the area of Ancient Woodland for example. It appears that there is a significant area of fencing that is unnecessary, which contributes to my concerns over the ecological connectivity across the site as presented. Further to this the fencing also poses issues for the public enjoyment of the site and with regard to this, and the compliance with the relevant policies I would defer to colleagues.

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Another crucial point is that the Outline Habitat Enhancement Plan (Abseline) is dated April 2025. The Technical Appendix 8.2: Protected Species Survey Report was produced a month later in May 2025. I do not find that acceptable for submission as the EPS report finding must shape, in combination with other relevant reports, the mitigations and enhancements of the HEMP. Despite this, considering that this may be an error on dating of reports (which if so should be remedied) I still have the following points. I have concerns over the ability for mobile terrestrial species to move through and around the site. I am concerned that no evidence has been presented to ensure that other mobile species are able to and even will use the badger gateways to move in and out of the site. The Technical Appendix 8.2 Protected Species Survey Report (ERM, May 2025) and the EIAR Chapter 8 Ecology and Nature Conservation desk survey detail a sighting within the Ecological Survey Area and records respectively of brown hare. I do not consider the mitigations provided for badger to have been shown to benefit all mobile species including brown hare.

The information provided regarding badgers is in part sufficient in that I support the conclusions regarding mitigation measures for the protection of badgers in the construction and operational phase of the application, including badgers in the CEMP and a Species Protection Plan to be conditioned. I would request that the consideration made regarding the potential loss of foraging habitat is included in the use of a metric to determine the level of habitat enhancement that is required in relation to badger foraging habitat.

The desk survey and local knowledge communicated to the Biodiversity Officer has noted the use of the site for foraging owl species. No consideration of the mitigation measures required have been considered in this case. Solar farms can provide positive hunting grounds for owls and other raptor species, however if this is to be the case it must be considered by the applicant and presented as such.

The areas of grassland proposed around the collective areas of modules may well increase the grassland habitat for breeding birds and invertebrates but I would need to see evidence that the shade tolerant plant mix has been successful in other solar farm projects. This would need to include data that supports the presumption that has been made that the grassland between the rows of the modules is indeed wide enough for optimum establishment of the plants as well as being wide enough to be included as an ecologically viable connective space for the movement of mobile species. **The ecological connectivity of the site is not demonstrated and therefore not compliant with Local Development Plan DP1 and 2. I therefore would be required to object to the project on these grounds.**

Information provided regarding the chosen construction traffic route ecological value was minimal or missing. There is no impact assessment or subsequent mitigation proposed for the route to the site for construction and decommissioning traffic. There has been no consideration of the habitats along the route, these should have been considered as part of the ecological survey of the site and in turn be considered in regard in the oHEMP. Therefore, I find that this information is uncomplete and is required for consideration.

With regards to lighting around the welfare buildings and the rural location, lighting should be in compliance with the most recent guidelines for bat-friendly Guidelines from the Institute of Lighting Professionals. Guidance documents are widely available and should be considered and referred to in any subsequent documents provided.

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**ANNEX B – LANDSCAPE COMMENTS**

A review of the Landscape and Visual Impact Assessment (LVIA) chapter, figures, and technical appendices prepared by Abseline has been undertaken by Chartered Members of the Landscape Institute at East Lothian Council (ELC).

We have conducted a desk-based review of the LVIA and on-site fieldwork. The application site and LVIA study area was visited (driving, and walking, as appropriate) on 01/09/2025. Weather conditions were generally good, with extended periods of clear visibility throughout and well beyond they LVIA study area. Each of the 9 viewpoint ('VP') locations was visited. The review did not include visits to private residences.

The proposed development is described in detail in Volume 1 – Chapter 3: Development Description of the Environmental Impact Assessment Report (EIAR). The LVIA presents Assessment Scenarios and Potential Effects (6.1.9) which summarises the effects arising from the proposed development at the following key stages of its lifetime: construction, operation, and decommissioning. This information has informed the review.

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**A summary of findings of the review of the assessment methodology**

The outline LVIA methodology described in 6.2, which is described in detail in Technical Appendix 6.3 broadly follow the Landscape Institute (LI) and Institute of Environmental Management & Assessment 'Guidelines for Landscape and Visual Impact Assessment: Third Edition' (GLVIA3) principles, including identification of landscape and visual receptors, assessment of sensitivity, magnitude of change, level of effect and significance of effect. Specific concerns regarding the consistency of how GLVIA3 and the methodology has been applied to the assessment are addressed below.

The consideration of cumulative schemes set out in LVIA Table 6.1 appears to be sufficient. The LVIA considers impacts with operational and consented schemes as part of the baseline, which follows Landscape Institute guidance. Regarding the LVIA visualisations, ELC was not consulted on the 'Visualisation Types.' The visualisations do not display the 'Visualisation Type' (1-4), which LI Technical Guidance Note (TGN) 06/19 'Visual Representation of Development Proposals' (3.7.5) states should be included for recipients to understand the approach being taken. Without this information and having not been consulted on this aspect of the LVIA, we are unable to fully verify that the methodology / presentation of the visualisations accords with LI TGN 06/19.

Regarding the LVIA ZTVs, contained in Figures 6.1, 6.2, 6.5, and 6.6, we have concerns regarding the methodology, set out below.

Figures 6.1, 6.2, 6.5, and 6.6 state that the ZTV is calculated from panels modelled at (3.2m) and inverter compounds (4.5m) for the Solar Panel Areas. Volume 1: Chapter 3, Table 3.1 states 'the exact number of panels will be subject to the technology available during procurement'. It is not clear in the LVIA methodology how the ZTV has determined the 'worst case' scenario based on the location of structures within the Solar Panel Areas.

LVIA Figure 6.6 key appears to show that the ZTV only considers the Solar Panel Areas. It is not clear whether the ZTV also includes theoretical visibility of the BESS and Substation.

The figures state that the ZTV for the substation area is modelled at 6.35m. This accords with elements of the outdoor electrical infrastructure shown on Figure 3.7. However, Volume 1: Chapter 3, pp. 3.2.4.1 states that the Customer Substation compound will be built on top of a concrete plinth of up to 0.5m in height. It is not clear whether the ZTV accounts for the 0.5m plinth.

The LVIA does not include any bare ground ZTVs of the Proposed Development. NatureScot Guidance referred to in the Technical Appendix 6.3 (pp.52), states '44. Any analyses that calculate characteristics other than simple visibility over bare ground should be produced in addition to bare ground visibility, not as an alternative to it.' The LVIA therefore contains insufficient information regarding the theoretical visibility of the proposed development.

Regarding the height of woodland screening, the applicant's ZTV figures state that the assumed height of all woodland screening within the DSM is 15m. The LVIA does not state how this value has been verified in the field: notes on Figures 6.1 and 6.2 say this is a 'conservative estimate of average heights.' The LVIA for the consented Berwick Bank Onshore Works, one of the identified cumulative schemes, had assumed 10m for woodland in screened ZTVs within its 5km LVIA study area – including much of the 2km study area for this application. The relative difference of 50% in assumed woodland heights

between the two LVIA is significant. Without supporting evidence, we cannot be certain that the assumed woodland height in ZTVs accurately represents the likely visibility within the study area.

Recent felling (annotated on Figure 3.2.1), notably at Cockit Hat Strip, and to the north of Field 19 as they are the baseline at the time of the assessment. These areas have been assigned the same height as existing woodland in the ZTV, which therefore overstates the screening effect they would provide in the short to medium-term of the Proposed Development. The LVIA states (6.6.3.6), 'None of these felled areas would markedly alter the pattern of visibility;' however, no bare ground ZTVs have been included in the assessment, so it is not possible to verify this finding.

Regarding the methodology for the predicted growth rates of mitigation planting, the LVIA (6.6.1.5) cites an article from the Institute of Sustainability and Environmental Professionals. The article discusses predicted growth of tree and hedge planting in the UK and provides 'rule of thumb' growth rates, which the LVIA has adopted. The article states "For more exposed locations it is recommended that annual growth is calculated by taking clues from the existing trees and hedges in the locality." The proposed development is located in eastern central Scotland. The LVIA methodology does not demonstrate how the 'rule of thumb' growth rates have been calibrated to account for the local geography and climate.

**A summary of findings of the review of the scope of the assessment**

The spatial scope of the LVIA is based on a 2km study area, which was agreed by ELC.

The LVIA 'scopes out' detailed assessment of impacts on the Special Landscape Area (SLA) 36: Berwickshire Coast (Scottish Borders) and landscape and visual receptors within the 2 km study area where there would be no visibility of the Proposed Development.

The LVIA scopes out assessment of SLA 30: Thorntonloch to Dunglass Coast (6.6.6.4), which is within the 2km study area and Zone of Theoretical Visibility (ZTV) (Figure 6.1). We agree with the reasoning given.

The LVIA states that a final list of viewpoints was agreed through consultation (6.1.5.2). This is factually incorrect. The authors of the LVIA have not been in contact with ELC following the scoping response of 20 December 2024. ELC has not been consulted on the final viewpoint list and has not agreed to it. The applicant has not assessed viewpoints requested by ELC where there is the potential for theoretical visibility of the proposed development. 6(6) of LI TGN 2024 01 states: 'It is recommended (GLVIA3 paragraph 6.18) to agree viewpoints to be considered in the assessment with the appropriate authority. If this is not possible, then EIA Regulations require the assessor to set out any limitations on or difficulties encountered in carrying out the assessment. It is recommended that the assessor demonstrates that efforts have been made to agree viewpoints for both LVIAs and LVAs.' The LVIA has not set out any limitations or difficulties that confirm further effort has been made to agree the final viewpoints with ELC.

The applicant has submitted an RVAA of effects on residential visual amenity for the properties at Oldhamstocks Mains Farmhouse and Oldhamstocks Mains Cottages as Technical Appendix 6.5.

Paragraph 6 of Technical Appendix 6.5 states 'Typically for solar farms this extends to 50 or 100m from the above ground development. In this case, consideration has been given to two properties located adjacent to the Application Site as requested by East Lothian Council (as set out in section 6.1.4 in Chapter 6: LVIA). Extending to a 100m study area would not include additional properties for this assessment.' Landscape Institute Technical Guidance Note (TGN) 2/19: Residential Visual Amenity Assessment states that 'development types including potentially very large but lower profile structures and developments such as road schemes and housing are unlikely to require RVAA, except potentially of properties in very close proximity (50-250m) to the development'. Our opinion is that the LVIA does not provide robust justification for scoping out properties over 100m from the RVAA.

The baseline description set out in 6.4.2 is brief, but the principal landscape and visual receptors within the study area are identified. Some further baseline description is provided in the sections on the assessment of effects, and on supporting figures 6.1-6.6.

The LVIA scopes out detailed assessment of the local road, Core Path, and homes around Oldhamstocks Burn to the west of the Application Site. These receptors are within the SLA, in some instances having views overlooking the landscape setting Oldhamstocks Conservation Area. The LVIA does not include a viewpoint or Illustrative View to support the justification to scope these receptors out. Because of the above, we do not agree that sufficient justification to exclude detailed assessment of these receptors.

In our view, the assessment does not sufficiently address how the potential impacts of the proposed development might interact with different phases of the baseline schemes referenced in section 6.6.4.3 and Table 6.1.

**A summary of the Design and Mitigation**

Section 6.5.2 of the LVIA sets out measures included within the design to prevent or reduce landscape and/or visual effects. These are expressed spatially on Figure 3.2.1.

The suite of approaches includes managing existing hedgerows to a maintainable, higher, height and panel setbacks from local roads and paths, reinforcement of existing hedgerows by 'gapping up' where sparse, retention of woodland within deans and cleughs, small areas of additional woodland planting, and seeding and management of panel areas.

The management of existing hedgerow to a higher height, to potentially provide degrees of screening of the proposed development would change the character of the local minor roads. In particular, it would partly conflict with the 'Management Guidelines' for the LCA 'Innerwick Coastal Margins' which states:

'b. Promote increase in roadside planting to reduce impact of major visual detractors without screening all views out.'

This mitigation measure would potentially impact upon the perceived character during the lifetime of the proposed development.

We note that in the assessment of effects, the LVIA conclusions for most of the landscape and visual receptors states that the magnitude of change and level of effect carry 'through [or during] all stages of the Proposed Development.' This suggests that effects cannot be mitigated and that the significant impacts identified would not be removed or even reduced by the proposed mitigation.

**Effects on Landscape Fabric**

Regarding potential effects on the landscape fabric, we are concerned that the LVIA does not provide a complete and robust assessment of impacts on individual receptors throughout all phases of the proposed development: construction, operation, and decommissioning.

The LVIA does not clearly quantify the geographic extent of change to agricultural farmland.

There are occasional hedgerow trees along roads passing through the application site. Trees and woodland are not discussed or assessed by the LVIA.

The LVIA does not appear to follow the methodology in Technical Appendix 6.3. The LVIA does not report the assessment of value and susceptibility to change of individual physical landscape receptors and no differentiation is made between the sensitivity of hedgerows and agricultural farmland. LI TGN 2024-01 5(2) states 'Landscape features, elements … that could be subject to change must be clearly described in their own right ...'

Volume 1: Chapter 3, Table 3.1, states that it is possible that some solar panels may be mounted on surface level concrete footings. The LVIA does not make it clear what has been assessed as the 'worst case,' either in 6.6.2 or the assessment scenario in 6.1.9.

The LVIA does not cross-refer to Chapter 8: Ecology and Nature Conservation, which LI TGN 02/21 'Assessing landscape value outside national designations' notes may be relevant to the consideration of the value of landscape features.

**Effects on Landscape Character**

***Innerwick Coastal Margin***

The proposed development would be partly located within this LCA.

In summary, The LVIA judges the Innerwick Coastal Margin LCA to have Regional/Community value, and Medium/low susceptibility to change, with an overall judgement of Medium/low sensitivity.

The LVIA gives broad explanations of the judgements made on value and susceptibility. The table below highlights criteria where we disagree with or have comment on the assessment findings. For the reasons given, we consider the sensitivity of the landscape to be greater than Medium/low.

| Factors affecting sensitivity | LVIA Explanation | ELC Comment |
|---|---|---|
| **Value** | | |

| Factors affecting sensitivity | LVIA Explanation | ELC Comment |
|---|---|---|
| Cultural Heritage | *Parts of two Gardens and Designed Landscapes (GDL), a historic battlefield, and the conservation area at cover just under half of the LCA. The SLA SPG lists "a rich archaeological heritage".* | An important scenic quality is the prominence of the Dunglass GDL wooded policies, set against the surrounding rural contextual character. The Historic Environment citation for Dunglass GDL notes that the landscape surrounding the GDL is '*largely agricultural in use,'* and states *'The woodlands…remain today as important features in the local landscape.'* |
| Landscape condition/ quality | *Generally good condition with the cement works, Torness Power Station, the A1 and East Coast Main Line forming notable features. However, additional consented developments relating to the onshore works associated with Berwick Bank offshore wind farm, Branxton BESS and the convertor station and cable works Eastern Green Link electrical 'superhighway' will affect a wide extent of the central area of the LCA during their construction and introduce a number of new large-scale permanent infrastructure features.* | The LVIA acknowledges that in other parts of the LCA, large-scale infrastructure is having a modifying effect on perceived character. Given the ongoing change in other parts of the LCA, we consider that unaffected areas are likely to be of greater than 'Community' value. |
| Distinctiveness | *This LCA forms a transition between the Lammermuir Hills and the coast. It forms a fairly typical example of coastline within this area of Scotland and north-east England.* | North-east England is irrelevant and suggests limited appreciation of the locality. Key is how representative the LCA is of the perceived characteristics, which is not expressed in the LVIA explanation. Given ongoing change in other parts of the LCA, we consider the value likely to be greater than 'Community.' |
| **Susceptibility to change** | | |
| Openness/enclosure | *Generally open farmland with expansive views to sea, some more sheltered in valleys or provided by woodland.* | The LVIA considers 'Open and exposed landscapes' to have lower sensitivity to solar development. We disagree, considering that such landscapes are likely to be more susceptible to the visual influence of development. Accordingly, we consider the |

| Factors affecting sensitivity | LVIA Explanation | ELC Comment |
|---|---|---|
| | | susceptibility of this criteria likely to be greater than 'Medium/low.' |
| Land cover | *Mostly medium to large arable fields, with more intimate valley features concentrated more within the south of the LCA.* | This is a predominantly rural landscape. Woodland around Dunglass GDL is a notable feature within the landscape. We consider that the susceptibility to large-scale infrastructure is likely to be greater than 'Medium/Low.' |
| Built Environment | *…much industrial development located along the coast" (SLA SPG), including prominent industry, with additional consented large-scale infrastructure to be constructed. Transport corridors are also prominent. Minor settlements scattered farmsteads.* | The LCA description notes that 'intrusive industrial development and the major transport corridor detract from the otherwise calm character of this landscape.' We consider that the perceptual qualities of this landscape have greater susceptibility to change than 'Medium' |
| Landscapes that form settings, skylines, backdrops, focal points | *Low lying transitional landscape without distinctive landform.* | The LVIA does not take account of the landscape within the study area forming the setting to the Dunglass GDL and SLA 4: Monynut to Blackcastle, as well as the role it plays in views from the upland fringes to the coast, as shown by VP7 and VP8. LVIA Figure 6.3 also shows the landform not as low-lying, but part of the low hills at the transition to the upland fringes. We consider that the susceptibility to the type of change proposed is likely to be greater than 'Low.' |

The LVIA concludes 'with particular reference to the Limited extent of Large and Large/medium effects, there would be a Medium magnitude impact on the character of the LCA through all stages of the Proposed Development and effects would be Moderate, Adverse and not significant.

Regarding the conclusion, LI TGN 2024-01 'Notes and Clarifications on Aspects of Guidelines for Landscape and Visual Impact Assessment Third edition (GLVIA3)', 5 (11), p.13, states: 'The Panel suggests that geographical extent should reflect the relevance of the location (for example it may more strongly or weakly manifest one of the key characteristics than other areas, or it may have a geographic role in connecting parts of the receptor) and the spread of effects, as a 'modifier' to the scale of effect so that it does not understate the magnitude of effects for extensive receptors such as large character areas or designations.'

Our view is that within the LVIA study area, this part of the Innerwick Coastal Margin LCA is important as part of the transition from the fringes of the Lammermuir Hills (Eastern Lammermuir Fringe LCA) and the sea. It is also important to the delineation of part of the boundary to SLA 4: Monynut to

Blackcastle. It provides contextual landscape setting to the Dunglass GDL. It is also representative of the characteristics of this landscape that have been, and will be, modified by large-scale infrastructure elsewhere in the LCA.

The LVIA appears not to use the geographic extent as 'modifier' but instead as the main justification to moderate the magnitude of change, which in our view understates the likely landscape impact.

The LVIA does not appear to describe the scale of change with reference to the criteria defined in the LVIA methodology, Technical Appendix 6.1, p.3 pp. 17. In our view, the LVIA does not provide sufficient information on the degree to which aesthetic or perceptual aspects of the landscape are altered and whether the effect changes the key characteristics of the landscape, which are critical to perceiving its distinctive character. Inconsistent application of the methodology raises concerns over the LVIA findings.

Only three viewpoints are located within this LCA: VP1, VP2, and VP3. VP2 is distant and partially screened. VP3 is in a location heavily screened by woodland. We consider that the viewpoint selection under-represents the availability of more open and / or elevated views within this LCA, including to the west of the application site and near Springfield Farm at the boundary with Dunglass GDL.

The assessment states (6.6.4.5) there would be Large and Large/medium scale of change within the Application Site and adjoining fields, with the Proposed Development being '…the most dominant characteristic of the landscape.' VP1 is used to illustrate the scale of change. The assessment does not provide a level of effect within these areas. By not reporting the effect where the scale of change is greatest, it is our opinion that the assessment is insufficient.

We agree with the LVIA finding that there are areas where the proposed development would become 'the most dominant characteristic of the landscape.' and consider that, in such areas, this would constitute a significant effect. The assessment concludes (6.6.4.6) that there would be a Medium to Medium/small scale change between 300-500m to the east of the Application site, and within undeveloped parts of the application site to the northwest of Oldhamstocks Mains.

Technical Appendix 6.4 'Illustrative View A' is used in the assessment illustrate the threshold between Large and Large-Medium scale of change and Medium and Medium/small scale of change. We consider that the use of a baseline photo with a narrow field of view provides insufficient information to explain this conclusion; noting that in views to the east, the proposed development is likely to be a prominent part of the landscape beyond Oldhamstocks Mains, with extensive visibility as shown on Figure 6.6. We also consider that Technical Appendix 6.4 'Illustrative View C' should be included as a photomontage viewpoint to demonstrate the scale of change within this distance range to the west, noting that in the visual assessment (6.6.5.3) the LVIA states there would be 'close views of the Proposed Development' from this location. VP3 has been located within (i.e., to the east of) the wooded boundary of the GDL and does not appear to illustrate the 'worst case' visibility within the identified geographic extent.

The LVIA states 'the sense of separation provided by the wooded valley passing the houses and the open views out towards the coast and rolling hills beyond the Proposed Development (see illustrative view 1 in Technical Appendix 6.4) would moderate its characterising influence.' As above, we consider

that insufficient information has been provided to justify the finding that at this distance the scale of change could be assessed as Medium/small.

The LVIA concludes that the proposed development would have a Negligible change on the LCA in remaining areas where visibility would be reduced, such as VP2 and VP3. We agree that scale of change is likely to reduce at these locations in part because the proposed development would be more distant, although the viewpoint figures show it would remain perceptible; however, as above, the degree to which aesthetic or perceptual aspects of the landscape are altered, or whether the effect changes that characteristics of the landscape have not been adequately reported in the LVIA. As above, we consider the assessment to be insufficient to justify the finding and disagree that the scale of change could be assessed as Negligible.

The LVIA acknowledges that the central part of the LCA is already influenced by existing and proposed large-scale infrastructure (6.6.4.3 and Table 6.1). In our view, the proposed development represents introduction of large-scale infrastructure development into the eastern part of the LCA, which risks further extending and consolidating this modified character, potentially resulting in degradation of the area's overall perceived coherence and integrity.
Amongst the 'Positive attributes' of the LCA, the description notes:

'1. Agricultural character relatively unfragmented.'
The LCA descriptions also include 'Management Guidelines.' These include:
'a) Retain arable character.
b.) Promote increase in roadside planting to reduce impact of major visual detractors without screening all views out.
i.) Retain character of minor roads'

In our view, the assessment does not sufficiently address how the potential impacts of the proposed development might interact with different phases of the baseline schemes referenced in section 6.6.4.3 and Table 6.1.

In our opinion the LVIA does not provide sufficient information to justify the conclusion that there would be no significant effects on the LCA. The LVIA conclusions for this LCA appears to understate the sensitivity, magnitude of change, level of effect and its significance. Further, we consider that the proposed development does not accord with the Management Guidelines for this landscape.

***Eastern Lammermuir Fringe***

The proposed development would be partly located within this LCA.

In summary, The LVIA judges the Eastern Lammermuir Fringe LCA to have Community value, and Medium/low susceptibility to change, with an overall judgement of Medium/low sensitivity.
Within the LVIA study area, much of this LCA lies within SLA 4: Monynut to Blackcastle.

The LVIA gives broad explanations of the judgements made on value and in particular susceptibility. The table below highlights criteria where we disagree with or have comment on the assessment findings. For the reasons given, we consider the sensitivity of the landscape to be greater than Medium/low.

| Factors affecting sensitivity | LVIA Explanation | ELC Comment |
|---|---|---|
| **Value** | | |
| Cultural Heritage | *A very small portion of the eastern and western edge of the LCA lies within a GDL. A small part of the LCA lies within a historic battlefield and a conservation area. Conservation estate at Spott is listed within the SLA SPG.* | An important scenic quality is the prominence of the Dunglass GDL wooded policies, set against the surrounding rural contextual character. The Historic Environment Scotland (HES) citation for Dunglass GDL notes that the landscape surrounding the GDL is 'largely agricultural in use', and states 'The woodlands…remain today as important features in the local landscape'. |
| Distinctiveness | *"Distinctive character of dense rural road network, including local features such as fords and bridges" (SLA SPG).* | The distinctive character of the LCA is recognised through the SLA designation. Accordingly, we consider that value is likely to be greater than 'Community.' |
| Amenity and recreation | *A small number of core paths with no wider accessible routes.* | Although there is a relatively small number of Core Paths, they offer access to within the LCA that also allows users to experience the Special Qualities and Features of the SLA. Accordingly, we consider the value is likely to be greater than 'Community.' |
| Perceptual (Scenic) | *"…fine open views" (SLA SPG) to the sea, with no other listed scenic qualities.* | The LCA description notes the 'extensive views towards the coast from smooth domed hill tops…strongly rhythmic pattern of open topped hills split by steep wooded valleys.' |
| **Susceptibility to change** | | |
| Scale | Scale varies between the hill tops and steep valleys. Mostly large scale and open. | The proposed development is located in a transitional part of the landscape, at the boundary with the Innerwick Coastal Margin LCA, which was judged to be 'Medium.' The LVIA explanation does not refer specifically to the susceptibility of the scale in this part of the LCA. Further, given the extensive area of the proposed development, which could affect a perception of scale of the underlying landscape, we consider susceptibility is likely to be greater than 'Medium/low. |
| Landform | *'The strongly moulded landform is composed of an intricately interwoven series of smooth,* | We consider that the perceptual quality of 'smooth, rounded low hills and slopes' would be susceptible to the |

| Factors affecting sensitivity | LVIA Explanation | ELC Comment |
|---|---|---|
| | *rounded low hills and slopes, dissected by an abundance of streams" (SLA SPG).* | introduction of features with a strongly 'rectilinear' engineered appearance. Our view is that the susceptibility is likely to be greater than 'Medium.' |
| Openness/enclosure | *Generally an open landscape with some enclosure in valleys and localised depressions.* | The LVIA considers 'Open and exposed landscapes' to have lower sensitivity to solar development. Such landscapes are also likely to be more susceptible to the visual influence of development. Accordingly, we consider the susceptibility of this criteria is likely to be greater than Medium/low. |
| Land cover | *Generally simple landcover of fields and woodland, with greater complexity represented in the cleughs.* | The proposed development has the potential to introduce a new land use across an extensive area. This has the potential to alter the land cover and simplicity of the farmed landscape; accordingly, we consider this is likely to have greater than 'Medium/low' susceptibility to change. |
| Built Environment | *Limited built features. There is a contrast between traditional farmsteads and modern outbuildings. Small number of wind turbines in the south of the LCA and communications masts on top of hills.* | Given the limited built features, we consider that this landscape would be more susceptible to the introduction of extensive and varied built forms. Visual intrusion from new farm buildings is noted as a 'Negative Attribute' of this LCA. We consider that the susceptibility to the type of change proposed is likely to be greater than 'Medium.' |
| Landscapes that form settings, skylines, backdrops, focal points | *Transitional landscape between upland and coastal plain. No noted focal points.* | This part of the LCA is at the transition to the coastal margin. It is important to the definition of the SLA boundary – as noted in assessment of Designated Landscapes. The prominence of the Dunglass GDL wooded policies, set against the surrounding rural contextual character are noted by HES to be an important feature in the landscape. The LCA description also notes extensive views towards the coast, from hills, where the landscape would form part of the landward setting. Given the potential to affect the perception of the distinct, recognisable and consistent pattern of elements in the landscape that makes |

| Factors affecting sensitivity | LVIA Explanation | ELC Comment |
|---|---|---|
| | | one landscape different from another, we consider that the susceptibility to the type of change proposed is likely to be greater than 'Low'. |

The LVIA concludes 'with particular reference to the Limited extent of Large and Large/medium effects, there would be a Medium magnitude impact on the character of the LCA through all stages of the Proposed Development and effects would be Moderate, Adverse and not significant. '

Regarding the conclusion, LI TGN 2024-01 'Notes and Clarifications on Aspects of Guidelines for Landscape and Visual Impact Assessment Third edition (GLVIA3)', 5 (11), p.13, states: 'The Panel suggests that geographical extent should reflect the relevance of the location (for example it may more strongly or weakly manifest one of the key characteristics than other areas, or it may have a geographic role in connecting parts of the receptor) and the spread of effects, as a 'modifier' to the scale of effect so that it does not understate the magnitude of effects for extensive receptors such as large character areas or designations.'

Our view is that within the LVIA study area, this part of the Eastern Lammermuir Fringe is important as part of the transition from the upland to coastal plain. The characteristics of this landscape contribute to the SLA 4: Monynut to Blackcastle. It is also important to the delineation of part of the SLA boundary.

The LVIA appears not to use the geographic extent as 'modifier' but instead as the main justification to moderate the magnitude of change, which in our view understates the likely landscape impact.
The LVIA does not appear to describe the scale of change with reference to the criteria defined in the LVIA methodology, Technical Appendix 6.1, p.3 pp. 17. In our view, the LVIA does not provide sufficient information on the degree to which aesthetic or perceptual aspects of the landscape are altered and whether the effect changes the key characteristics of the landscape, which are critical to perceiving its distinctive character. Inconsistent application of the methodology raises concerns over the LVIA findings.

Viewpoints 5-9 are located within this LCA. VP 6 and VP9 illustrate the change around Oldhamstocks. VP5 and VP6 illustrates the change in the lower lying areas on the fringes of the adjoining LCAs and close to the Dunglass GDL. VP7 and VP8 are located in the hillsides to Cocklaw Hill. VP8 is located towards the top of Cocklaw Hill. Although at high point, VP8 it is not located in the areas shown to have the greatest extent of theoretical visibility (Figure 6.1), i.e., the 'worst case', to the north of 'Dirtside' where there are unobstructed views across this LCA and out to the coast and North Sea; one of the recognised characteristics of the landscape.

The assessment states (6.6.4.11) there would be Large and Large/medium scale of change within the Application Site and adjoining fields up to 0.3km to the west, with the Proposed Development becoming '…the most dominant characteristic of the landscape'. The scale of change is represented by VP7. As above, the assessment does not provide a level of effect within these areas. By not reporting the effect where the scale of change is greatest, it is our view that the assessment is insufficient.

We agree with the LVIA finding that there are areas where the proposed Development would become 'the most dominant characteristic of the landscape.' and consider that, in such areas, this would constitute a significant effect.

The assessment concludes (6.6.4.6) that there would be a Medium to Medium/small scale change between 0.6 to 0.8km further west, stating (6.6.4.12) '…where the landform continues to rise and where the proposed development would be a more distant feature in the expansive landscape'. No photomontage viewpoint has been included to evidence this judgement, which in our opinion is a notable omission. The ZTV (Figure 6.1) and fieldwork suggests that there would be an area between 0.3-0.6km to the west of the application site where the influence of the proposed development on perceived character, through visibility, is likely to be notable. This is likely to impact upon characteristics of the landscape including the extensive views towards the coast from the hills, and the perceptual quality of the transition in the landscape from the uplands to the coastal plain. We therefore disagree with the finding of Medium to Medium/small scale of change and the geographic extent identified in the LVIA.

The LVIA concludes that the proposed development would have a Negligible change on the LCA in remaining areas where visibility would be reduced, citing VP5, VP6, VP7, and VP8. We agree that scale of change is likely to be reduced at these locations in part because the proposed development would be more distant, although it would remain perceptible; however, as above, the degree to which aesthetic or perceptual aspects of the landscape are altered, or whether the effect changes that characteristics of the landscape have not been adequately reported in the LVIA. As above, we consider the assessment to be insufficient to justify the finding that the scale of change could be assessed as Negligible.

The LCA descriptions also include 'Management Guidelines.' These include:

'a) Retain distinctive strong local relationships between land cover and topography, emphasising the transition from upland to coastal plan.
b) Reinforce visual and ecological contrasts between open hill slops and steep valley sides.
i.) Retain rural character of dense minor road network including characteristic features…'

In our view, the assessment does not sufficiently address how the potential impacts of the proposed development might interact with different phases of the baseline schemes referenced in section 6.6.4.3 and Table 6.1.

In our opinion the LVIA does not provide sufficient information to justify the conclusion that there would be no significant effects on the LCA. The LVIA conclusions for this LCA appears to understate the sensitivity, magnitude of change, level of effect and its significance. Further, we consider that the proposed development does not accord with the Management Guidelines for this landscape.

***Other Landscape Types***

The LVIA 'scopes' out detailed assessment of other landscape units within the study area. We agree with the justifications provided in the assessment.

East Lothian Council

***Visual Effects***

The LVIA has identifies three visual receptors:

Groups - Based around settlements or rural areas and representing effects on the community within public spaces including streets and local recreational routes in that place. Views from groups of homes may also be noted in the descriptions.

Routes – Users of longer distance transport and recreational routes through the study area.

Specific viewpoints – Visitors to locations which are recognised and valued for the views available.

The LVIA does not appear to cross-reference Volume 3: Chapter 15 – Technical Appendix 15.1 Glint and Glare Report. Since this is potentially a source of visual impact, we consider this a notable omission.

***Rural Area within 0.4km***

This receptor group encompasses the minor roads where they pass within or very close to the Application Site, and the Core Path to the west which extends south from Dirtside. Homes in this group include Oldhamstocks Mains Farmhouse and Cottage and the small group of homes at Birnieknowes as well as the financially involved property at Springfield.

The value of views within the SLA is assessed as Regional, elsewhere receptor's views are assessed as of Community value. Residents in public spaces near their homes and visitors to the area have a High susceptibility and sensitivity is judged to be High/medium. We agree with this finding.

In summary, the LVIA states that changes to views would be Large to Medium scale for an Intermediate extent of this receptor group giving rise to impacts of Large/medium magnitude through all stages of the Proposed Development. Effects would be Major/moderate, Adverse and significant.

We agree that receptors within 0.4km of the application site would experience these effects; however, we consider that the extent is likely to include sections of Core Path 16 up to approximately 0.6km further west, north of Dirtside. We agree with the LVIA findings that the magnitude of change would not be altered by mitigation and would remain through all stages of the proposed development.

Viewpoints 1, 6, 7 and 9 represent views from local roads and Core Paths. The LVIA states that the most open views from local roads are represented by VP1 and illustrative View C Iin Technical Appendix 6.4.

We consider that Illustrative View C should be a photomontage viewpoint to evidence the scale of change, as should Illustrative View A, both of which would be representative of views from minor roads where receptors may gain 'first impressions' of the proposed development travelling from Thornton and the wider countryside to the west.

Regarding VP6, the ZTV (Figure 6.1) and fieldwork suggests that more extensive visibility is likely to be experienced from Core Path 12 to the east of the application site. Therefore, we do not consider that

this viewpoint represents the 'worst case' visibility from this route but note that the assessment accounts for locations where users of the route would experience a greater scale of change to views.

***Visitors to Dunglass GDL***

The LVIA concludes that changes to views during all stages of the Proposed Development would be Small/negligible to Negligible scale for a limited extent of the area, giving rise to a Negligible magnitude of change through all stages of the Proposed Development. This change is represented in VP3 and VP5.

VP5 shows the proposed development would be visible on the skyline above the GDL woodland. We consider that the proposed development is likely to detract slighting from the focus on the woodland in the midground of the view, and from the simplicity of the composition. However, it would be seen in the context of the pylon line. Overall, we consider that the magnitude of change is likely to be greater than Negligible.

The LVIA finds that effects would be Minor, Neutral and Not Significant. We agree that effects would not be significant. We agree with the LVIA findings that the magnitude of change would not be altered by mitigation and would remain through all stages of the proposed development.

***Hoprig (0.8km, south)***

The LVIA concludes that changes to views during all stages of the Proposed Development would be Small/negligible to Negligible scale for an intermediate extent of the area, giving rise to a Small/negligible magnitude of change through all stages of the Proposed Development. This change is represented in VP4 and VP5.

The LVIA finds that effects would be Minor, Neutral and Not Significant. We agree that effects would not be significant. We agree with the LVIA findings that the magnitude of change would not be altered by mitigation and would remain through all stages of the proposed development.

***Other Visual Receptors***

The LVIA 'scopes out' detailed assessment of other receptors within the study area where it judges there to be 'negligible' effects. This includes:

Local roads, homes, and Core Paths where no visibility is indicated on Figure 6.6. And the A1 and East Coast Main Line Railway which are likely to experience limited visibility of the Proposed development as shown by Figure 6.6. We agree with this finding.

Local roads and homes beyond 0.4 km to the northeast. The LVIA states that where visibility does arise changes to views tend to be Small/negligible scale as illustrated by VP2. We agree with this finding.

The LVIA scopes out detailed assessment of the local road, Core Path, and homes around Oldhamstocks Burn to the west of the Application Site. These receptors are within the SLA, in some instances having views overlooking the landscape setting Oldhamstocks Conservation Area. The LVIA does not include a viewpoint or Illustrative View to support the justification to scope these receptors

out. Because of the above, we do not agree that sufficient justification to exclude detailed assessment of these receptors.

***Designated Landscapes***

The LVIA considers impacts on the Special Qualities and Features of the SLA, which is has summarised from the SPG. The summary headings do not include the full descriptions, which in our view is a notable shortcoming.

In Table 6.4 of the LVIA each SLA Special Quality and Feature is assessed for its susceptibility to change. We broadly agree with the susceptibility judgements of the LVIA. The assessment states that the special qualities affected vary between High and Medium susceptibility and would be of High/medium sensitivity taking account of the Regional value of the SLA.

The table concludes the scale of change on each Special Quality under 'Effects;' it does not actually assess the level of effect or significance in this column. The table below highlights where we disagree with or have comment on the assessment findings.

| **Identified SLA Special Quality / Feature** | **LVIA Scale of Change Judgement** | **ELC Comment** |
|---|---|---|
| The landscape pattern and sense of place. | *Medium scale for a Limited extent – the Proposed Development would form a new, atypical feature at the edge of the SLA and would reduce the clear delineation of the woodland belt marking the change of the designated area to the north of Oldhamstocks.* | The LVIA acknowledges that the proposed development would reduce the delineation of the SLA boundary, thereby affecting the distinct, recognisable, and consistent pattern of elements in the landscape that makes one landscape different from another – the 'sense of place.' Our view is that the scale of change where this occurs is likely to be greater than 'Medium'. |
| Complex and contrasting mix of land uses. | *Medium scale for a Limited extent – the Application Site is located across an area of intensively managed agricultural land across rolling hilltops and away from more naturalistic areas. It would form a new type of land use within the SLA.* | The assessment does not refer to the openness of the landscape, extensive views, the strong rhythmic pattern of predominantly open topped hills split by steep wooded valleys, or the flowing form of the higher ground. Our view is that the assessment is incomplete and when considering this identified Special Quality in full, the scale of change is likely to be greater than 'Medium'. |
| Winding minor single track roads and associated scenic value. | *Medium to Small scale for a very Limited extent – there would be changes to views from the local road as it passes the Application Site, as illustrated by viewpoint 7.* | 6.6.3.9 of the assessment states 'The extent of Large and Medium scale visual changes, where the Proposed Development would form a major alteration to key elements, features, qualities and characteristics of the view |

| Identified SLA Special Quality / Feature | LVIA Scale of Change Judgement | ELC Comment |
|---|---|---|
| | | such that the baseline will be fundamentally or notably changed, would be limited to the local roads which pass through the Application Site … and elevated sections of these roads within approximately 250 m, such as at viewpoint 7.' It is unclear how the assessment of this Special Quality of the SLA is judged to have a reduced scale of change. |
| Views of the Lammermuirs and distinct hills. | *Negligible - the Proposed Development would not be seen in views towards the Lammermuirs or distinct hills from within the SLA.* | Viewpoint 7 and the ZTV (**Figure 6.1**) demonstrates that there will be locations within the SLA where the proposed development is likely be seen in views towards the eastern Lammermuirs in close proximity to the application site. |
| Oldhamstocks village. | *Negligible – the Proposed Development is set back from the village and would not be visible from the village or the lower slopes around the village which form its immediate landscape setting.* | Viewpoint 7 and the ZTV (**Figure 6.1**) demonstrate that there will be locations within the SLA where the proposed development is likely be seen in views towards Oldhamstocks Village and its contextual landscape setting. This is referred to in the Statement of Importance for this SLA under the 'Guidelines for Development.' We therefore consider that the scale of change is likely to be greater than 'Negligible'. |

The LVIA judges the magnitude of change would be Medium/small at all stages of the Proposed Development and effects would be Moderate, Adverse and Not Significant. We disagree with the magnitude of change judgment and consider that this is likely to be higher in respect of the identified Special Qualities and Features discussed above.

The Statement of Importance for this SLA includes 'Guidelines for Development,' of which the following are considered relevant:

'A.) Any proposed development must not harm the characteristic features reflecting transition from open upland to enclosed lowland landscape.
D.) Any proposed development must not harm views of Oldhamstocks from Cocklaw …
E.) Any proposed development must not harm the agricultural character of the area.
L.) Any proposed development must not harm the existing character of the village of Oldhamstocks and the surrounding countryside.'

In our opinion the LVIA does not provide sufficient information to justify the conclusion that there would be no significant effects on the SLA. It is our view that the proposed development does not appear to accord with the Guidelines for Development for the SLA.

***Residential Visual Amenity Assessment (RVAA)***

The RVAA assesses two properties, Oldhamstocks Mains Farmhouse, and Oldhamstocks Mains Cottages.

The RVAA concludes a Medium magnitude of change during all stages of the proposed development, resulting in Major / moderate level of effect for both properties. The RVAA identifies that existing and proposed woodland would, to varying degrees, restrict visibility of the closest parts of the proposed development.

On pp.11, the RVAA states that 'Where it is identified that notable effects may arise at a property, the existing baseline visual amenity is described. This is done 'in the round' and considers … views experienced when arriving or leaving the property.' LI TGN 02/19 'Residential Visual Amenity Assessment' clarifies that 'arriving or leaving the property' relates to views from private driveways / access tracks.

The RVAA states that as the magnitude of effects is below Large, and there is no potential for the RVA threshold to be exceeded at this property. We agree with the findings.

***A summary of findings of the presentation of the assessment***

The findings of the assessment are adequately set out.

The graphics (Figures) are suitably legible, although the location of Illustrative Views is not marked on the figures, visualisation types are not clearly labelled.

An understanding of the baseline schemes referred to in 6.6.4.3 and Table 6.1 would be assisted by including an LVIA figure showing the application boundaries and LVIA study area.

We have concerns regarding the presentation of the ZTVs and that the LVIA omits bare-ground ZTVs.

We consider that Illustrate View A and C should be included as photomontage viewpoints to provide sufficient information to support the assessment of these LCAs.

Our view is that locations for Viewpoints 3, 6, and 8 do not represent the 'worst case' visibility.

The LVIA does not include viewpoints requested by ELC at the Scoping stage.

***Overall conclusions***

The review has identified areas where, in our opinion, there is concern regarding the lack of clarity in reasoning, insufficient justification for key conclusions and underestimation of effects in some instances.

East Lothian Council

Based on our review, we recommend objection on landscape grounds:

- due to the identified significant adverse visual effects;
- due to the potential for significant adverse effects on landscape character; and
- due to the potential for significant adverse effects on the Special Qualities and Features of SLA 4: Monynut to Blackcastle.

*Design and Mitigation*

For most landscape and visual receptors, the LVIA concludes that the magnitude of change would not be altered by mitigation and would persist throughout all stages of the proposed development.

The management of existing hedgerow to a higher height, to potentially provide degrees of screening of the proposed development would change the character of the local minor roads. It would partly conflict with the 'Management Guidelines' for the LCA 'Innerwick Coastal Margins'.

*Visual Effects*

The LVIA concludes that there would be Major to Moderate, adverse, and significant effects on users of local roads, paths, and residents within approximately 0.4 km of the proposed development, where frequent and close-range views of solar panels and associated infrastructure would occur. We agree with these findings, although we consider that the geographical extent of the impacts is likely to be greater than suggested in the assessment. The LVIA states that the magnitude of change would not be altered by mitigation and would persist throughout all stages of the proposed development.

The LVIA also concludes that other assessed visual receptors within the study area would experience non-significant effects. We agree with this conclusion; however, we believe that the magnitude of change - and therefore the level of effect - is underestimated in some instances.

We do not agree that sufficient justification has been provided for scoping out a detailed assessment of the visual receptor group comprising the local road, Core Path, and homes around Oldhamstocks Burn to the west of the application site.

*Effects on Landscape Fabric*

We are concerned that the LVIA does not offer a complete and robust assessment of impacts on individual receptors throughout all stages of the proposed development. In our view, the assessment does not align with LI TGN 2024-01, which states in section 5(2): 'Landscape features, elements … that could be subject to change must be clearly described in their own right ...'

We believe there is insufficient evidence to support the LVIA's conclusion (section 6.6.2.2) that 'Effects on landscape fabric would be positive and not significant.'

*Effects on Landscape Character*

The LVIA concludes that for both the Innerwick Coastal Margin LCA and the Eastern Lammermuir Fringe LCA, there would be Large to Medium-scale changes to landscape character within parts of the

application site hosting infrastructure, and across undeveloped areas in some directions where open views would be possible. It states that, in the context of these extensive character areas, the very limited extent of these changes would result in moderate, adverse, and non-significant effects. We disagree with this conclusion.

The assessment states (section 6.6.4.11) that the proposed development would become '…the most dominant characteristic of the landscape.' We agree with this finding and consider that, in such areas, this would constitute a significant effect.

Furthermore, we consider that within the LVIA study area, the Innerwick Coastal Margin LCA plays an important role in the transition between the fringes of the Lammermuir Hills (Eastern Lammermuir Fringe LCA) and the sea. It also contributes to the delineation of part of the boundary of SLA 4: Monynut to Blackcastle, provides the contextual landscape setting for the Dunglass GDL, and is representative of key characteristics of the landscape that have already been, and will continue to be, modified by large-scale infrastructure elsewhere in the LCA. Similarly, the Eastern Lammermuir Fringe LCA is important within the LVIA study area as part of the transition from upland to coastal plain. Its characteristics contribute to SLA 4: Monynut to Blackcastle and help define part of the SLA boundary.

The LVIA acknowledges that the central part of the Innerwick Coastal Margin LCA is already influenced by existing and proposed large-scale infrastructure. In our view, the proposed development introduces further large-scale infrastructure into the eastern part of the LCA, which risks extending and consolidating this modified character, potentially degrading the area's overall perceived coherence and integrity.

In our opinion, the LVIA does not provide sufficient information to justify the conclusion that there would be no significant effects on these LCAs. We consider that the sensitivity, magnitude of change, and therefore the level and significance of effects are underestimated in some instances. Additionally, we believe the proposed development does not appear to align with the Management Guidelines for each LCA.

*Designated Landscapes*

The LVIA concludes that localised or limited Medium to Small-scale changes to landscape pattern and colours, scenic value experienced from local roads, and views towards the sea would result in Moderate, adverse, non-significant effects.

In our view, the LVIA does not provide sufficient justification for the conclusion that there would be no significant effects on the SLA. We consider that the magnitude of change - and therefore the level and significance of effects - is underestimated in some instances. Furthermore, the proposed development does not appear to align with the Guidelines for Development for the SLA.

For most landscape and visual receptors, the LVIA concludes that the magnitude of change would not be altered by mitigation and would persist throughout all stages of the proposed development.

East Lothian Council

| | |
|---|---|
| ECU Application No. | ECU00004815 |
| ELC Reference No. | 25/00003/SGC |
| Proposal | Electricity Act 1989 – Application to construct and operate a solar development, electricity generating station and associated infrastructure |
| Location | Land located approximately 7.8km Southeast of Dunbar |
| Applicant | Voltalia UK Limited<br>Per Alexander Hamilton<br>The Wheelhouse<br>Bond's Mill Estate<br>Stonehouse<br>Gloucestershire<br>GL10 3RF |
| Ward | 06 Dunbar and East Linton |
| Date | 7 November 2025 |

Sent via email to econsents_Admin@gov.scot
Cc David King david.king2@gov.scot

**ANNEX C – ROAD SERVICES COMMENTS**

**Background**

This response follows our review of the Transport chapter of the EIA report and sets out our appraisal of the proposals in the context of the local transport network during the construction, operational and decommissioning phases of the development. As part of this review, full consideration has been given to the relevant transport related policies within the adopted *East Lothian Local Development Plan* (2018) and *National Planning Framework 4* (2023) documents. Reference is also made to East Lothian Council's '*Transport Infrastructure in New Developments'* online guidance.

**Existing Conditions**

The local road network in the vicinity of the site is made up of mostly narrow two-way single carriageway rural roads subject to the national speed limit. The alignment of the road includes tight bends in places and there are very limited clearly defined passing places. It is acknowledged that the roads are relatively lightly trafficked, however, there is prevalence of farming vehicles using the roads and tracks through the year. Furthermore, the road network is utilised by non-motorised traffic with frequent use by pedestrians, cyclists and horse riders.

East Lothian Council

**CONSTRUCTION PHASE IMPACT**

**Construction Phase Trip Generation Assessment**

It is noted that the construction phase is proposed to be 18 months in duration. The construction traffic trip generation assessment indicates that the peak traffic flows associated with the construction phase would result in the following additional vehicular movements per day:

- 76 two-way total movements (38 in and 38 out), of which 48 are by light vehicles (24 in and 24 out) and 28 are by HGVs (14 in and 14 out).

We note that the HGV movements on average during the construction period are predicted to be 5 two-way movements per day.

**Construction Site Access Arrangements**

It appears that there is one main construction site access proposed at the northern boundary of the site with a network of internal access tracks / haul roads that require to cross the existing road network at five locations.

Given the duration of the construction period and volumes of traffic utilising the construction site access, it should be designed to the same standards as any permanent junctions on the network. The required design standards are set out in our '*Transport Infrastructure in New Developments'* online guidance.

At the crossing points where the haul road network pass through the local public road network, these would need to be designed to an acceptable safe standard to The Council as the Roads Authority and discussions should take place in relation to their design with proposed designs required and agreed before determination.

The speed limit of the road where the construction site access (Site Entrance 01) is taken is the 60mph national speed limit and on this basis the minimum visibility splays that would be required to be achieved are 4.5m by 215m (with no obstructions above 1.05m in height). Reduced visibility splays can only be accepted if site specific speed data has been provided. The visibility splays indicated are 2.4m by 215m to the east and 160m to the west, which is not acceptable. We would question why the construction access is proposed in this location as satisfactory visibility could be achieved if it would be placed approximately 60m to the east.

The proposed construction site access junction geometry of 14m radii is acceptable. A track width of 4m is indicated, which would only allow one way working through the site for HGVS and we would question the practicality of this as two-way construction traffic should be achieved in the vicinity of the site access.

The proposed type-1 surfacing for the track alignment with the first 10m from the public road as bound permeable surfacing and a gate beyond this is acceptable in the context of the proposals and expected traffic types / numbers, however, details of the construction specification are requested for our approval, together with details of how surface drainage will be dealt with.

The swept path assessment through the site access shows that the proposed site access would be too narrow to accommodate an articulated HGV and is not suitable, we therefore question the proposed design on that basis.

**Construction Vehicle Routing**

It is proposed that inbound HGVs will exit the A1(T) from the Cockburnspath Roundabout and pass along the U220, then turning left onto the C120, negotiating 3 pinch points (referenced as Pinch Points 1, 2 and 3) and then turning left into the site at Site Entrance 1. LVGs and cars are expected to use the same route. We have significant concerns in relation to the suitability of this route given the impact on residential properties located directly adjacent to the roads on the route. It should also be pointed out that this forms part of the National Cycle Route and construction traffic would have an impact on cycle safety.

A swept path assessment has been undertaken for articulated HGVs along the proposed route – this indicates that at the three pinch points the vehicles can only negotiate the bends in the road whilst using the full road width and with the need for temporary widening of the corners of the bends in the roads. On this basis, any traffic passing in the opposite direction would not be able to pass and there are no passing places to allow this to occur. There are also no proposals for new / temporary passing places along the road network to facilitate the passing of traffic in opposing directions, which is not acceptable.

The proposed mitigation measure to compensate the lack of opportunities for passing traffic is the temporary closure of a section of the C120 road to general traffic, it being stated that this would be with the exception of local access to properties along the road. Alongside this closure it is proposed to have a 'vehicle booking system' with a vehicle delivery 'hold-off area' for the duration of the construction along with warning and directional signage.

The proposed temporary road closure would not be practical as there would remain issues between construction traffic and the traffic accessing local properties (including farm land) needing to pass each other through the pinch points on the road network. Any temporary road closure would also need to be backed up by an appropriate diversion route that should be suitable for all vehicles and we question whether this could be achieved. Such a road closure would have a significant detrimental impact on the use of the road network in the area for the general public, including pedestrians, cyclists and horse riders that would not be acceptable. Overall, the proposed construction access arrangements are not considered to be acceptable on this basis.

**Abnormal Load Vehicles**

Abnormal load traffic is proposed to depart from the A1 to the north of the Dunglass Burn via the U221, passing under the railway line and onto the U220 through Bilsdean, taking the same route to the main construction access via the C120 and with departures to the north via the U219.

No swept path assessment has been provided to demonstrate that the proposed abnormal load route is achievable and these should be provided for our review. Until such drawings are provided, we cannot confirm the acceptability of this aspect of the construction phase.

It is stated that an Abnormal Load Route Assessment will be undertaken prior to commencement of works post permission, however, we would request that a draft is provided for our approval to show that it is workable in principle before determination with the final version to be secured through a relevant planning condition.

**Construction Traffic Management Plan**

An Outline Construction Environmental Management Plan (CEMP) has been provided with the application and reference is made to the provision of a Construction Traffic Management Plan (CTMP) to be finalised post consent. We would expect that a draft CTMP be provided with the planning application pack for our review as a consultee – noting that there are fundamental aspects in the report that would influence our general decision as to the acceptability of the proposals. We accept that the final / working version of the CTMP should be secured through a relevant planning condition.

As part of the CTMP, we would request enforcement of a 20mph speed limit for all construction traffic, which would be enforced through the use of average speed cameras with registration plate recognition Furthermore, all drivers will be required to attend a site induction to ensure that they are aware of the driving rules to ensure that they drive in a safe and courteous manor.

**Local Road Network Capacity Assessment**

An assessment is made of the percentage impacts of construction traffic on the A1(T), which concludes that the impact would not be significant. The assessment states that there are no publicly available traffic count data for the roads within the study area and makes an assumption that the average daily flows would be 100 vehicles (including 2 HGVs). We would expect any assessment to be based on recorded traffic flows and not assumed values.

An assessment has been made on the percentage impacts on the theoretical capacity of the local roads U220, U246 and C120 which determines that the percentage impact on the 8 hour capacity would be insignificant. However, this assessment does not consider the need for such roads to accommodate two-way traffic (it states 'N/A' for the two-way hourly capacity) and on this basis is flawed.

Overall, we do not accept the findings of the assessment of the impacts on the local road network during the construction phase and do not agree with the conclusion that the impacts are insignificant – particularly as these are not based on evidence gathering.

**Accident analysis**

An analysis of accidents in the area over the last five year period has been undertaken and it concluded that there were no trends in the accidents that would indicate that there are significant safety concerns with the existing conditions. We would point out that the construction phase proposals would result in a significant change to the operation of the local road network in terms of the mix of

construction and general traffic that would likely result in a detrimental impact on road safety and therefore, accident risk, in particular at the identified pinch points, especially for more vulnerable road users including pedestrians, cyclists and horse riders.

**Committed Developments / Cumulative Impact**

Acknowledgement has been made of the potential overlap between this proposal and other projects in the vicinity and it is states that any impacts arising should be managed out through the individual CTMPs and communication between ELC, Transport Scotland and the various developers and East Lammermuir Community Council – the principle of this is noted and welcome and could be referenced in a relevant planning condition to ensure that this is coordinated properly.

Specific reference should be made to the approved Branxton Substation project (Planning Reference 23/00616/PM) and the associated temporary signalisation and road improvement works to the C120 / U220 junction to facilitate construction vehicle access between the proposed temporary slip road from the A1 and the construction haul road to the substation site itself.

**Road Condition Survey**

A willingness to undertake pre/post road condition surveys and road repair agreement is confirmed by the applicant and this is welcomed, the scope of this should be agreed with us and the commitment to this process should be set out in a relevant planning condition.

With regards to abnormal wear and tear on the road network, our expectation is that all damage to the public road network will be repaired in a timely fashion such that it is maintained for use by the public in a good state of repair. There needs to be a commitment to permanent repairs to the road network due to the construction activity. There should be an obligation to keeping all of the roads free of mud and debris during the construction period.

**OPERATIONAL PHASE IMPACT**

During the operational phase, the wider site is proposed to be accessed by a number of different access points from the local road network. In general, these operational site accesses would be accessed by light/medium vehicles with only site entrance 3B to accommodate HGVs.

Whilst it is acknowledged that the operational phase traffic numbers would be relatively low (i.e. less than one vehicle per week), the various site access points would still need to be designed such that they accord with our design standards and visibility criteria, as set out in our '*Transport Infrastructure in New Developments'* online guidance. The speed limit of the roads that the various site accesses are taken is the 60mph national speed limit and on this basis the minimum visibility splays that would be required to be achieved are 4.5m by 215m (with no obstructions above 1.05m in height). Whilst we would be willing to accept a relaxation of the 'x' distance to 2.4m at the operational site accesses used by infrequent light/medium vehicles only (i.e. all except site access 3B), the 'y' distance should be backup up with speed survey data for all of the proposed site access locations.

The proposed site access junctions generally have 8m radii (12m for site access 3B to accommodate HGVs), a track width of 4m and proposed type-1 surfacing for the track alignment with bound permeable surfacing for at least the first 10m from the edge of the public road carriageway – these arrangements are generally acceptable in the context of the proposals and expected traffic types / numbers, however, we require construction details for our approval together with details of how surface water will be dealt with. The swept path assessments into / out of the junctions themselves are acceptable.

In summary, all of the permanent site accesses have sub-standard visibility splays, which cannot be supported without evidence of lower traffic speeds as recorded in up-to-date speed surveys at the relevant points on the road network.

**DECOMISSIONING PHASE IMAPCT**

It is stated that the decommissioning phase impact would be the same or less than the construction phase impact and that the baseline in 40 years time would be difficult to accurately predict and therefore it has been scoped out of the assessment, which is accepted in principle.

**CONCLUSION**

Based on the above, there are significant areas of the proposals during both the construction and operational phases of the development that require to be resolved before we can be in a position to support the proposals in the context of the local road and transport network operation.

**ROAD CONSTRUCTION CONSENT**

Please advise the applicant that all works within or affecting the public road including works on the footpath must be authorised in advance by this Council. Further, any proposals, which include new or extended roads, will also require Road Construction Consent prior to carrying out any works and for which application should be made to the Head of Infrastructure. In addition, it should be noted that temporary measures will be necessary to deal with surface water run-off during construction of the site, in accordance with the requirements of the Water Environment (Controlled Activities) (Scotland) Regulations 2005 and General Binding Rules.

Please advise the applicant that all works within or affecting the public road including works on the footway or verge must be authorised in advance by this Council as Roads Authority.

East Lothian Council

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|---|---|
| ECU Application No. | ECU00004815 |
| ELC Reference No. | 25/00003/SGC |
| Proposal | Electricity Act 1989 – Application to construct and operate a solar development, electricity generating station and associated infrastructure |
| Location | Land located approximately 7.8km Southeast of Dunbar |
| Applicant | Voltalia UK Limited<br>Per Alexander Hamilton<br>The Wheelhouse<br>Bond's Mill Estate<br>Stonehouse<br>Gloucestershire<br>GL10 3RF |
| Ward | 06 Dunbar and East Linton |
| Date | 7 November 2025 |

Sent via email to econsents_Admin@gov.scot
Cc David King david.king2@gov.scot

**ANNEX D – PLANNING COMMITTEE COMMENTS**

On 4 November 2025, the Council's consultation response was considered at the Planning Committee meeting, where the Planning Service recommended that the Scottish Government Energy Consents Unit ("ECU") be informed that the Council objects to granting consent under Section 36 of the Electricity Act 1989, for the reasons set out in this report.

In addition to these reasons for objection, Councillors wish to highlight concerns to the ECU that the Council believes may merit discussion if a Public Local Inquiry were to take place. These concerns include economic viability, $CO_2$ emissions, and the loss of agricultural land.

East Lammermuir Community Council ("ELCC") provides a detailed analysis of the economic case for the proposed development within Annex C of their objection. East Lothian Planning Committee asks that these points are carefully considered and that the economic viability of the proposed development is reviewed.

A difference of opinion was also noted regarding $CO_2$ emissions and whether the proposed development would, in fact, lead to a reduction in greenhouse gases. The applicant, Voltalia, concludes in Chapter 14 (Greenhouse Gas Assessment) of the EIAR that the proposed development would provide a net climate benefit and is therefore assessed as negligible in terms of adverse impact and beneficial overall, supporting UK net-zero targets. However, ELCC provides a detailed carbon

emissions report within Annex D of their objection, which concludes that the proposed development is unlikely to offset the carbon emissions generated throughout its full life cycle. Due to these differing opinions, the Council asks that, should a Public Local Inquiry take place, this point is reviewed to bring clarity on the matter.

During Planning Committee, concerns were also highlighted regarding the cumulative loss of agricultural land, including prime agricultural land, within East Lothian as a result of "essential infrastructure", as defined under National Development 3 of NPF4.

Given that the volume of approved energy infrastructure in East Lothian currently exceeds the capacity of the existing grid network and significantly above the projected 2030 demand for generation and storage technologies, the Council asks that the ECU recognises the cumulative impact on agricultural land, including prime agricultural land, within East Lothian due to "essential infrastructure" developments.

The Council also draws attention to a recently refused solar farm application within the local authority area of Perth and Kinross Council (reference PPA-340-2156). Perth and Kinross Council refused planning permission (reference 23/01294/FLM) for the proposed solar farm due to significant landscape character and visual impact concerns, inadequate mitigation to offset landscape impacts, erosion of local distinctiveness, and cumulative loss of prime agricultural land and food production. This decision was appealed and recommended grant of planning permission by the Planning and Environmental Appeals Division, which concluded that the proposed development would accord overall with other relevant provisions of the development plan, including support for renewable energy proposals on prime agricultural land. However, on 25 October 2025, Scottish Ministers issued a decision letter disagreeing with the reporter's recommendation and refused planning permission for the proposed solar farm due to the medium-term cumulative impact on prime agricultural land and cumulative landscape and visual impacts.

This precedent underscores the importance of addressing similar concerns in East Lothian.

East Lothian Council

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|---|---|
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**ENERGY CONSENTS UNIT ("ECU") CONSULTATION: PROPOSED SOLAR FARM AND BATTERY ENERGY STORAGE SYSTEM ON LAND LOCATED APPROXIMATELY 7.8KM SOUTHEAST OF DUNABR, EAST LOTHIAN (REFERRED THROUGHOUT THIS REPORT AS "SPRINGFIELD SOLAR & BESS"), EAST LOTHIAN COUNCIL'S RESPONSE**

**BACKGROUND**

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 and Battery Energy Storage Facility ("BESS"). 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 application site covers approximately 184 hectares and is located approximately 50 metres north of Oldhamstocks and 7.8 kilometres southeast of Dunbar. It comprises 20 agricultural fields, designated as a mix of Class 3.1 and 3.2 agricultural land, primarily used for rotational arable and livestock farming, interspersed with areas of woodland.

The proposed solar farm and associated infrastructure would span 15 of these fields, with an estimated generating capacity of approximately 165 MW. The precise number of solar panels has not been specified, as this would depend on the technology available at the time of procurement. A Battery Energy Storage System ("BESS") and associated infrastructure are proposed at the northern end of the site, with an estimated capacity of 80 MW.

The nearest residential properties include Oldhamstocks Mains Cottages and Farmhouse, which are encompassed by the site boundary. Agricultural fields to the east, south, and west of these properties are proposed to accommodate solar panels. Additional nearby residential groupings include Birnieknowes (approx. 150 m north), Springfield (approx. 100 m east), Cocklaw Cottages (approx. 330 m west), and the village of Oldhamstocks (approx. 50 m south) from the site boundary.

The Bilsdean Burn watercourse flows west to east through the site, along with several smaller burns and field drains. A core path is also located at the southern end of the site, providing a connection between Oldhamstocks and Dunglass.

The site lies within an area of countryside as defined by Policy DC1 of the adopted East Lothian Local Development 2018 ("ELLDP"). Several designated sites are located within the site boundary:

- Scheduled Monument - Oldhamstocks Mains, enclosure (SM5891);
- Oldhamstocks Conservation Area (CA288);
- Monynut to Blackcastle Special Landscape Area ("SLA"); and
- Two areas of Ancient Woodland (Cockit Hat Strip and unnamed long-established woodland).

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.

**PROPOSAL**

The proposed development would have an estimated generating capacity of up to 165 MW from solar PV modules and 80 MW from BESS for an operational period of 40 years. The proposed development would consist of the following aspects:

- Solar panels (quantity not specified);
- 16 inverters;
- Up to 40 battery energy storage units;
- Up to 20 Power Control System (PCS) boxes;
- 10 MV transformers;
- Customer substation;
- Operations and Maintenance building;
- New and existing access tracks;
- Three watercourse crossings;

- Fencing;
- CCTV;
- Lighting;
- Temporary construction compound; and
- Biodiversity enhancement and management

The proposed development would connect to the consented Branxton Substation which is to be constructed approximately 1.2 km north of the site. The Transmission Network Operator ("TSO") would be responsible for assessing, designing and obtaining consent for the connection therefore does not form part of the application for the proposed development.

The site would be accessed by a number of on-site access tracks. Chapter 3 of the EIAR notes that the main entrance would be via the northern boundary off the C120 road. Figure 3.1 (Site Layout Plan) illustrates a number of access tracks proposed off a number of roads north of Oldhamstocks to allow access across the 15 agricultural fields where the development is proposed. The proposed BESS facility would include two points of access off the C120.

The construction of the proposed development would take approximately 18 months including a temporary construction compound and laydown area southwest of the proposed BESS. Once completed, it is expected that maintenance activities would be restricted to vegetation management, equipment/infrastructure maintenance and servicing and monitoring to ensure the continued effective operation of the proposed development.

Once the proposal has reached the end of its operational life, approximately 40 years, it would need to be decommissioned. Following the conclusion of the operational period all PV panels, BESS and associated equipment would be removed from the proposed development area and then the site restored to an agreed condition.

The EIAR presents inconsistencies between the development description in Chapter 3 and the supporting figures, with specific reference to the transformers, PCS boxes and inverters.

There are 10 transformers and 20 PCS boxes proposed which paragraph 3.2.3.8 states they will be positioned alongside the BESS containers. The paragraph further states that their indicative locations are shown on Figure 3.1 (Site Layout Plan). Figure 3.1 illustrates transformers positioned through the site, whilst no PCS boxes are shown. Additionally, 16 inverters are proposed as stated in paragraph 3.2.2.5 which are said to be shown in Figure 1.2 (Site Layout Plan). There are no inverters shown on this figure.

Figure 3.1 and figure 1.2 (Site Layout Plan) also illustrate a TSO substation which would take the form of a combination of overhead line and underground cables. Chapter 3 states that the grid connection would be considered as part of any future application for consent made by the TSO. The omission of details and assessment regarding the TSO substation and associated cabling is a concern as this would form an integral part of the development.

Given the scale of the proposed development, there is a lack of sufficient figures to fully convey the layout and components of the site. It is recommended that enlarged and focused site layout plans are provided for distinct sections of the site, with particular emphasis on the BESS facility and proposed fencing.

**THE DEVELOPMENT PLAN**

This application is made under the Electricity Act 1989 and not the Planning (Scotland) Act, 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 ELLDP.

Appendix B (National Development Statement of Need) of 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. Relevant policies are:

1 – Tackling the climate and nature crises
2 – Climate mitigation and adaptation
3 – Biodiversity
4 – Natural places
5 – Soils
6 – Forestry, woodland and trees
7 – Historic Assets and Places,
11 – Energy
13 – Sustainable Transport
14 – Design, Quality and Place
22 – Flood risk and water management
23 – Health and safety

**East Lothian Local Development Plan**

The following policies within the ELLDP are relevant to the proposed development:

DC1 (Rural Diversification)
DC9 (Special Landscape Areas)
NH3 (Protection of Local Site and Areas)
NH4 (European Protected Species)

NH5 (Biodiversity and Geodiversity Interest, including Nationally Protected Species),
NH7 (Protecting Soils)
NH8 (Trees and Development)
NH11 (Flood Risk)
NH12 (Air Quality)
NH13 (Noise)
CH2 (Development in Conservation Areas)
CH4 (Scheduled Monuments and Archaeological Sites)
CH6 (Gardens and Designed Landscapes)
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 51 representations, all of which make objection to the proposed development. The main grounds of objection are summarised in Table 1 below.

**Table 1: Summary of Objections**

| Topic | Comments |
|---|---|
| ***Agricultural Land & Food Security*** | - loss of prime, productive farmland which is vital for local and national food production;<br>- inappropriate use of agricultural land for an industrial-scale solar development; and<br>- concerns that importing food due to land loss will increase prices and reduce food security. |
| ***Environmental & Biodiversity Impact*** | - the destruction of habitats, hedgerows and wildlife corridors;<br>- threats to biodiversity including bird strikes, pollinators and protected species; and<br>- contravention of biodiversity frameworks including the UN Convention on Biological Diversity, Scottish Biodiversity Strategy, and the Kumming-Montreal Framework. |
| ***Landscape & Visual Impact*** | - cumulative landscape overload from multiple energy projects;<br>- visual intrusion on rural and coastal views, particularly near Oldhamstocks; and<br>- inadequate LVIA omitting key viewpoints and underestimating the impact. |
| ***Community, Amenity & Wellbeing*** | - the industrialisation of a rural conservation area will affect the community character;<br>- there will be negative psychological and social effects, including fear, intimidation and reduced quality of life as a result of the proposed development;<br>- the loss of access to the countryside and core paths will impact on recreation and mental well-being; and<br>- there are concerns about women's safety with particular reference to the high and extensive lengths of fencing proposed. |
| ***Traffic, Safety & Infrastructure*** | - there will be a significant increase in construction traffic, including HGVs;<br>- fire and safety risk presents, especially from BESS;<br>- there are flooding and watercourse contamination risks; and<br>- there is a lack of emergency planning and fire mitigation. |
| ***Economic Viability & Property Impact*** | - the financial viability of the proposed development is questionable (with citation of a study by Professor Gordon Hughes);<br>- there is no evidence of power generation modelling or economic justification for the proposed development; and<br>- there are concerns of devaluation of nearby properties, with some considered unsellable. |
| ***Policy & Legal Non-compliance*** | - the proposed development breaches multiple NPF4 and ELLDP policies;<br>- the submitted EIAR breaches the EIA Regulations 2017, especially regarding cumulative effects and accident hazards; and<br>- the proposed development results in the violation of the Land Reform (Scotland) Act 2003 and Arhus Convention. |
| ***Consultation & Process Failures*** | - a lack of meaningful public consultation and transparency has been identified;<br>- the EIAR has misleading or incomplete information; and<br>- the assessment fails to address all of the scoping opinion requirements. |
| ***Alternative Solutions Ignored*** | - there are better, less harmful sites that have not been considered; and<br>- community-led solar proposals have been dismissed due to alleged lack of connectivity. |

Of the 51 representations received, two objections were submitted in the form of substantial, detailed documents prepared by organised community groups: Save Our Rural East Lammermuir Landscape ("SORELL") and the Oldhamstocks Community Association ("OCA"). These objections have been summarised separately below.

The objection received by SORELL presents a comprehensive evidence-based objection on the proposed development which outlines planning policy breaches, environmental concerns and failures in community engagement. The document spans 80 pages and includes technical assessments of the EIAR chapters, review of statutory consultee feedback and community survey data. This objection is referenced and endorsed by many other representations objecting to the proposed development and East Lammermuir Community Council.

The objection states that across the EIAR, there are recurring and material failures which are identified as follows:

- widespread breaches of NPF4;
- failure to meet scoping requirements;
- absence of cumulative impact assessments;
- omission of critical assessment;
- unsubstantiated claims of Biodiversity Net Gain ("BNG");
- insufficient mitigation and lack of enforceable monitoring mechanisms; and
- inadequate public consultation.

The objection received by the OCA outlines four key grounds of objection which include the non-compliance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017, conflicts with NPF4 policies, no effective community engagement and unmet scoping responses. The OCA endorses the objection submitted by SORELL and references this throughout their objection.

**COMMUNITY COUNCIL COMMENTS**

**<u>East Lammermuir Community Council</u>**

East Lammermuir Community Council ("ELCC") objects to the proposed development. A comprehensive document has been submitted by the community council which has been summarised below.

**People, Place and Planet**

Whilst ELCC acknowledges the importance of contributing to Net Zero goals and supports well-sited solar developments, the proposed development is seen as deeply harmful to the local community, offering no clear benefit to residents, the owners, or the planet. The community council are not persuaded that the proposed development can be classed as *"essential infrastructure*" and is viewed as contrary to planning policies protecting agricultural land and community wellbeing.

**Scope of the Submission**

ELCC represents four villages, Oldhamstocks, Innerwick, Spott and Stenton, with Oldhamstock Parish most affected. The Community Council endorses the SORELL submission (as discussed above) and requests it be treated as part of ELCC's statutory response. ELCC also recognises and supports the many individual objections submitted by residents.

**ELCC Position**

ELCC formally objects to the proposal and requests Scottish Ministers to refuse consent or call a Public Local Inquiry ("PLI") to fully examine the planning, environmental, and legal issues. ELCC also calls for a broader inquiry into the cumulative impact of 15 energy developments in East Lammermuir, noting that the EIAR fails to account for several nearby projects and infrastructure works.

**Summary of Local Views**

A survey of Oldhamstocks Parish (which is detailed in an appended annex) shows an overwhelming opposition to the proposed development, noting 93% strongly oppose and only 1% strongly supports. This confirms ELCC's mandate to object on behalf of the community.

**Primary Reasons for Objection**

The primary reasons for objecting include:

- significant breaches of multiple NPF4 policies, including those on biodiversity, natural assets, carbon reduction, blue and green infrastructure, and human health;
- inadequate landscape and visual impact assessment;
- failure to address statutory scoping requirements and significant stakeholder concerns;
- procedural errors and omissions within the EIAR;
- lack of meaningful public engagement and consultation; and
- unmistakable evidence of cumulative spatial overload and overdevelopment of East Lothian's rural landscape.

**Supporting Reasons for Objection**

Additional arguments from the community council are summarised below:

- the proposal does not take into account the validated East Lammermuir Local Place Plan;
- the development is unlikely to offset its own carbon footprint, especially with a delayed grid connection of October 2031; and
- key documents were inaccessible or prohibitively expensive, limiting public participation and violating environmental rights and as such demonstrating non-compliance with the Aarhus Convention.

The objection also includes five annexes to support the document which includes survey results from the local community in relation to the proposed development, comparative imagery of the scale and size of the proposed development, a detailed analysis of an economic case for the proposed development, a carbon assessment of the proposed development and a list of examples of unavailable data within the submitted application.

**<u>West Barns Community Council</u>**

West Barns Community Council ("WBCC"), a neighbouring Community Council, also provides a response objecting to the proposed development outlining the following concerns:

- the developer's public consultation was poor, with staff unable to answer key questions about the proposal, visual materials and fire safety;

- there is no evidence that alternative brownfield sites were considered before selecting this location;
- The development is very large and would have a significant, industrialising effect on the landscape;
- The proposed development, the largest of many in the area, would contribute to an unacceptable cumulative loss of productive farmland;
- construction would worsen safety on the A1, which already has dangerous junctions and a poor accident record. Developer contributions to junction upgrades are needed if approved;
- the project would add to existing road safety concerns on narrow rural roads. Developer contributions and adherence to local codes of practice are necessary if consented;
- the proposal would harm the setting of Oldhamstocks, with fences and panels close to property boundaries, contrary to local planning policy;
- the development would block established public rights of way, breaching access legislation and planning policy;
- key species and wildlife corridors would be affected by fencing and loss of hedgerows, contrary to biodiversity policies;
- the development would adversely affect the local economy and community, contrary to planning policy; and
- there are unresolved fire safety risks with the battery storage system, especially given its location and emergency access limitations, contrary to planning policy.

WBCC understand the desire to move towards net zero and a greater use of renewable technologies, however '*it is felt that the long-term negative impacts on the environment and community both directly at Oldhamstocks but also more widely in the Dunbar and East Linton Ward, of this development outweigh any benefits of a renewable energy project.'*

East Lothian Council recommends that the ECU should carefully take into account the strong concerns and views of ELCC and WBCC in their assessment of this proposal.

**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 ELLDP helps 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.

The site is allocated within the ELLDP as countryside and therefore Policy DC1 (Rural Diversification) is relevant to the determination of this application. This policy states that development in the countryside, including changes of use or conversions of existing buildings, will be supported in principle where it is for:

a) agriculture, horticulture, forestry, infrastructure or countryside recreation; or
b) other businesses that have an operational requirement for a countryside location, including tourism and leisure areas

This policy recognises that countryside sites may be needed to provide infrastructure for operational reasons and states that proposals for renewable energy will be considered against other plan policies.

Whilst the principle of this development is acceptable, there are other issues that require to be considered. This is in line with Policy 11 of NPF4 which lists 13 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.

Scotland's renewable electricity generation has grown rapidly over the last twenty years, and a large contribution to achieving the commitment set out in the plan will be made by the increased decarbonisation of our electricity system.

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. Battery storage and solar are technologies which helps achieve these goals.

However, it is important to ensure that the lifecycle carbon impacts of the proposal itself are assessed and mitigated. At its meeting on the 27th of August 2019 the Council approved a motion declaring a Climate Emergency. Thereafter, at its meeting on the 3rd of 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.

It is recommended that such a condition should be imposed on any consent for this proposed development, consistent with the requirements of Policy 2 of NPF4 and Policy SEH2 of the ELLDP.

The Councils' Sustainability and Climate Change Officer provided comments on the proposed development and acknowledged the positive effects it would have on the climate emergency. They state that '*by simultaneously reducing emissions from agriculture and supporting decarbonisation of grid electricity, this development could significantly reduce East Lothian's greenhouse gas emissions. The complete and transparent greenhouse gas lifecycle assessment is particularly welcome.'*

However, they further note that '*the development would also result in a significant loss of agricultural land, which could result in East Lothian relying on imported food.'* They conclude that whilst '*Overall, the climate mitigation benefits are noted, but there may be overriding concerns with the development due to its scale and location. Any decision will need to carefully weigh these competing priorities.'*

**NOISE AND VIBRATION**

The agent has undertaken a Noise and Vibration Report which assesses the potential for significant noise and vibration effects arising from the construction, operation and decommissioning of the proposed development.

The Councils' Environmental Health Officer has been consulted, and they state that the Noise Report assumes that mitigation in the form of 4.5m acoustic barrier with cantilever surrounding each Central Inverter Transformer and 3.5m acoustic barriers surrounding groups of BESS container, Power Conversion Systems, and MV Transformers, as presented in Figure 3.14 will be provided. However, the specific locations and extent of these barriers within the development site is not provided.

They request that clarity is provided on the specific locations and extents of any barriers referred to in Figure 3.14 of the Noise Report.

In the absence of the specific locations and extents of any acoustic barriers, the Council **objects** to the application in relation to **Noise and Vibration.**

**CONTAMINATED LAND**

The Council's Senior Environmental Compliance Officer has provided comments on the EIAR with particular regard to the section on ground conditions and notes that a Phase 1 has already been undertaken. They state that the findings of the Desk Study concluded that the maximum risk to the identified receptors was Low – Moderate when considering contaminated soils, harmful ground gases and the potential for contaminants to leach into the water environment. The recommendations are for wider ground investigations to identify any contaminants or potential ground gas sources at the Site with subsequent updates to the Conceptual Site Model. There is also an acknowledgement that the site lies within a high Radon Probability area (Class 5: 10 to 30% of properties are at or above the radon action level).

They would recommend that a condition is attached to ensure an appropriate Geo-Environmental Assessment and Remediation Statement are undertaken. In addition, they provided the following advisory note with regards to Radon Risk Areas:

*'According to the latest Radon Mapping the proposed development site lies within a Radon Affected Area meaning it may require radon protection measures to be installed in accordance with relevant Building Standards legislation and appropriate guidance. It would be advisable to obtain a Site-Specific Radon Report to determine the actual radon potential for the site.*'

**SOILS**

The proposed development site comprises predominantly agricultural land, of which approximately 20 hectares are classified as prime agricultural land (Class 3.1). In addition, around 160 hectares fall under Class 3.2, and approximately 3 hectares are classified as Class 6.1. This means that prime agricultural land accounts for approximately 12% of the total application site. This is clarified within paragraph 13.6.1.19 of Chapter 13 (Socioeconomics, Land Use, tourism and Recreation) of the EIAR.

NPF4 includes a strong policy presumption against development on prime agricultural land. There is one exception for the loss of prime agricultural land which is where the proposal is for 'essential infrastructure and there is a specific locational need and no other suitable site' as outlined in Policy 5

of NPF4. The definition of 'essential' infrastructure in the NPF includes energy storage and generation technologies therefore covering this proposal.

The proposed development is essential infrastructure with a specific need for its location, justified by its site selection process, to reinforce the electricity transmission system, supporting a secure and stable supply of energy as part of National Development 3 of NPF4. Therefore, the proposed development is not inconsistent with Policy 5 of NPF4 or Policy NH7 of the ELLDP.

The Council accepts the use of prime agricultural land has been minimised considering the other constraints in the area. The restoration of agricultural land capacity should be secured by condition, along with further consideration of the best use of soils on the site in the meantime.

**FLOOD RISK AND THE WATER ENVIRONMENT**

Consultation was undertaken with the Councils' Structures and Flooding Team Manager who highlighted that SEPA's Flood Hazard Mapping indicates that parts of the application site may be at risk from a surface water flood event with a return period of 1 in 200 years. These areas are fully limited to nearby the watercourses running through the application site which are the 0.5% annual risk of a flood occurring in any one year.

In relation to the EIAR, the proposed development is supported by a Flood Risk Assessment ("FRA") which was primarily desk-based rather than a hydraulic modelling-based FRA. The Councils' Structures and Flooding Team Manager states that paragraph 9.4.3.6 of Chapter 9 (Water Resources and Flood Risk) indicates that the PV arrays are *"at risk of flooding in the baseline 1 in 200 year (+39% allowance for climate change) scenario".* However, the depths are stated to be well below the 0.8m base height of the panels.

The Councils' Structures and Flooding Team Manager outlines that this type of development has an increased risk of surface water runoff and as such would need to ensure that:

- The formation of any newly formed hard surfaces such as access roads should be attenuated to at least existing Greenfield runoff rates so that there is no increased effect on downstream receptors. Likewise, any discharges from SUDS and other drainage should be kept to existing Greenfield runoff rates. There will be an increased effect due to the hardstanding required for the infrastructure.

    - Chapter 9.6.1.1 states that *"The final detailed design of the BESS, substation, and construction compound will incorporate sustainable drainage systems (SuDS) to control runoff rates and provide pollution control measures. The drainage design will establish surface water interception and discharge measures for hardstanding areas in accordance with local and national best practice SuDS guidance and policy which will prevent an increase in surface water runoff and provide protection to the receiving water environment".*
    - Within the Technical Appendix Chapter 6.3.4, the existing greenfield runoff rate has been calculated (1.1l/s at a 1 in 200 year flood). The applicant has proposed a limit of 5l/s. They would ask the applicant to limit the greenfield runoff to existing rates, so a maximum of 1.1l/s. The document the applicant references is 9 years old and since, ELC require to limit to existing rates.
- If there are to be any culverts, watercourse crossings or alterations to crossings, these must not reduce the flow conveyance of the watercourse.

    - Chapter 9.4.7.2 of the FRA states that there will be three watercourse crossings. Details are not yet known and these *"details of watercourse crossings will be provided as part of the Construction Method Statement secured through the final CEMP".*
- Details of the silt traps and any other functions that the applicant proposes to minimise the amount of sediment entering the water course should be submitted.
    - SEPA should be consulted on the environmental pollution risks.
- No flooding to property at 1 in 200 year + CC flood event and no surcharging of drainage at 1 in in 30-year event.
    - The FRA shows this site looks to comply; however, this is dependent on any changes due to greenfield runoff rate query above.

During construction, as stated in the FRA, it would be expected that the on-site risk for a number of issues including flood risk would be mitigated. These measures are detailed in Chapter 9's technical appendix and seem appropriate.

The Councils' Structures and Flooding Team Manager encourages the applicant to look at their mitigation and surface water attenuation e.g. SUDS pond / retention at the earliest opportunity to mitigate the risks posed by this proposal.

It is recommended that additional information and clarification/corrections with regards to greenfield runoff, watercourse crossings and silt traps should be provided within the existing report to address the concerns above.

In the absence of this further and corrected information the Council **objects** to the application in relation to **Flood Risk** and the **Water Environment.**

**BIODIVERSITY**

The proposed development is supported by Chapter 8 (Ecology and Nature Conservation) along with supplementary appendices and Planning Statement. The Council's Biodiversity Officer has raised multiple concerns regarding biodiversity impacts, policy compliance and insufficient mitigation which are summarised in Table 2 below. Their comments are appended in full to this report (Annex A).

**Table 2: Summary of Biodiversity Concerns**

| Topic | Comments |
|---|---|
| ***Policy Compliance*** | - NPF4 Policy 1 (Climate & Nature Crises): while solar panels supports climate goals, biodiversity concerns remain unaddressed;<br>- NPF4 Policy 3 (Biodiversity): the EIAR fails to demonstrate significant biodiversity enhancement or ecological connectivity;<br>- NPF4 Policy 4 (Natural Places): concerns raised regarding the Shadow Habitats Regulations Appraisal; and<br>- ELLDP Policies NH3–NH5, DP1, DP2: multiple areas of non-compliance identified. |
| ***Protected Species*** | - bats: mitigation advice is not clearly reflected in the submitted plans;<br>- badgers: lack of clarity on badger gate placement and methodology;<br>- red squirrels: Protected Species Survey Report does not detail clearly any mitigation proposed and enhancements may need to be included; and<br>- otters and water voles: surveys incomplete due to land access issues however no evidence of species was found. Restoration of watercourses is recommended which would indirectly benefit otter and water vole. |
| ***Habitat & Connectivity*** | - there is a loss of 61.46 ha of habitat acknowledged, but biodiversity net gain is not demonstrated;<br>- Outline Habitat Enhancement Management Plan ("oHEMP") lacks robust ecological connectivity and long-term guarantees;<br>- the proposed 2m high fencing is extensive which may unnecessarily fragment habitats and restrict species movement; and |

| Topic | Comments |
|---|---|
| | - no evidence has been provided that proposes shade-tolerant mixes which are viable or ecologically beneficial. |
| ***Survey & Reporting*** | - timing mismatch between the Protected Species Survey (May 2025) and oHEMP (April 2025);<br>- no ecological assessment or mitigation provided for habitats along construction traffic access routes; and<br>- no reference to bat-friendly lighting guidelines. |

In conclusion, the Council **objects** to the application in relation to **Biodiversity** due to insufficient evidence to demonstrate ecological connectivity of the site, no guarantee of biodiversity enhancements and as such is contrary to NPF4 Policy 3 and there is a lack of clarity on whether the protection of and mitigation for European Protected species has been applied.

**LANDSCAPE AND VISUAL IMPACT**

The Council's Landscape Project Officer has provided comments on the application, and the full response is appended to this report (Annex B). They have reviewed the Landscape and Visual Impact Assessment ("LVIA") forming part of the EIAR, and visited the site and viewpoints, and have highlighted a number of concerns regarding the lack of clarity in reasoning, insufficient justification for key conclusions and underestimation of effects in some instances. These concerns are summarised within Table 3 below.

**Table 3: Summary of Landscape Concerns**

| Topic | Comments |
|---|---|
| ***LVIA Methodology*** | - the methodology used broadly follows 'Guidelines for Landscape and Visual Impact Assessment: Third Edition' ("GLVIA3") principles; however, it appears not to have been applied consistently throughout the assessment;<br>- the Council was not consulted on the 'Visualisation types', and further they are not labelled clearly, which limits our capacity to verify their accuracy;<br>- no bare-ground ZTVs have been included, contrary to NatureScot guidance;<br>- the Zone of Theoretical Visibility ("ZTV") figures lack clarity on the inclusion of BESS and substation visibility;<br>- there is no evidence that the assumed woodland screening height (15m) used in the ZTVs has been verified in the field, which casts doubt over the accuracy of the figures;<br>- areas of felled woodland identified in the baseline have not been modelled as such in the ZTVs, which may overstate the screening effect shown in the figures; and<br>- there is no evidence that the projected mitigation planting growth rates have been calibrated to the local geography and climate. |
| ***Scope of Assessment*** | - the final viewpoint list was not agreed with the Council and key requested viewpoints have been omitted; and<br>- the Residential Visibility Amenity Assessment ("RVAA") excludes properties beyond 100m without robust justification.<br>- insufficient justification has been given to 'scope out' detailed assessment of the local road, Core Path, and homes around Oldhamstocks Burn to the west of the Application Site<br>- the assessment does not sufficiently address how the potential impacts of the proposed development might interact with different phases of the baseline schemes referenced in section 6.6.4.3 and Table 6.1. |
| ***Design & Mitigation*** | - for most of the landscape and visual receptors, the LVIA states that the magnitude of change persists through all development stages, which suggest the effects cannot be removed of even reduced by the proposed mitigation; and<br>- the proposed hedgerow management to a higher height would partly conflict with the 'Management Guidelines' for the Landscape Character Area ("LCA") 'Innerwick Coastal Margins'. |
| ***Landscape Fabric*** | - Insufficient evidence to support the LVIA (paragraph 6.6.2.2) finding that 'effects on landscape fabric would be positive and not significant';<br>- incomplete identification of receptors;<br>- Incomplete assessment of impacts on landscape fabric for all phases of the proposed development;<br>- Inconsistent application of the LVIA methodology; |

| Topic | Comments |
|---|---|
| | - the LVIA does not clarify the 'worst case' scenario used for the assessment; and<br>- there are no cross-references to Chapter 8: Ecology and Nature Conservation, which may be relevant to the consideration of the value of physical landscape features. |
| ***Effects on Landscape Character*** | - the LVIA does not provide sufficient information to justify the conclusion that there would be no significant effects on the affected LCAs.<br>- in our view, the sensitivity, magnitude of change - and therefore the level and significance of effects - is underestimated for affected LCAs;<br>- the assessment states (section 6.6.4.11) that the proposed development would become '…the most dominant characteristic of the landscape.' We consider that, in such areas, this would constitute a significant effect.<br>- the viewpoint selection underrepresents the availability of more open and/or elevated views within LCAs, which are part of the perceived character;<br>- consideration of the geographic extent of change appears to contradict LI TGN 2024-01 'Notes and Clarifications on Aspects of Guidelines for Landscape and Visual Impact Assessment Third edition (GLVIA3)'; and<br>- the proposed development does not accord with the Management Guidelines for the affected LCAs. |
| ***Visual Effects*** | - there are significant adverse effects on receptors within 0.4km (local roads, paths, residents); however, we consider the geographic extent of impactsis likely greater than stated;<br>- some potential visual receptors scoped out without sufficient justification; and<br>- Chapter 15 – Technical Appendix 15.1 Glint and Glare Report is not referenced which is a notable omission. |
| ***Designated Landscapes*** | - the LVIA does not provide sufficient information to justify the conclusion that there would be no significant effects on the affected Special Landscape Area (SLA) 4: Monynut to Blackcastle.<br>- in our view, magnitude of change - and therefore the level and significance of effects - is underestimated; and<br>- the proposed development does not accord with the Management Guidelines for the SLA. |
| ***Residual Visual Amenity Assessment*** | - the Council agrees with the findings but notes limited scope. |

The Council formally **objects** to the planning application on the grounds of **Landscape and Visual Impact**. This objection is based, in part, on the findings of the Landscape and Visual Impact Assessment (LVIA), which identifies significant adverse visual effects on receptors located within 0.4 kilometres of the proposed development, including local roads, public paths, and residential properties. However, it is the Council's view that the geographical extent of the likely impacts has been underestimated. Furthermore, the Council's Project Officer – Landscape has expressed concerns that the LVIA does not adequately assess the potential impacts on landscape character, nor on the Special Qualities and Features of SLA 4: Monynut to Blackcastle. In the Officer's professional opinion, these impacts may be significant.

**HISTORIC ENVIRONMENT**

The Council's Archaeology/Heritage Officer was consulted on the proposal, and they state that the EIAR acknowledges that the proposed development would not be seen from the village of Oldhamstocks itself, it would be visible from Oldhamstocks Conservation Area. Additionally, the approach to the conservation area would be significantly adversely impacted with the roads leading to the village, and the conservation area, from the north being lined by the arrays for a large proportion of their length. This is clearly illustrated on Figure 7.3 of the EIAR.

They further comment that *'the approach to the conservation area is an important element in how it is seen, understood and appreciated. The approach is currently through an open rural landscape which reflects the nature of the conservation area in that it is rural, containing traditional building styles with modern industrial infrastructure confined to the background. Indeed, the conservation area description mentions the rural landscape which surrounds the village as an essential characteristic. The*

*positioning of the proposals along the roads that lead into the conservation area from the north will have a significant adverse impact on the approach to the conservation area and by default how the conservation area is seen and appreciated. It is considered that the change in character from rural to modern industrial will be a significant adverse impact upon the setting of the conservation area and from the submitted proposals it appears that it could not be mitigated in any meaningful way by the current scheme.*

*The proposals are contrary to NPF4 Policy 7d and e which notes 'Development proposals in or affecting conservation areas will only be supported where the character and appearance of the conservation area and is setting is preserved or enhanced…..' and ' Development proposals…will ensure that natural and built features which contribute to the character of the conservation area and its setting…are retained'. The proposals are also contrary to Policy CH2 of the ELLDP which notes 'All development proposals within or affecting a Conservation Area or its setting must be located and designed to preserve or enhance the special architectural or historic character or appearance of the Conservation Area….'*

*The importance of the historic environment is fully recognised in NPF4 and Planning Advice Note (PAN 2/2011), where it is acknowledged that at times change to historic environment assets is not possible. In this instance the potential benefits of this development are not deemed to be sufficient to counterweigh the impacts upon the Historic Environment as the character of the conservation area will be significantly adversely impacted upon.'*

Therefore, due to the assessed impact of the proposed development upon the setting of Oldhamstocks Conservation area the Council **objects** to the application to in relation to **Historic Environment.**

Notwithstanding this advice, if the proposal is consented, they advise that a Programme of Archaeological Works will need to be conditioned. However, it should be noted there is not sufficient detail in the proposal to enable the Council's Archaeology/Heritage Officer to advise over the exact details of the required works but it can be secured with a standard Programme of works condition with the exact nature and scope of the works being agreed subsequently. The nature of the archaeological mitigation will be dependent upon the level of proposed ground disturbance but may include evaluation by archaeological trial trench, open area excavations, watching briefs etc and the investigations should be tailored to the level of impact.

Given that there is not sufficient detail in the submitted documents to finesse this to the exact nature and scope of any archaeological investigation this will need to be agreed prior to any works starting.

**TRANSPORTATION**

The site would be accessed by a number of on-site access tracks. Chapter 3 of the EIAR notes that the main entrance would be via the northern boundary off the C120 road. Figure 3.1 (Site Layout Plan) illustrates a number of access tracks proposed off a number of roads north of Oldhamstocks to allow access across the 15 agricultural fields where the development is proposed. The proposed BESS facility would include two points of access off the C120.

The agent has provided a Transport Statement (Chapter 11: Traffic and Transport) which assesses the traffic impacts associated with the construction of the proposed development on the surrounding public road network. A Construction Traffic Management Plan ("CTMP") has not been submitted. The potential impacts for the operation, maintenance and decommissioning phases have been scoped out of the assessment.

Consultation was undertaken with the Council's Road Services and the full response is attached (Annex C) to this report. Several areas of concern during the construction phase have been highlighted which are summarised in Table 4 below.

**Table 4: Summary of Construction Traffic Phase Concerns**

| Topic | Comments |
|---|---|
| ***Traffic Generation*** | - Peak daily movements, 76 two-way total movements (48 light vehicles, 28 HGVs); and<br>- Average HGV movements, 5 two-way movements per day. |
| ***Site Access Arrangements*** | - Main access point visibility splays (2.4m x 215m east, 160m west) are below standard and not acceptable. Visibility splays required are 4.5m x 215m;<br>- Suggested relocation of access approximately 60m east to meet visibility standards;<br>- Swept path analysis shows access too narrow for articulated HGVs; and<br>- Track width (4m) only allows one-way HGV movement which is impractical. |
| ***Vehicle Routing*** | - Proposed route via U220 and C120 includes three pinch points;<br>- Swept path analysis shows full road width required with no passing places proposed;<br>- Temporary road closure of C120 proposed which is deemed impractical and detrimental to public access and safety; and<br>- Route overlaps with National Cycle Route therefore there are safety concerns for cyclists. |
| ***Abnormal Load Vehicles*** | - No swept path analysis provided for abnormal load route; and<br>- Draft Abnormal Load Route Assessment requested prior to determination. |
| ***CTMP*** | - A draft CTMP has not been provided which is required for review; and<br>- The CTMP should include enforced 20mph speed limit via average speed cameras and driver site inductions for safe and courteous driving. |
| ***Local Road Network Capacity Assessment*** | - The assessment is based on assumed traffic volumes. This should be based on recorded traffic flow data; and<br>- Two-way capacity not considered and as such deems the assessment flawed. |
| ***Accident Analysis*** | - No existing accident trends, but construction traffic mix is likely to increase risk, especially for vulnerable users. |
| ***Cumulative Impacts*** | - Coordination with other developments welcomed and should be secured via planning condition; and<br>- Specific reference should be made to the approved Branxton Substation project (Planning Reference 23/00616/PM) and the associated temporary signalisation and road improvement works to the C120 / U220 junction to facilitate construction vehicle access between the proposed temporary slip road from the A1 and the construction haul road to the substation site itself. |
| ***Road Condition Survey*** | - Commitment to pre/post road condition surveys and repairs are welcomed; and<br>- It is expected the any damage to the road network will be repaired in a timely manner and ensure clean roads during construction. |

Paragraph 11.5.2.3 of the EIAR states that *'the effect of operational traffic is therefore expected to be negligible and has been scoped out of this assessment. This is acknowledged by the Council and considered acceptable by Transport Scotland.'*

The Councils' response to the scoping report accepted that the operational phase would result in relatively lower traffic impact levels however did not accept the scoping out the impacts on operational traffic as a result of the proposed development.

Whilst the Councils' Road Services acknowledges that during the operational phase, the traffic numbers would be relatively low (i.e. less than one vehicle per week), the various site access points would still need to be designed such that they accord with the Councils' design standards and visibility criteria as set out in the Councils' *'Transport Infrastructure in New Developments*' online guidance. The visibility splays of all permanent access points are sub-standard which cannot be supported without evidence of lower traffic speeds as recorded in up-to-date speed surveys at the relevant points on the road network.

The impact of the decommissioning phase is expected to be similar to, or less than, that of the construction phase. Given the difficulty in accurately predicting baseline conditions 40 years time, this phase has been scoped out of the assessment. This approach is considered acceptable.

The Councils' Road Services provide additional points within their comments noting that; all works affecting public roads must be authorised in advance, Road Construction Consent is required for new/extended roads, and temporary drainage measures must comply with relevant regulations.

The comments from the Councils' Road Services (Annex C) should be fully addressed by the agent and appropriate changes to the proposals/additional information provided.

Unless and until these changes and appropriate information has been provided, the Council **objects** to the application in relation to **Transportation** due to the significant unresolved issues during the construction and operational phases.

**ACCESS AND RECREATION**

Chapter 13 (Socio-Economics, Land Use, Tourism and Recreation) of the EIAR provides an assessment of Tourism and Recreation which includes impacts on access and recreation within the application site. Paragraph 13.6.1.14 outlines that access rights permitted under the Land Reform (Scotland) Act 2003 do not apply to land on which crops have been sown or are growing and as most of the land is currently used for growing crops, the assessment has assumed that the existing recreational use of the land is limited to East Lothian Core Path 12, field boundaries and areas of woodland within the site.

Under the Land Reform (Scotland) Act 2003 there is a right of responsible access to most countryside in Scotland. This includes paths and tracks, grazed fields, woodlands and around the margins of arable fields. It also extends to arable fields when they are in stubble. Following a site visit, review of Google Streetview imagery, visualisations within the EIAR and photographs submitted through representations, it clear that many fields within the application site are used for grazing. The Council, therefore, do not agree that the assessment of existing recreational use of the land should be limited to Core Path 12, field boundaries and areas of woodland within the site as stated within Chapter 13 of the EIAR.

The Council also disputes the conclusion that the proposed development would result in a minor adverse effect on tourism and recreation, and that this effect would not be significant. This position is based on two key concerns: (i) the assessment of recreational use is limited and does not fully consider the extent of land affected, and (ii) the evaluation of amenity impacts—arising from noise, visual impacts, and traffic—underestimates or inadequately justifies these effects. As outlined earlier in this response, the visual and traffic impacts are considered to be underestimated and/or insufficiently assessed. As such, the conclusion regarding potential impacts on tourism and recreation are considered inaccurate.

The Councils' Access Officer has provided comments noting concerns about the impact the proposed development would have on public access rights. They state that:

*"…this application covers 184 hectares and that most of the application site will be surrounded by 2 metre high mesh fencing. This will prevent people from being able to exercise their access rights over this land.*

*The solar panels will have a major impact on the views in this area and the general feel of lovely rural agricultural land will be lost. Anyone walking, cycling or horse riding along the roads in the area will be very much in an industrialised area.*

*The main impact will be on those wishing to walk around a field margin or ride a horse through a stubble field. All of this area will be lost to them.*

*There appears to be no detail about the exact location of the fences and gates. Horse riders using narrow roads such as these will use gateways to allow agricultural vehicles and larger lorries to pass. So gates would really need to be set back for them. It is unclear whether the fencing will be immediately behind the hedgerows, or if there will be a gap for maintenance. The Planning Statement appears to suggest that hedges will be thickened up and gaps filled in. However, if the hedges are to be maintained then they will require a gap behind them. If there is to be sufficient space behind the hedges to maintain them, then possibly these areas can be signposted as public access to go some way to mitigate against the loss of field margins and larger spaces where people currently have a right to walk.*

*There is a core path that runs right through the proposed solar farm between compartments 10 and 11. I note that a space has been left for the path, but with a 2 metre-high fence running along either side of the path. This will completely change the character of this walk, which is a lovely wide open track running across grazed land and then between arable fields. It is currently possible to leave the core path and do a short circular walk around the margins of the adjacent fields, rather than retrace your steps back to Oldhamstocks. This would no longer be possible if the solar farm goes ahead with its high fences.*

*The use of fencing around all these areas of solar panels seems to go against Scottish access legislation and it will have an enormous impact on anyone wishing to walk there."*

Further to the comments received from the Councils' Access Officer, they have highlighted that the proposed development would be contrary to Policy 11(e) of NPF4. Policy 11(e) states that project design should demonstrate how various impacts will be addressed, including visual impacts on communities and individuals, and impacts on public access—such as long-distance paths, cycling routes, and scenic routes. The Access Officer notes that there is no reference to these considerations in the documentation provided within the EIAR.

The proposed solar farm would be constructed on both sides of several rural roads, which would be enclosed by six-foot fencing on either side. Oldhamstocks is a popular destination for cyclists, and a key part of its appeal lies in the scenic rural views from the surrounding roads. Policy 14 (c) of NPF4 states that developments which are detrimental to the amenity of the surrounding area will not be supported. Given the significant impact this proposal would have on the views and rural character of the area, it is considered to be detrimental.

In relation to the ELLDP, Policy T4 states that the Council will protect its existing core path and active travel networks and ensure that new development does not undermine them—including the convenience, safety, and enjoyment of their use. The proposed development and associated fencing would negatively affect the enjoyment of those using the core path and surrounding active travel routes.

Due to the potential impact the proposed development would have on recreational use and as such would be contrary to Scottish access legislation, the Council **objects** to the application in relation to **Access and Recreation.**

**ECONOMIC DEVELOPMENT**

The Councils' Economic Development Team have provided a response in relation to the proposed development and recognise the strategic nature of the proposal, particularly in relation to net-zero transition and energy grid resilience/services. However, they have noted several negative impacts on the local economy, particularly relating to visual impact, tourism and lack of embedded community wealth building mechanisms. They state that further investigation and/or mitigation is required to ensure alignment with the East Lothian Local Economy Strategy (2024-20234). They further note that it may not be possible for all potential impacts to be mitigated.

A summary of the positive contributions and potential negative impacts raised by the Councils' Economic Development Team are displayed within Table 5 below.

**Table 5: Summary of Economic Development Comments**

| Topic | Comments |
|---|---|
| ***Strategic Alignment & Positive Contributions*** | |
| ***Neto Zero & Energy Transition*** | The proposal is likely to contribute to national and local net zero targets through renewable generation and grid services, supporting Local Economy Strategy Objective 5: Just Transition to Net Zero. This is a technical matter that should be addressed in detail by others. |
| ***Short-Term Economic Activity*** | Construction-phase employment and local supply chain spend represent a modest but time-limited economic injection. This may support local businesses in accommodation, transport, and materials etc. but additional action would be required by the applicant. |
| ***Concerns and Potential Negative Impacts*** | |
| ***Visual Impact & Tourism*** | - the scale and location of the development is likely to introduce significant visual change to a sensitive rural area;<br>- this may negatively affect perceptions of East Lothian's landscape quality and visitor experience; and<br>- it is unlikely that glint and glare can be fully mitigated, this should be further assessed. |
| ***Lack of Sustained Employment or Skill Opportunities*** | - construction-phase employment and supply chain commitments lack detail and are short-term and non-binding; and<br>- beyond the construction phase, the project offers minimal permanent employment, missing opportunities to develop skills in partnership with local providers, offer placements or apprenticeships and support local training in BESS or renewable operation & maintenance. |
| ***Community Wealth Building & Local Reinvestment*** | - there is no commitment to a Community Benefit Fund, local procurement pledges, or community ownership elements;<br>- it conflicts with the CWB Charter and Action Plan adopted by the Council and Strategy Objective 3, which seeks to maximise local retention of value; and<br>- the absence of direct community reinvestment undermines public perception of fairness and may impact local support. |

It is recommended that the following mitigation measures be considered to address the concerns and potential negative impacts outlined in Table 5:

- Employment & Skills – develop a Construction Employment and Skills Plan in partnership with local providers, including opportunities for placements and engagement with local schools (e.g. site tours, STEM projects);
- Local Supply Chain – set target percentage for procurement spend within East Lothian and the wider City Region and support local firms in securing contracts;
- Community Benefit – commit to a Community Benefit Fund or an equivalent local reinvestment mechanism;
- Tourism Mitigation – produce a landscape interpretation and biodiversity enhancement plan or similar, include signage or visitor-facing materials to explain the site's contribution to net zero goals etc. Note: this is unlikely to fully mitigate negative impacts; and

- Monitoring – introduce monitoring of visual impact, tourism footfall and public perception to assess unintended consequences and inform adaptive management. This is also noted to unlikely fully mitigate negative impacts.

Whilst the proposed development offers a contribution to climate and energy objectives and offers modest short-term economic value, it requires stronger and more visible local benefit measures to algin with the Local Economy Strategy's objectives for fair, inclusive and place-based growth. The proposed development should include binding commitments and/or mitigation measures to address these gaps, ensure positive legacy outcomes for the area and strengthen alignment with East Lothian's economic priorities.

Due to the potential negative impact the proposed development would have on the local economy, the Council **objects** to the application in relation to **Economic Development.**

**FIRE RISK**

The EIAR contains a chapter (Chapter 15: Other Issues) that reviews the potential for battery fire in the BESS and states that a Battery Safety Management Plan ("BSMP") would be developed to allow for the safe and efficient operation of the BESS components of the proposed development.

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 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.

Recent determinations by the ECU in relation to BESS developments have confirmed that fire safety considerations are adequately addressed through existing legislative frameworks. These include the requirement to undertake a comprehensive fire risk assessment, implement appropriate mitigation measures, and establish a robust emergency response plan. Furthermore, the provision of suitable access for fire and rescue services, along with an adequate water supply, should be incorporated into the design. It is recommended that these matters be secured through a planning condition requiring final layout approval prior to the commencement of development.

**CUMULATIVE EFFECTS**

Under the Electricity Works (Environmental Impact Assessment) Scotland Regulations 2017 the assessment of in-combination and intra-project cumulative effects is a key requirement of the EIA process. Chapter 15 (In-Combination Effects) of the EIAR presents an assessment of the proposed developments potential in-combination effects on varying receptors. Intra-project cumulative effects are assessed separately in each technical chapter.

The Council has concerns that the in-combination effects presented in Chapter 15 (In-Combination Effects) of the EIAR underestimate the potential cumulative impacts of the proposed development. As outlined in this response, there is a lack of sufficient information, justification for the assessment, and a potential underrepresentation of impacts in relation to Landscape and Visual Impact, Transportation, Access and Recreation, Flood Risk and the Water Environment, Historic Environment, Biodiversity and Economic Development. Consequently, the Council does not agree with the conclusion that no significant in-combination effects would arise from the proposed development.

Paragraph 16.4.1.5 of the EIAR states that, due to the temporary and reversible nature of construction effects, the potential in-combination impacts are not considered significant. However, the assertion that construction impacts are not significant solely because they are temporary and reversible is overly simplistic and lacks sufficient justification. The EIAR does not provide a clear rationale for dismissing their significance, particularly in relation to receptor sensitivity, timing, and mitigation measures. Temporary cumulative impacts should be assessed on their merits and not dismissed solely on the basis of their duration.

**CONCLUSION**

Whilst the proposed development would contribute to the decarbonisation of Scotland's electricity system, in line with national policy objectives, the Council has significant concerns regarding the adequacy of the EIAR and the scale and nature of the potential impacts on the East Lammermuir area and beyond. Accordingly, the **Council strongly objects** to the proposal on the following grounds:

- the absence of the specific location and extent of any acoustic barriers;
- the absence of additional information or clarification/corrections with regards to greenfield runoff, watercourse crossings and silt traps;
- insufficient evidence to demonstrate ecological connectivity of the site, no guarantee of biodiversity enhancements and as such contrary to NPF4 Policy 3 and lack of clarity on whether the protection of and mitigation for European Protected species has been applied;
- the significant adverse effects on visual receptors, including users of local roads, public paths, and residents of nearby properties. The LVIA is deemed insufficient in its evaluation of these impacts and fails to adequately address the potential for significant adverse effects on both the landscape character and the Special Qualities and Features of SLA 4: Monynut to Blackcastle. In the professional opinion of the Council's Project Officer – Landscape, these landscape impacts may be significant;
- significant adverse impacts on the character of Oldhamstocks Conservation Area;
- significant unresolved issues during the construction and operational traffic phases;
- the potential impact the proposed development would have on recreational use and as such would be contrary to Scottish access legislation;
- lack of visible local benefit measures and potential negative impact on the local economy; and
- lack of justification for the assessment and a potential underrepresentation of in-combination cumulative effects.

The Council is of the view that, irrespective of any further information submitted in an attempt to address the objections outlined above, the fundamental concerns arising from the nature, scale, and extent of the proposed development are such that they cannot be satisfactorily resolved.

Please see Annex D for further details on the additional matters identified as a concern by Councillors, as discussed during the Planning Committee meeting on 4 November 2025.

**RECOMMENDATIONS**

1. That the Scottish Government Energy Consents Unit is informed that East Lothian Council objects to the granting of consent under Section 36 of the Electricity Act 1989 for the reasons set out in this report;
2. That the East Lothian Chief Planning Officer be authorised to undertake any discussions with the Scottish Government Energy Consents Unit to review and consider any additional information aimed at resolving outstanding objections, provided that such discussions do not alter the overall nature of the Council's consultation response; and

3. That the East Lothian Chief Planning Officer be authorised to undertake any discussions with the Scottish Government Energy Consent Unit to agree any further conditions, provided that such discussions do not alter the overall nature of the Council's consultation response

**RECOMMENDED CONDITIONS**

The following sets out a list of recommended conditions for the proposed development. However, it excludes conditions relating to **Noise and Vibration, Flood Risk and the Water Environment**, **Landscape and Visual Impact**, **Transportation, Access and Recreation**, **Biodiversity** and **Economic Development**. Due to the objections raised by the Council and the current lack of sufficient supporting information, we are unable to recommend appropriate conditions for these technical disciplines at this stage.

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

Reason:
In the interests of the historic environment including archaeological remains.

5 There shall be no lighting installed unless and until details of external lighting (including details of the lighting units and any emergency lighting, the time period for illumination for each unit, the angle and intensity of illumination and hours of operation) has been submitted to and approved in writing by the Planning Authority. Unless essential emergency lighting only, any other lighting must not be operational unless personnel are on site.

Reason:
In the interests of the visual amenity of the area.

6 Prior to any site development works a suitable Geo-Environmental Assessment must be carried out, with the Report(s) being made available to the Planning Authority for approval. It should include details of the following:

A Phase II Ground Investigation comprising the following:

- A survey of the extent, scale and nature of contamination, and reporting and reporting on the appropriate risk assessment(s) carried out with regards to Human Health, the Water Environment and Gas Regime as well as an updated conceptual model of the site
- n the appropriate risk assessment(s) carried out with regards to Human Health, the Water Environment and Gas Characteristic Situation as well as an updated conceptual model of the site.
- An appraisal of the remediation methods available and proposal of the preferred option(s).

The Ground Investigation must be undertaken by suitably qualified, experienced, and competent persons and must be conducted in accordance with the relevant guidance and procedures.

If it is concluded by the Reporting that remediation of the site is not required, then Parts 2 and 3 of this Condition can be disregarded.

**Part 2**

Prior to any works beginning on site (and where risks have been identified), a detailed Remediation Statement should be produced that shows the site is to be brought to a condition suitable for the intended use by the removal of unacceptable risks to all relevant and statutory receptors. The Statement should detail all works to be undertaken, proposed remediation objectives and remediation criteria as well as details of the procedures to be followed for the verification of the remedial works. It should also ensure that the site will not qualify as contaminated land under Part2A of the Environmental Protection Act 1990 in relation to the intended use of the land following development. The Statement must be submitted to the Planning Authority for approval.

**Part 3**

The approved Remediation Statement must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out the agreed remediation. Following completion of the measures identified in the approved Remediation Statement, a Validation Report should be submitted that demonstrates the effectiveness of

the remediation carried out. It must be approved by the Planning Authority prior to occupation of the new development.

**Part 4**

If 'unexpected' ground conditions (contamination) are encountered at any time when carrying out the permitted development, work on site shall cease and the issue shall be reported to the Planning Authority immediately. At this stage, a Site Investigation and subsequent Risk Assessment may have to be carried out, if requested by the Planning Authority. It may also be necessary to submit a Remediation Strategy should the reporting determine that remedial measures are required. It should also be noted that a Verification Report would also need to be submitted confirming the satisfactory completion of these remedial works.

If no 'unexpected' ground conditions are encountered during the development works, then this should be confirmed to the Planning Authority prior to the use of the new development.

Reason:
To ensure that the site is clear of contamination.

7 The Development will disconnect from the grid and cease to import or export electricity no later than the date falling forty 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 forty-one years and six months 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.

8 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.

9 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 12, 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 12, 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.

10 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.