



E: EconsentsAdmin@gov.scot

Chris Ward
The Natural Power Consultants Ltd
By email only to:
christinew@naturalpower.com

30 July 2025

Dear Chris Ward,

CONSENT UNDER SECTION 36 OF THE ELECTRICITY ACT 1989 AND DEEMED PLANNING PERMISSION UNDER SECTION 57(2) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 FOR THE CONSTRUCTION AND OPERATION OF AN ELECTRICITY GENERATING STATION, KNOWN AS CRYSTAL RIG SOLAR, AN EXTENSION TO CRYSTAL RIG WIND FARM COMPRISING SOLAR PHOTOVOLTAIC PANELS AND OTHER ANCILLARY DEVELOPMENT ON LAND AT CRYSTAL RIG WIND FARM APPROXIMATELY 13 KILOMETRES SOUTH OF DUNBAR

Application

1. I refer to an application ("the Application") made on 1 July 2024 under section 36 of the Electricity Act 1989 ("the Electricity Act") by The Natural Power Consultants Limited on behalf of Fred. Olsen Renewables Limited ("the Company"), a company incorporated under the Companies Act with company number 13633932, and having its registered office at 2nd Floor, 36 Broadway, London, England, SW1H 0BH. The application is for consent to construct and operate an electricity generating station known as "Crystal Rig Solar" comprising arrays of solar photovoltaic panels and associated infrastructure ("the proposed Development"). The proposed Development would have a capacity of approximately 27 megawatts (MW) and would be an extension to Crystal Rig Wind Farm in the planning authority areas of East Lothian Council and Scottish Borders Council.

2. **This letter contains the Scottish Ministers' decision to grant section 36 consent for the Development as more particularly described at Annex 1.**

Planning Permission

3. In terms of section 57(2) of the Town and Country Planning (Scotland) Act 1997, Scottish Ministers may, on granting consent under section 36 of the Electricity Act for the construction and operation of a generating station, direct that planning permission is deemed to be granted in respect of that generating station and any ancillary development.



4. This letter contains the Scottish Ministers' direction that planning permission is deemed to be granted.

Background

5. The proposed Development forms part of the existing Crystal Rig Wind Farm located on the East Lammermuir Plateau of the Lammermuir Hills in the East Lothian and Scottish Borders local authority areas. The proposed Development is located on ground that is currently used for rough grazing.

6. The proposed Development would generate electricity from a low carbon, renewable source (daylight).

7. The Company requested an EIA Scoping Opinion on the proposed Development on 21 February 2023. The Scottish Ministers' Scoping Opinion was issued on 6 June 2023.

The proposed Development

8. The main elements of the proposed Development are:

- Approximately 55,000 solar panels;
- New and existing access tracks;
- String inverters;
- Transformers;
- Substation building;
- CCTV;
- Fences;
- Site signage;
- Underground cabling; and
- Biodiversity management and mitigation measures.

9. The proposed Development is an electricity generating station.

Consultation

10. Under paragraph 2(1) of Schedule 8 to the Electricity Act, and the Electricity (Application for Consent) Regulations 1990 ("the Consents Regulations") made under the Electricity Act, the relevant planning authority is required to be notified in respect of a section 36 consent application and notice of the Application was served on East Lothian Council and Scottish Borders Council.

11. In accordance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 ("the EIA Regulations"), on 8 March 2024 the Company submitted an Environmental Impact Assessment Report ("the EIA report") describing the proposed Development and providing an analysis of its environmental effects.

12. In accordance with requirements of the Consents Regulations and the EIA Regulations, a notice of the proposed Development was published on the Company's website and advertised in the local and national press and the Edinburgh Gazette. The Application was made available in the public domain, and the opportunity given for those wishing to make representations to do so.

13. In addition, to comply with the EIA Regulations, the Scottish Ministers are required to consult the planning authority, as well as NatureScot, Scottish Environment Protection Agency, and Historic Environment Scotland. A wide range of other relevant organisations were also notified and consulted when the Application consultation was initiated.

Conservation of Habitats and Species Regulations 2017

14. The Conservation of Habitats and Species Regulations 2017 (“the Habitats Regulations”) require Scottish Ministers to consider whether the proposed Development would be likely to have a significant effect on a European site, as defined in the Habitats Regulations, and if the development is directly connected with or necessary to the management of the European site. The proposed Development is located where there is a potential effect on the River Tweed Special Area of Conservation (“the SAC”). Consequently, Scottish Ministers are required to consider the effect of the proposed Development on the SAC by carrying out a Habitats Regulations Appraisal (“HRA”).

15. Under the HRA of the SAC an appropriate assessment concluded that the proposed Development will not adversely affect the integrity of the SAC.

Consultation responses

16. No consultees object to the proposed Development. An objection from SEPA was received but subsequently withdrawn as described in the summary of consultation responses set out below.

17. East Lothian Council, one of the two Planning Authorities, does not object. They considered the support for the proposed Development by the policies they considered relevant under the Local Development Plan and National Planning Framework 4 (NPF4).

18. They found the proposed Development was supported and recommended a number of planning conditions including some which would require their approval on matters such as the finish colours, landscaping and ecological mitigation plans, woodland planting, lighting, construction traffic management, drainage, archaeology, decommissioning and restoration, local employment, and habitat management.

19. Scottish Borders Council (also a planning authority) does not object. They considered the support for the proposed Development by the policies they considered relevant under the Local Development Plan and National Planning Framework 4 (NPF4).

20. They found the proposed Development was supported and recommend a number of planning conditions including some which would require their approval on matters such as final design and siting of the solar panels, substation, ancillary development and construction compounds; construction ecological management and monitoring; traffic management; habitat management, compensation and enhancement; bird protection; drainage; archaeology; access; decommissioning and aftercare; glint and glare; landscaping; and redundancy.

21. BT does not object. They consider the proposed Development would not cause interference to their network.

22. The Defence Infrastructure Organisation does not object. They commented the proposed Development falls outside of safeguarded areas and does not affect other defence interests.

23. East Lammermuir Community Council does not object. They state that they support the proposed Development as it adds resilience to the local green energy generation whilst minimising impact on the local environment and its residents. They recommend planning conditions in relation to drainage, construction traffic management, biodiversity enhancement, and decommissioning.

24. Edinburgh Airport do not object. They state the proposed Development does not conflict with safeguarding criteria.

25. Historic Environment Scotland does not object. They state the proposed Development does not raise historic environment issues of national significance. However they did provide the following advice in relation to impacts on Yadlee, stone circle 250m S of (SM4443): *“While we recognise that the panels and associated apparatus are low-lying, we consider the proposed buffer of 175m from the monument is not sufficient to adequately reduce the impact of the panels on the setting of the scheduled monument. We consider there would be a significant impact on the setting of the monument and further mitigation by design is necessary to reduce the setting impact. However, we do not consider that the proposed scheme would impact the integrity of setting of Yadlee, stone circle 250m S of (SM4443) such that we would object”*.

26. NATS Safeguarding do not object. They state the proposed Development does not conflict with their safeguarding criteria.

27. NatureScot (the operating name of Scottish Natural Heritage) does not object. They advised a likely significant effect on the River Tweed Special Area of Conservation (SAC) should be considered but this would not affect the integrity of the SAC. They stated that they support the ecological enhancements contained in the Outline Habitat Management Plan submitted as part of the Application.

28. The Office for Nuclear Regulation does not object. They state the proposed Development does not present a significant external hazard to the safety of the nuclear site at Torness.

29. Scottish Water does not object. They refer to guidance on their website the Company may wish to note.

30. The Scottish Environment Protection Agency (SEPA) initially objected on the basis they required more information on groundwater dependent terrestrial ecosystems. Following provision of information by the Company, SEPA withdrew their objection.

31. The following bodies were consulted but no response was received: Abbey St Bathans, Bonkyl and Preston Community Council; Civil Aviation Authority; Cockburnspath and Cove Community Council; Crown Estate Scotland; Dunpender Community Council; Fisheries Management Scotland; Garvald and Morham Community Council; Gifford Community Council; Granthouse Community Council; John Muir Trust; Joint Radio Company; Lammermuir Community Council; Mountaineering Scotland; River Tweed Commission; RSPB Scotland; Scottish Wildlife Trust.

32. Scottish Forestry advised the proposed Development does not impact on any forests or woodlands currently present on site.

33. Transport Scotland recommended a planning condition be included to require a Construction Traffic Management Plan.

Representations

34. Grounds for objections from members of the public were as follows:

- Visual impact on the landscape
- Construction traffic
- Drainage and run off
- The proposed Development would have an industrial appearance like a prison camp

35. Concerns were also raised in representations, regarding:

- Cumulative impact of loss of prime agricultural land
- Road safety of the A1
- Insufficient information included

Regulatory Requirements

36. 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. Following the consultation in this instance, neither of the two Planning Authorities objected to the consent of the proposed Development, therefore a Public Inquiry is not a statutory requirement.

37. Paragraph 3 of Schedule 8 provides that where the Scottish Ministers are not, by virtue of paragraph 2(2), to cause a Public Inquiry to be held, but objections or copies of objections have been sent to the Scottish Ministers, the Scottish Ministers must consider those objections together with all other material considerations with a view to determining whether a Public Inquiry should be held with respect to the application and, if they think it appropriate to do so, they must cause a Public Inquiry to be held.

38. The Scottish Ministers have considered all objections to the proposed Development and having taken all material considerations into account, are content that there is sufficient information to be able to make an informed decision on the Application and that they can weigh all the conflicting issues without holding a Public Inquiry.

39. Schedule 9, paragraph 3 sub-paragraph 1 of the Electricity Act obliges the Company, being a license holder, to:

- (a) have regard to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest; and

(b) do what they reasonably can to mitigate any effect which the proposals would have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings or objects.

40. The Scottish Ministers had regard to the desirability of the matters mentioned in (a) above and consider that there is sufficient information to allow them to be satisfied that the Company has complied with their duties under (b) above.

41. Scottish Ministers are satisfied that Scottish Ministers and the Company have met the requirement in Schedule 9, paragraph 3 sub-paragraph 3 of the Electricity Act that they shall avoid, so far as possible, causing injuries to fisheries or to the stock of fish in any waters.

42. In accordance with section 36(5A) of the Act, before granting any section 36 consent Scottish Ministers are also required to:

- obtain SEPA advice on matters relating to the protection of the water environment; and
- have regard to the purposes of Part 1 of the Water Environment and Water Services (Scotland) Act 2003.

43. SEPA's advice has been obtained and considered as required by section 36(5A) with due regard given to the purposes of Part 1 of the Water Environment and Water Services (Scotland) Act 2003. SEPA have no objection to the proposed Development.

44. Scottish Ministers have had regard to the above factors from Schedules 8 and 9 of the Electricity Act and have considered the Application, responses from consultees and representations from third parties and find that the effects of the proposed Development on these environmental factors are acceptable. Mitigation measures are proposed to further reduce these potential effects.

45. All consultation and publicity requirements required by Schedule 8 of the Electricity Act, the Consents Regulations and the EIA Regulations have been undertaken. Scottish Ministers are satisfied the public as well as statutory and other consultees have been afforded the opportunity to consider and make representation on the proposed Development. The Scottish Ministers are satisfied that the EIA report has been produced in accordance with the EIA Regulations. Scottish Ministers have assessed the environmental impacts of the proposed Development and taken the environmental information, EIA report, representations, consultation responses including those from the Planning Authorities, NatureScot, SEPA, and HES into consideration in reaching their decision.

The Local Development Plan

46. The planning authority East Lothian Council (ELC) considered the support for the proposed Development under the local development plan policies and under NPF4. ELC concluded that "the principle of development is accepted".

47. The planning authority Scottish Borders Council (SBC) also considered the support for the proposed Development under the local development plan policies and under NPF4. SBC concluded the following: "Following the requirement of NPF4 to attribute significant weight on the contribution the development would make to meeting Scottish Government energy targets and other economic and environmental benefits, in this case it is considered that these benefits

outweigh the identified significant landscape and visual effects, and indirect impacts to the designated heritage assets.”

48. Scottish Ministers have had regard to, and agree with, the conclusions of ELC and SBC above. Scottish Ministers consider there is support for the proposed Development under the respective Local Development Plans of both Planning Authorities.

Determining issues

49. The proposed Development is a solar photovoltaic array together with associated ancillary electrical infrastructure. It would generate electricity from a renewable source and contribute towards the Scottish Government’s ambitions for renewable electricity generation.

50. The proposed Development would give rise to landscape and visual effects. Construction traffic and noise would occur.

51. Having considered the Application, responses from consultees and third parties and Scottish Government policies, Scottish Ministers consider that the determining issues are the balance between the impacts of the proposed Development on the surrounding area and its benefits, and the extent to which the proposed Development is supported by Scottish Government policy.

The Scottish Government Policy Context

Scottish Energy Strategy: The future of energy in Scotland (“the Energy Strategy”) Draft Scottish Energy Strategy and Just Transition Plan 2023

Economic Benefits

52. Scottish Ministers accept the statements in the Planning and Renewable Energy Statement that “the Proposed Development would support jobs during construction and during operation across the Scottish economy. Overall, the socio-economic effects of the capital investment, employment and GVA to the economy would be beneficial (short term during construction, long term during operation).” While the overall net economic benefit is not possible to exactly quantify prior to the execution of contracts post-consent, the Scottish Ministers are satisfied the proposed Development has the potential for significant positive net economic benefits for the local area and Scotland.

Energy Benefits

53. Scottish Ministers have considered the role the proposed Development can play in the generation of electricity from renewable energy sources, with its capacity of approximately 27 MW from solar photovoltaic panels. Renewable and low carbon solutions are a key priority set out in the Scottish Energy Strategy. The strategy states that “solar will play an important role in a low carbon energy system, helping meet Scotland’s renewable generation ambitions”. Scottish Ministers conclude that the proposed Development is supported by the Scottish Energy Strategy.

54. The Draft Scottish Energy Strategy and Just Transition Plan 2023 signals that strong support from the Scottish Government for solar power remains.

Climate Change Plan

55. The Climate Change Plan sets out the 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.

56. Scottish Ministers conclude that the proposed Development is supported by the Climate Change Plan.

National Planning Framework 4

57. National Planning Framework 4 (NPF4) sets out Scottish Ministers' policies and proposals for the development and use of land. It plays a key role in supporting the delivery of Scotland's national outcomes and the United Nations Sustainable Development Goals. Part 1 of NPF4 sets out a Spatial Strategy for Scotland to 2045 and identifies developments of national importance to help deliver that strategy. The need for Strategic Renewable Electricity Generation and Transmission Infrastructure, of which this development is an example, is established therein.

58. Part 2 sets out National Planning Policy. NPF4 should be read as a whole, and the weight given to the policies therein decided on a case-by-case basis. The greatest weight in consideration of the proposed Development on the context of NPF4 is afforded to Energy policy. The policy establishes an intent to encourage, promote and facilitate all forms of renewable energy development onshore and offshore. Solar development such as the proposed Development is supported.

59. The energy policy sets out the matters that are to be addressed in the design and mitigation of a Development. Scottish Ministers consider that the design of the project, and proposed mitigation either embedded or to be achieved by planning conditions, satisfactorily address its impacts as have been addressed in this decision, and as are relevant to the proposed Development. In considering these impacts, significant weight is to be placed on the contribution of the proposed Development to renewable energy generation targets and on greenhouse gas emissions reduction targets. The proposed Development will generate a considerable amount of electricity per year from renewable energy and contribute to renewables targets.

60. The Application also finds support from NPF4 in that it demonstrates the proposed Development will provide direct and indirect local and regional economic benefits.

61. The proposed Development includes measures to mitigate effects on biodiversity and on balance there is no substantial conflict with NPF4 policy 3. Scottish Ministers consider that there has been careful planning and design of the proposed Development.

62. Scotland's energy policies and planning policies are material considerations in determining applications. NPF4 and the Energy Strategy make it clear that low carbon technology deployment and energy storage remain priorities of the Scottish Government. This is a matter which should be afforded significant weight in favour of the proposed Development.

63. Scottish Ministers acknowledge that the proposed Development would result in some landscape and visual impacts, some traffic impacts at the construction and decommissioning stages, and that the positive impact from biodiversity mitigation may not amount to a substantial enhancement of biodiversity. These impacts are considered acceptable in the context of the benefits that the proposed Development will bring in terms of net economic benefit, generating electricity from a renewable source. Scottish Ministers consider that the proposed Development is supported by NPF4 when read as a whole and receives strong support under the Energy Strategy.

Conclusions

Reasoned Conclusions on the Environment

64. The Scottish Ministers are satisfied that the EIA Report has been produced in accordance with EIA Regulations and that the procedures regarding publicity and consultation laid down in those Regulations have been followed.

65. Having considered the EIA Report as well as representations from consultative bodies including the Planning Authorities, HES, SEPA and NatureScot and other material information, the Scottish Ministers are satisfied the environmental impacts of the proposed Development have been assessed and have taken the environmental information into account when reaching their decision.

66. Taking into account the above assessment, subject to conditions to secure environmental mitigation, the Scottish Ministers consider the environmental effects of the proposed Development are mostly overcome with the exception of some significant, localised landscape effects and some significant visual effects (including cumulative) on visual amenity which are on balance considered acceptable.

67. The Scottish Ministers are satisfied that this reasoned conclusion is up to date.

Acceptability of the proposed Development

68. In weighing up the support for the proposed Development against its environmental impacts, in the context of the Scotland's climate change targets and ambitions, energy policies and planning policies, the Scottish Ministers have taken account of the responses from all consultees and representations from members of the public. The Scottish Ministers, in making their determination on the Application, have balanced the considerations set out in the foregoing sections of this letter, decided what weight is to be given to each, and reached a view as to where the balance of benefit lies.

69. Scottish Ministers have considered the comments from the two Planning Authorities on support for the proposed Development subject to suitable planning controls and taken all material considerations into account. Scottish Ministers consider the proposed Development will increase the generation of electricity from renewables and contribute to greenhouse gas emissions reduction targets.

70. Scottish Ministers agree there would be visual impacts on the landscape. There would be impacts on the views walkers using the area for recreational activities would see from surrounding high ground or passing through the site, in the context of the site of the operational wind farm and its access tracks, and the electricity pylons. Glint and glare may occur in a few locations at certain times of day / season in certain weather conditions but would not be

unacceptable. The impacts of the proposed Development would be minor and are considered acceptable. An Access Management Plan will mitigate the impacts on recreational access to the site. Scottish Ministers consider the residual effects on recreational use through changes to the visual perception of landscape are acceptable.

71. Scottish Ministers agree there would be minor impacts on the appreciation of the Yadlee Stone Circle scheduled monument. There would be impacts on the visual perception of the background setting of the Yadlee Stone Circle by visitors, but the stone circle itself would remain undisturbed. The proposed Development is temporary in nature and would be decommissioned at the end of its working life with the site restored. Scottish Ministers find the effects on visitors to the stone circle acceptable and note they would ultimately be reversed.

72. Scottish Ministers agree with Scottish Borders Council that glint and glare from the solar panels may have the potential to affect walkers using the Herring Road heritage path passing through the area for recreational purposes. They consider that if any such effects arose, they would be isolated and temporary when the sun is low in the sky without cloud cover. The intensity of the effects would vary depending on the time, weather, season, and the relative positions of the walkers, the panels, and the sun and may be insignificant much of the time. Scottish Ministers agree with Scottish Borders Council that if members of the public have reasonable complaints about glint and glare, an assessment and mitigation should be considered. A condition is included which Scottish Borders Council may enforce if it considers reasonable complaints have been received from the public.

73. Scottish Ministers agree that there will be impacts on habitats and ecology including birds. They have considered the responses on these grounds from consultees including the Planning Authorities, NatureScot and representations from others. The proposed electricity generating station and ancillary development will not in itself enhance biodiversity. Measures to enhance biodiversity were recommended by some consultees, including the Planning Authorities who recommended the use of planning conditions to secure the provision of biodiversity enhancement which they consider policy 3 (Biodiversity) of NPF4 requires. Scottish Ministers do not agree that planning conditions should be used to secure a benefit which is not linked to the development. Planning circular 4/1998 established this position. Scottish Ministers are satisfied that the impacts on habitats and ecology including birds can be mitigated and have included planning conditions to this effect.

74. Scottish Ministers note that East Lothian Council recommended a planning condition be included to require a report on actions taken to reduce carbon emissions, which should include the provision of renewable energy to buildings. As noted in paragraphs 64 to 67 of this letter, Scottish Ministers are satisfied the environmental impacts of the proposed Development have been assessed and have taken the environmental information into account when reaching their decision. Scottish Ministers consider the condition recommended by East Lothian Council does not meet the tests of planning circular 4/1998 and should not be included. They consider this has no effect on the acceptability of the proposed Development.

75. Scottish Ministers note that East Lothian council recommended a planning condition be included to “seek to maximise local employment opportunities” relating to the proposed Development for the reason that this would be in the interest of the local economy. Scottish Ministers have already had regard to the economic benefits of the proposed Development as outlined in paragraph 52 of this letter. Scottish Ministers consider the condition recommended by East Lothian Council does not meet the tests of planning circular 4/1998 and should not be included. They consider planning permission would not have to be refused if that condition

were not to be imposed. They consider this has no effect on the acceptability of the proposed Development.

76. Scottish Ministers are satisfied that the proposed Development, subject to the conditions they have decided to impose, contains suitable measures to avoid, mitigate or offset the environmental impacts which would occur to the extent that the residual effects (such as landscape and visual, construction traffic, and noise) are acceptable.

77. The Scottish Ministers in making their determination on the Application, have balanced all relevant considerations, decided what weight is to be given to each and reached a view as to where the balance of benefit lies. On balance, it is considered that the impacts of the proposed Development are acceptable in the context of its benefits, and that the Development is supported by relevant planning and energy policies.

The Scottish Ministers' Determination

78. Subject to the conditions set out in **Part 1 of Annex 2**, the Scottish Ministers **grant consent** under section 36 of the Electricity Act for the construction and operation of the proposed Development (as more particularly described in **Annex 1**).

79. The consent hereby granted will last for a period of 35 years from the Date of Final Commissioning.

80. Subject to the conditions set out in **Part 2 of Annex 2**, the Scottish Ministers **direct that planning permission is deemed to be granted** under section 57(2) of the Town and Country Planning (Scotland) Act 1997 in respect of the Development described in **Annex 1**.

81. Section 58(1)(a) of the Town and Country Planning (Scotland) Act 1997 requires where planning permission is deemed to be granted, that it must be granted subject to a condition that the permission will expire if has not begun within a period of 3 years.

82. Section 58(1)(b) of that Act enables the Scottish Ministers to specify that a longer period is allowed before planning permission will lapse. The Scottish Ministers consider that due to the constraints, scale, and complexity of constructing such Developments, a 5-year time scale for the commencement of development is appropriate in this case.

83. The Scottish Ministers consider that 3 years is not to apply with regard to the planning permission granted above, and that planning permission is to lapse on the expiry of a period of 5 years from the date of this direction, unless the development to which the permission relates is begun before the expiry of that period. A condition has been imposed stating that development must be begun within 5 years beginning with 30 July 2025 and if development has not begun at the expiration of that period, the planning permission will lapse in terms of section 58(3) of the Town and Country Planning (Scotland) Act 1997.

84. Copies of this letter have been sent to the public bodies consulted on the application. This letter has also been published on the Scottish Government Energy Consents website at <https://www.energyconsents.scot>.

85. The Scottish Ministers' decision is final, subject to the right of any aggrieved person to apply to the Court of Session for judicial review. Judicial review is the mechanism by which the Court of Session supervises the exercise of administrative functions, including how the

Scottish Ministers exercise their statutory function to determine Applications for consent. The rules relating to the judicial review process can be found on the website of the Scottish Courts: <https://www.scotcourts.gov.uk/media/gnobz45e/chapter-58-judicial-review.pdf>.

86. Your local Citizens' Advice Bureau or your solicitor will be able to advise you about the applicable procedures.

Yours faithfully

pp Paul Smith

MARK CHRISTIE

A member of the staff of the Scottish Government

ANNEX 1

DESCRIPTION OF DEVELOPMENT

The Development comprises the construction and operation of an electricity generating station and ancillary development known as Crystal Rig Solar.

The principal components of the Development are:

- Approximately 55,000 solar panels;
- New and existing access tracks;
- String inverters;
- Transformers;
- Substation building;
- CCTV;
- Fences;
- Site signage;
- Underground cabling; and
- Biodiversity management and mitigation measures.

All as more particularly shown on Site Layout plan reference 1.2a, EIA Report, Volume 3a appended to this decision letter (Annex 3) and as specified in the Application submitted on 1 July 2024 including the EIA Report and the Additional Information dated April 2025.

ANNEX 2

CONDITIONS

Part 1 - Conditions applying to the section 36 consent

1. Commencement of Development

- (1) The Development shall be commenced no later than five years from 30 July 2025, or such other period as the Scottish Ministers may approve in writing.
- (2) Written confirmation of the intended Date of Commencement of Development shall be provided to the Scottish Ministers and the Planning Authorities as soon as is practicable after deciding on such a date and in any event no later than one calendar month prior to the Commencement of Development.

Reason: *To ensure that the consent is implemented within a reasonable period and to allow the Planning Authorities and Scottish Ministers to monitor compliance with obligations attached to this consent and deemed planning permission as appropriate.*

2. Notification of Date of First Commissioning and Final Commissioning

- (1) Written confirmation of the Date of First Commissioning shall be provided to the Planning Authorities and Scottish Ministers no later than one calendar month after that date.
- (2) Written confirmation of the Date of Final Commissioning shall be provided to the Planning Authorities and Scottish Ministers no later than one calendar month after that date.

Reason: *To allow the Planning Authorities and the Scottish Ministers to calculate the date of expiry of the consent.*

3. Non-assignment

- (1) This consent shall not be assigned, alienated or transferred without the prior written authorisation of the Scottish Ministers.
- (2) In the event that the assignment is authorised, the Company shall notify the Planning Authorities and Scottish Ministers in writing of the principal named contact at the assignee and contact details within fourteen days of the consent being assigned.

Reason: *To safeguard the obligations of the consent if transferred to another company.*

4. Serious incident reporting

- (1) In the event of any serious breach of health and safety or environmental obligations relating to the Development causing harm to the environment (including harm to humans) during the period of this consent, written notification of the nature and timing of the incident shall be submitted to the Scottish Ministers within twenty-four hours of the incident occurring, including confirmation of remedial measures taken and/or to be taken to rectify the breach.

Reason: *To keep Scottish Ministers informed of any such incidents which may be in the public interest.*



Part 2 - Conditions applying to the deemed planning permission

5. Implementation In Accordance With Approved Plans And Requirements Of This Consent

- (1) Except as otherwise required by the terms of the section 36 consent and deemed planning permission, development shall be undertaken in accordance with the Application, the planning drawings and all environmental mitigation detailed in the documentation lodged by the Company or its appointed agents in support of the Application.

Reason: *To ensure that development is carried out in accordance with the approved details.*

6. Commencement of Development

- (1) The development must be commenced not later than the expiration of five years beginning with 30 July 2025.
- (2) Written confirmation of the intended date of Commencement of Development shall be provided to the Planning Authorities and the Scottish Ministers no later than one calendar month before that date.

Reason: *To comply with section 58 of the Town and Country Planning (Scotland) Act 1997.*

7. Design and operation of solar photovoltaic panels (“Solar PVs”)

- (1) There shall be no Commencement of Development unless full details of the proposed Solar PVs (including, but not limited to, the power rating and sound power levels, the frame, size, type, external finish and colour), and all associated apparatus have been submitted to and approved in writing by the Planning Authorities.
- (2) The Solar PVs shall be consistent with the candidates assessed in the EIA Report, and the height thereof shall not exceed 3 metres above ground level, unless otherwise approved in advance in writing by the Planning Authorities.
- (3) The Development shall be constructed and operated in accordance with the approved details and maintained in the approved colour, free from external rust, staining or discolouration, until such time as the Development is decommissioned.
- (4) None of the solar panels, transformer buildings/enclosures, substations, fencing, ancillary buildings or above ground fixed plant shall display any name, logo, sign or other advertisement (other than health and safety signage) unless otherwise approved in advance in writing by the Planning Authorities.

Reason: *To ensure that the environmental impacts of the solar panels forming part of the development conform to the impacts of the candidate solar panels assessed in the EIA Report in the interests of the visual amenity of the area*

8. Decommissioning, Restoration and Aftercare: Interim Decommissioning, Restoration and Aftercare Strategy

- (1) There shall be no Commencement of Development until an Interim Decommissioning, Restoration and Aftercare Strategy has been submitted to, and approved in writing by, the Planning Authorities in consultation with SEPA. The Interim Decommissioning, Restoration and Aftercare Strategy shall outline measures for the decommissioning of the Development and restoration and aftercare of the site, and shall provide proposals for the removal of the Development, the treatment of ground surfaces, the management and timing of the works and environmental management provisions in any instance that the site as a whole, or in part, ceases to operate prior to the approval of the Detailed Decommissioning, Restoration and Aftercare Plan required under the provisions of Condition 9.

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 when a detailed decommissioning, restoration and aftercare Plan has not yet been approved.*

9. Site Decommissioning, Restoration and Aftercare: Site Decommissioning, Restoration and Aftercare

- (1) The Development shall cease to generate electricity to the grid network by no later than the date falling thirty five years from the Date of Final Commissioning.
- (2) Unless the Development has been deemed to be redundant under condition 11, no later than one year prior to the Date of Final Generation or the expiry of the section 36 consent (whichever is earlier) a Detailed Decommissioning, Restoration and Aftercare Plan shall be submitted for the written approval of the Planning Authorities, in consultation with SEPA.
- (3) If the Development has been deemed to be redundant under condition 11, no later than twelve months from the Date of Final Generation, a detailed Decommissioning, Restoration and Aftercare Plan shall be submitted for the written approval of the Planning Authorities.
- (4) 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 the Development, the treatment of ground surfaces, the management and timing of the works and environment management provisions which shall provide:
 - a) a site waste management plan (dealing with all aspects of waste produced during the decommissioning, restoration and aftercare phases and, including details of measures to be taken to minimise waste associated with the Development and promote the recycling of materials and infrastructure components);

- b) details of the formation of the construction compound, 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; and
 - k) a species protection plan based on surveys for protected species (including birds) carried out no longer than eighteen months prior to submission of the plan.
- (5) The Development shall be decommissioned, the site restored and aftercare undertaken prior to the date falling three years after the Date of Final Generation and in accordance with the approved detailed decommissioning, restoration and aftercare plan.

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. Financial Guarantee

- (1) There shall be no Commencement of Development until a bond or other form of financial guarantee in terms which secures the cost of performance of all decommissioning, restoration and aftercare obligations referred to in conditions 8 and 9 has been submitted to and approved in writing by the Planning Authorities.
- (2) The value of the financial guarantee shall be agreed between the Company and the Planning Authorities 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 referred to in conditions 8 and 9.

- (3) The financial guarantee shall be maintained in favour of the Planning Authorities until the completion of all decommissioning, restoration and aftercare obligations referred to in conditions 8 and 9.
- (4) The value of the financial guarantee shall be reviewed by agreement between the Company and the Planning Authorities or, failing agreement, determined (on application by either party) by a suitably qualified independent professional not less than every five years, and at the time of the approval of the Detailed Decommissioning, Restoration and Aftercare Plan approved under condition 9. The value of the financial guarantee shall be increased or decreased to take account of any variation in costs of compliance with decommissioning, restoration and aftercare obligations referred to in conditions 8 and 9 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.*

11.Redundancy

- (1) Following the Date of Final Commissioning, the Company shall, every six months, supply to the Planning Authorities written reports providing monthly details of the electricity exported by the Development.
- (2) 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 the Company shall undertake the decommissioning, restoration and aftercare of the Site as required by condition 9 (3), (4) and (5).

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.*

12.Design of sub-station and ancillary development

- (1) There shall be no Commencement of Development unless final details of the external appearance, dimensions, colours, and surface materials of the substation building, transformers, cabling, CCTV, access tracks, associated compounds, any construction compound boundary fencing, fencing, gates, external lighting and parking areas have been submitted to and approved in writing by the Planning Authorities. The substation building, transformers, cabling, CCTV, access tracks, associated compounds, fencing, external lighting and parking areas shall be constructed in accordance with the approved details.

Reason: *To ensure that the environmental impacts of the sub-station and ancillary development forming part of the development conform to the impacts assessed in the EIA Report and in the interests of the visual amenity of the area.*

13. Micro-siting

- (1) All Solar PVs, buildings, transformers, fences, gates, CCTV, and tracks shall be constructed in the location shown on Site Layout plan reference Figure 1.2a EIA Report, Volume 3a (“the Site Layout Plan”). Solar PVs, buildings, transformers, fences, gates, CCTV, and tracks may be adjusted by micro-siting within the site. However, unless otherwise approved in advance in writing by the Planning Authorities (in consultation with SEPA and NatureScot), micro-siting is subject to the following restrictions:
 - (a) No Solar PV, building or transformer shall be moved more than 50m from the position shown on the Site Layout Plan;
 - (b) No access track shall be moved more than 50m from the position shown on the Site Layout Plan;
 - (c) No micro-siting shall take place within areas hosting Ground Water Dependent Terrestrial Ecosystems;
 - (d) All micro-siting permissible under this condition must be approved in advance in writing by the Ecological Clerk of Works (ECoW)
 - (e) No micro-siting shall take place within the 175m buffer area to Yadlee Stone Circle, as shown on the Site Layout Plan.
- (2) No later than one month after the Date of First Commissioning, an updated site plan must be submitted to the Planning Authorities showing the final position of all Solar PVs, buildings, transformers, fences, gates, CCTV, tracks and associated infrastructure forming part of the Development. The plan should also specify areas where micro-siting has taken place and, for each instance, be accompanied by copies of the ECoW or Planning Authorities’ approval, as applicable.

Reason: *To control environmental impacts while taking account of local ground conditions and designate heritage assets.*

14. Planning Monitoring Officer

- (1) There shall be no Commencement of Development until the terms of appointment by the Company of an independent and suitably qualified consultant as Planning Monitoring Officer (“PMO”) have been submitted to, and approved in writing by, the Planning Authorities. The terms of appointment shall:
 - (a) impose a duty to monitor compliance with the terms of the deemed planning permission and the conditions attached to it;
 - (b) require the PMO to submit a quarterly report to the Planning Authorities summarising works undertaken on site, matters of compliance or otherwise with the terms of the deemed planning permission and conditions attached to it, alongside a summary of the incidents recorded and reported by the ECoW; and

- (c) require the PMO to report to the Planning Authorities any incidences of non-compliance with the terms of the deemed planning permission and conditions attached to it at the earliest practical opportunity, and no later than 10 working days following the incidence of non-compliance.
- (2) The PMO shall be appointed on the approved terms throughout the period from Commencement of Development to completion of construction works and post-construction site reinstatement works.
- (3) Prior to the decommissioning, restoration and aftercare phases of the Development or the expiration of the operational period of the consent (whichever is the earlier), details of the terms of appointment of a suitably qualified consultant as PMO by the Company throughout the decommissioning, restoration and aftercare phases of the Development shall be submitted to, and approved in writing by the Planning Authorities.
- (4) The PMO shall be appointed on the terms approved under part (3) throughout the decommissioning, restoration and aftercare phases of the Development.

Reason: *To ensure compliance with the planning permission and conditions attached to it.*

15. Ecological Clerk of Works

- (1) There shall be no Commencement of Development until the terms of appointment of a suitably qualified, experienced, and independent Ecological Clerk of Works ("ECoW") by the Company have been submitted to, and approved in writing by, the Planning Authorities. The terms of appointment shall:
 - (a) impose a duty to monitor compliance with the ecological and hydrological commitments provided in the EIA Report, any micrositing approved under condition 13, the Construction and Environmental Management Plan approved under condition 16, and the Habitat Management Plan approved under condition 19 ("the ECoW works");
 - (b) require the ECoW to report to the nominated construction project manager any incidences of non-compliance with the ECoW works at the earliest practical opportunity;
 - (c) require the ECoW to submit a quarterly report to the Planning Authorities summarising works undertaken on site; and
 - (d) require the ECoW to report to the Planning Authorities any incidences of non-compliance with the ECoW works at the earliest practical opportunity, and no later than 5 working days following the incidence of non-compliance.
- (2) The ECoW shall be appointed on the terms approved under part (1) throughout the period from pre-construction works, Commencement of Development to completion of construction works and post-construction site reinstatement works.

- (3) Prior to the decommissioning, restoration and aftercare phases of the Development or the expiration of the operational period of the consent (whichever is the earlier), details of the terms of appointment of a suitably qualified, experienced, and independent ECoW by the Company throughout the decommissioning, restoration and aftercare phases of the Development shall be submitted to, and approved in writing by the Planning Authorities.
- (4) the ECoW shall be appointed on the terms approved under part (3) throughout the decommissioning, restoration and aftercare phases of the Development.

Reason: *To secure effective monitoring of and compliance with the environmental mitigation and management measures associated with the Development during the construction, post-construction restoration, decommissioning, restoration and aftercare phases.*

16. Construction and Environmental Management Plan

- (1) There shall be no Commencement of Development until a Construction and Environmental Management Plan (CEMP) containing site specific details of all on-site construction works, post-construction reinstatement, drainage and mitigation, together with details of their timetabling, has been submitted to, and approved in writing by, the Planning Authorities. The CEMP shall be informed by the site and ground investigation works and best practice guidance.
- (2) The CEMP shall provide:
 - (a) A site waste management plan (dealing with all aspects of waste produced during the construction period other than peat), including details of contingency planning in the event of accidental release of materials which could cause harm to the environment;
 - (b) Details of the formation of the construction compound, 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) Details of borrow pit excavation, including excavation times and restoration;
 - (d) A dust management plan;
 - (e) 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;
 - (f) A pollution prevention and control method statement, including arrangements for the storage of oil and fuel on the site;
 - (g) Details of any tree felling, felling waste and replacement planting;
 - (h) Soil storage and management;

- (i) Details and timetable for phasing of construction works, including planting of landscaping;
 - (j) A drainage management strategy, demonstrating how all surface and wastewater arising during and after development will be managed and prevented from polluting any watercourses or sources;
 - (k) Sewage disposal and treatment;
 - (l) Temporary site illumination;
 - (m) The construction of the access into the site and the creation and maintenance of associated visibility splays;
 - (n) The method of working cable trenches;
 - (o) The method of construction and erection of the Solar PVs;
 - (p) Details of watercourse crossings;
 - (q) Post-construction restoration/ reinstatement of the working areas not required during the operation of the Development, including construction access tracks, borrow pits (if any), construction compound and other construction areas. Wherever possible, reinstatement is to be achieved by the careful use of turfs removed prior to construction works. Details should include all seed mixes to be used for the reinstatement of vegetation;
 - (r) A wetland ecosystems survey and mitigation plan, where appropriate;
 - (s) Details of all construction works on the site and the timing of these works; and
 - (t) A strategy for monitoring, control and mitigation in respect of construction noise, and a methodology to be applied in instances where complaints are received in relation to construction noise.
- (3) The Development shall be implemented in accordance with the CEMP approved under part (1) unless otherwise approved in advance in writing by the Planning Authorities.

Reason: *To ensure that all construction operations are carried out in a manner that minimises their impact on road safety, amenity and the environment, and that the mitigation measures contained in the EIA Report accompanying the application, or as otherwise agreed, are fully implemented.*

17. Construction Hours

- (1) Construction work which is audible from any noise-sensitive receptor shall only take place on the site between the hours of 07.00 to 19.00 on Monday to Friday inclusive and 07.00 to 16.00 on Saturdays, with no construction work taking place on a

Sunday or on Bank Holidays or Public Holidays. Outwith these specified hours, development which is audible from any noise sensitive property shall be limited to solar panel foundation construction, solar panel installation, maintenance, emergency works, dust suppression, and the testing of plant and equipment, unless otherwise approved in advance in writing by the Planning Authorities.

Reason: *In the interests of local amenity.*

18. Traffic Management Plan

- (1) There shall be no Commencement of Development until a Traffic Management Plan (TMP) has been submitted to and approved in writing by the Planning Authorities. The TMP to include:
 - (a) Details of any changes in access routes to the site from the A1;
 - (b) Details of all temporary signage and traffic management measures deemed necessary on the local road network;
 - (c) All construction traffic must be restricted to access via the existing access to Crystal Rig Windfarm. A sign in/sign out procedure must be in place to prevent vehicles exiting via the minor public roads to the southeast of the overall windfarm site;
 - (d) No additional site access to be constructed without prior approval of the Planning Authorities;
 - (e) A programme for the works is required to ensure the avoidance of conflict between key stages of construction;
 - (f) The detailed delivery route and vehicle numbers for all cars, HGV/LGV deliveries and abnormal loads (if any) associated with the development and measures to ensure that the specified routes are adhered to, including monitoring procedures;
 - (g) Details of all ancillary works required to the public road network to facilitate deliveries, including all signage and lining arrangements, a programme and timescales for implementation and reinstatement proposals after the development is complete and a programme and timescales for completion;
 - (h) Road condition survey of all proposed access routes (trunk roads excepted) carried out prior to the development commencing and details of any upgrading works and a regime for routine maintenance during construction of the development. Any remedial works required as a result of damage/deterioration by construction traffic (to be highlighted in a post-construction road condition survey) to be rectified after the development has been completed in accordance with an agreed timescale. Any emergency repairs identified during the construction period to be rectified within one week, unless otherwise agreed;
 - (i) Name and contact details of a nominated person to whom any road safety issues can be referred;

- (j) If abnormal loads are required for development, details of tree or hedge removal along the route for the abnormal loads and a scheme for replacement planting and a timescale for its implementation and completion;
 - (k) If abnormal loads are required for development, swept path analysis drawings for agreed areas of concern along the route for the abnormal loads and remedial measures;
 - (l) If abnormal loads are required for development, areas of the abnormal load route where the removal of street furniture, including lighting, is required and all temporary lighting measures required for the duration of the abnormal load movements;
 - (m) If abnormal loads are required for development, details of all dry runs associated with the delivery of abnormal loads to be communicated to the Planning Authorities prior to the run;
 - (n) If abnormal loads are required for development, timetables for all deliveries of abnormal loads to be submitted to the Planning Authorities prior to the deliveries taking place.
- (2) The approved TMP thereafter to be implemented in full, unless otherwise agreed in advance in writing by the Planning Authorities and all work within the public road boundary to be undertaken by a contractor first approved by the Planning Authorities.

Reason: *To ensure all construction traffic access the site in a safe manner and that any upgrading works or repairs to public roads are carried out timeously to the Planning Authorities' specifications, in the interests of road safety.*

19. Habitat Management Plan

- (1) There shall be no Commencement of Development unless a Habitat Management Plan has been submitted to and approved in writing by the Planning Authorities. The Habitat Management Plan shall set out proposed long term management of the solar farm site and shall provide for the maintenance, monitoring and reporting of habitat on site in relation to bats, schedule 1 raptors, breeding birds, reptiles, amphibia, woodland, wetland, grassland, lowland meadow, mixed scrub, native hedgerow and heathland management.
- (2) The approved Habitat Management Plan will be updated to reflect ground condition surveys undertaken following construction and prior to the Date of Final Commissioning and submitted to the Planning Authorities for written approval. Unless otherwise agreed in advance in writing with the Planning Authorities, the approved Habitat Management Plan shall be implemented in full.

Reason: *In the interests of good land management and the protection of habitats.*

20. Surface Water Management

- (1) No development hereby approved shall commence until the precise details for surface water management has first been submitted to, then approved in writing by the Planning Authorities. The surface water management plan will mitigate the increased run-off to ensure existing greenfield run-off rates are maintained post construction.

Reason: *To ensure existing greenfield run-off rates are maintained post development.*

21. Water and Flood Risk Management

- (1) There shall be no Commencement of Development unless the following matters have been submitted to and approved in writing by the Planning Authorities and thereafter the development shall be carried out in accordance with the approved details:
 - (a) Design details of new crossings or alterations to previous crossings to ensure that there is no decrease in flow conveyance and subsequently increased flood risk caused by the crossings;
 - (b) Details of regular maintenance relating to new water crossings and drains, to mitigate by reducing surface water runoff impact;
 - (c) Details of levels of discharges from SUDS or other drainage, confirming how it will be kept to existing Greenfield run-off rates;
 - (d) Written explanation of how it is proposed to manage the minimisation of sediment entering the surrounding water courses.

Reason: *To minimise impact on the water environment and to ensure that flood risk is ameliorated.*

22. Programme of Archaeological Works

- (1) No development shall commence until the developer has secured a Written Scheme of Investigation (WSI) detailing a programme of archaeological works (including evaluation by trial trenching in East Lothian). The WSI shall be formulated and implemented by a contracted archaeological organisation working to the standards of the Chartered Institute for Archaeologists (CIfA). The WSI shall be submitted by the developer no later than 1 month prior to the start of development works and approved by the Planning Authorities before the commencement of any development. Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording, recovery of archaeological resources within the development site, post-excavation assessment, reporting and dissemination of results are undertaken per the WSI.
- (2) The programme of work should include a field evaluation by trial trenching in East Lothian which should be reported upon initially through a Data Structure Report (DSR) submitted to East Lothian Council Archaeology Service (ELCAS). All work should be carried out under the terms of a Written Scheme of Investigation (WSI) which will need to be approved by ELCAS prior to work commencing.

Reason: *The site is within an area where development may damage or destroy archaeological remains, and it is therefore desirable to afford a reasonable opportunity to record the history of the site.*

23. Access Management Plan

- (1) No development shall commence until a public path and access management plan has been submitted to and approved in writing by the Planning Authorities, once approved the development should be carried out in accordance with the agreed details. The plan shall include;
 - (a) All existing core paths and rights of way;
 - (b) Any temporary diversions to rights of way during construction, their duration and any proposed signage;
 - (c) Notification of completion date of installation of signage for public on temporary path diversion of BB97 to be provided to the Planning Authorities.
 - (d) Notification of completion date of installation of signage on path BB97 on original mapped line to be provided to the Planning Authorities. Signage on temporary path diversion of BB97 to remain until this date after which it should be removed.
 - (e) Proposals to restore any existing core paths or rights of way to their previous condition between construction and decommissioning and once full decommissioning has taken place;
 - (f) Proposals to enhance public access within and adjacent to the site during the lifetime of the development; and,
 - (g) Proposed signage of routes.

Reason: *The provision is required to ensure health and safety of those using the existing core paths and rights of way is preserved, and that any changes to those paths and rights of way are reversed on completion of the development.*

24. Landscape and Ecological Mitigation and Management Plan

- (1) Prior to the Commencement of Development, a Landscape and Ecological Mitigation and Management Plan (LEMMP) covering a 35-year period shall be submitted for the approval of the Planning Authorities.
- (2) The LEMMP must include details of landscape and biodiversity mitigation measures which meet or exceed the measures described in the EIA Report. This should be informed by the ecological survey work and consider the ongoing long-term management of biodiversity mitigation measures. To include:
 - i. Landscaping works including details of existing and finished ground levels in relation to a fixed datum preferably ordnance

- ii. A full planting plan, schedule and specification with details of species, locations, plant sizes and planting density. For the avoidance of doubt, this is to include details of woodland planting as well as other plants
 - iii. A program of management, replacement planting, thinning and pruning with a typical 12-month cycle showing the detail and frequency of when different aspects of the landscape maintenance specification occur on site
 - iv. Location and design, including materials, of fences, gates and any other boundary treatments
- (3) The submitted LEMMP proposals should also accord with the following requirements:
- Field margins surrounding the development should be supplemented with a local native wildflower seed mix to encourage the development of suitable habitat and nectar for pollinator species. Vegetation management is suggested to retain diverse wildflower rich swards.
 - Planting of native hedgerows or scattered trees around the margins of the development to compensate for loss of habitat.
 - The LEMMP shall include a report investigating the impact of the removal of any vegetation, stone walls or hedgerows (to facilitate vehicular access) on local lichen, amphibian and reptilian populations. This report shall also include appropriate measures (and a timetable for implementation) to compensate for any loss of this habitat.
 - If reptiles are found during construction works will stop and an ecologist contacted for advice.
 - The LEMMP shall include a Species Mitigation and Management Plan (including Mountain Hare, Great Crested Newts, other riparian species and breeding birds).
 - Where removal of habitat suitable for bird nesting is required, this should ideally take place outside the nesting bird season, or if that is not possible a nesting bird check should be carried out immediately prior to the works. A buffer zone to exclude works will be established while the nest is active.
 - A buffer zone to exclude works shall be established around riparian areas.
 - Precautionary measures to protect mammals during construction.
- (4) The submitted LEMMP proposals shall include a timetable for implementation, and management thereafter for the life of the Development. Development shall be carried out in accordance with the approved LEMMP.

Reason: *To mitigate landscape and visual impacts and in the interests of safeguarding the natural heritage.*

25. External Lighting

- (1) No external lighting shall be installed on site unless and until details of it have been submitted to and approved by the Planning Authorities.

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

26. Road Safety Audit

- (1) Prior to the Commencement of Development, a Stage 1 and 2 Road Safety Audit shall be submitted to and approved by the Planning Authorities, which shall be undertaken for the preliminary and detailed design of the site access for the construction and operational phases of the development alongside any other temporary and permanent works proposed on the local public road network. Following submission of the audits, Designers Responses should be provided and the issues raised will be required to be resolved to the satisfaction of the Overseeing Authority as part of the detailed design process for the proposed site access and other works.

Reason: *In the interests of road and vulnerable user safety.*

27. Remedial Works for Impacts on Public Roads

- (1) Prior to the commencement of the development a programme for monitoring the condition of the public roads to be used by construction traffic shall be submitted to and approved in writing by the Planning Authorities. Thereafter the approved programme of monitoring shall be implemented. Any remedial works required to those public roads shown by the monitoring as arising from the construction of the development shall be undertaken by the applicant within 3 months of the completion of the final monitoring undertaken, unless an alternative means of securing the works is approved in writing by the Planning Authorities. Any damage to the road surface as a direct result of the construction process of this development that is identified during the monitoring which could result in a significant risk to road safety should be repaired immediately, together with general repairs undertaken on a regular basis and periodic resurfacing where necessary, full details to be agreed with the Planning Authorities.

Reason: *To ensure that damage to the public road network resulting from the proposed development is rectified.*

28. Drainage Plan

- (1) Prior to the Commencement of Development, the following details shall be submitted to and approved by the Planning Authorities:
 - A final Drainage Plan
 - Discharge rate and attenuation calculations

- (2) Development shall thereafter be carried out in accordance with the details so approved.

Reason: *To ensure the development is appropriately protected against flood risk and does not give rise to increased flood risk elsewhere.*

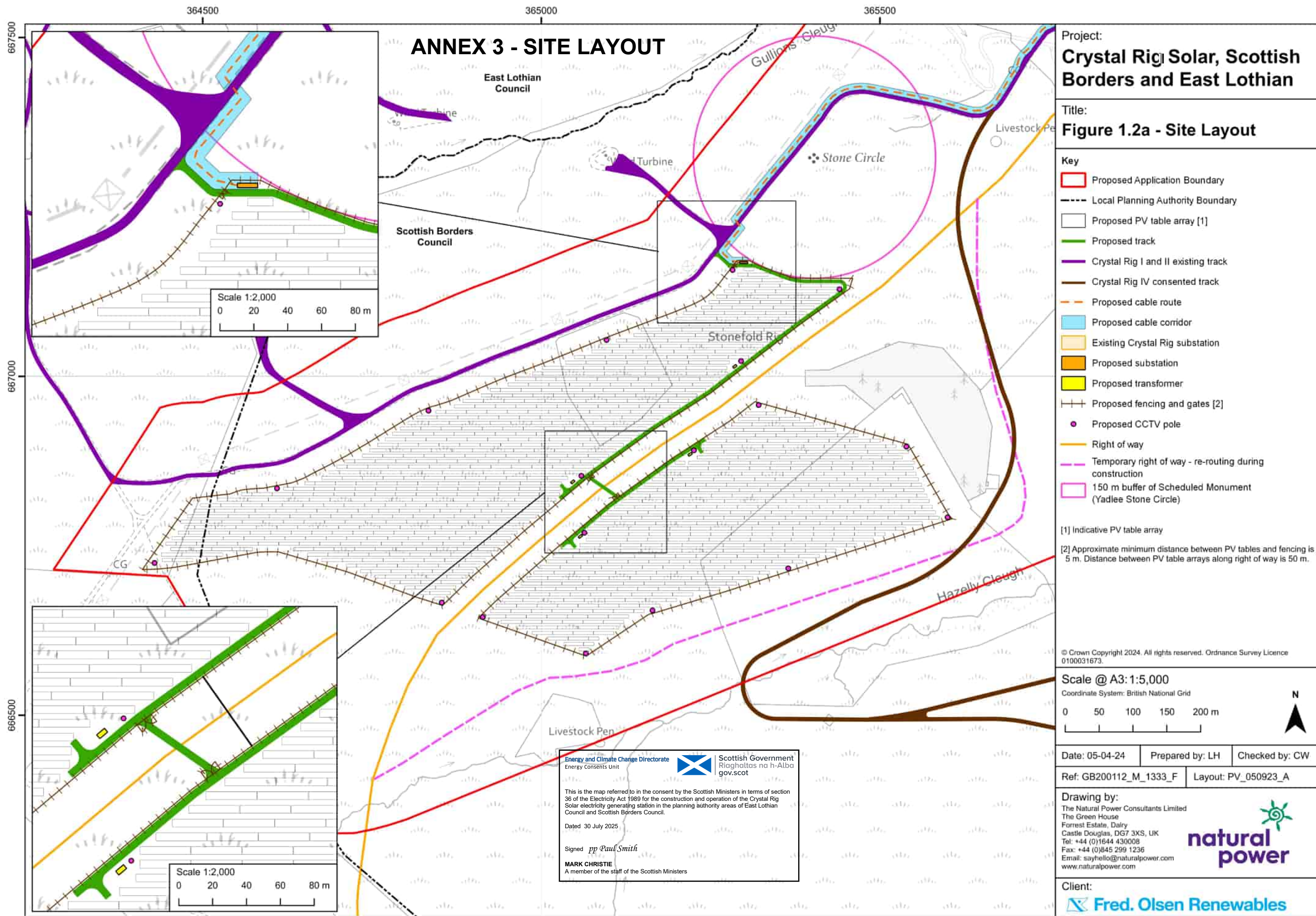
29. Glint and Glare

- (1) Within two months from receipt of a written request from Scottish Borders Council in its capacity as planning authority, which has been initiated by a reasonable complaint from a member of the public experiencing unacceptable glint and glare from the Development while walking the Herring Road heritage path, the Company shall undertake and submit for the written approval of the Scottish Borders Council planning authority, a glint and glare assessment in respect of the Herring Road heritage path. The assessment shall be carried out by a suitably qualified person. It shall include an assessment of the degree of any effect, identification of any mitigation measures required to address such an effect on the Herring Road, and a scheme (including timescales) for the implementation of such measures. The Development shall thereafter be adapted or operated in accordance with the mitigation measures as required by the Scottish Borders Council planning authority.

Reason: *To mitigate any significant glint and glare causing nuisance to leisure users of the Herring Road.*

DEFINITIONS

“Application”	Means the application submitted by the Company on 1 July 2024 and its supporting documents, including any documentation submitted thereafter by the Company or its appointed agents to the Scottish Ministers, up until the date of this letter.
“Commencement of Development”	Means the implementation of the consent and deemed planning permission by carrying out a material operation within the meaning of section 27 of the Town and Country Planning (Scotland) Act 1997 excluding Site Investigation Works and Site Enabling Works.
“the Company”	Means Fred. Olsen Renewables Limited, a company incorporated under the Companies Act with company number 13633932, and having its registered office at 2nd Floor, 36 Broadway, London, England, SW1H 0BH.
“Date of First Commissioning”	Means the earlier of (i) the first date on which the Development exports electricity via its connection to the electricity network; or (ii) the date falling 72 months from the date of Commencement of Development.
“Date of Final Commissioning”	Means the earlier of (i) the date on which the Development first exports electricity via its connection to the electricity network on a commercial basis; or (ii) the date falling 72 months from the date of Commencement of Development.
“Date of Final Generation”	Means the date by which the Development is required to cease generation on a permanent basis.
“the Development”	Means the development described in Annex 1. (For the avoidance of doubt, this includes the ancillary development described in Annex 1.)
“Planning Authorities”	Means East Lothian Council and Scottish Borders Council.
“Site”	Means the area of land outlined in red enclosing the Development in the drawing in Annex 3.



Notes: a) Information on this plan is directly reproduced from digital and other material from different sources. Minor discrepancies may therefore occur. Where further clarification is considered necessary, this is noted through the use of text boxes on the plan itself. b) For the avoidance of doubt and unless otherwise stated: 1. this plan should be used for identification purposes only, unless otherwise stated in accompanying documentation. 2. The Natural Power Consultants Limited accepts no responsibility for the accuracy of data supplied by third parties. 3. The Natural Power Consultants Limited accepts no liability for any use which is made of this plan by a party other than its client. No third party who gains access to this plan shall have any claim against The Natural Power Consultants Limited in respect of its contents. 4. Where a line or feature recorded in the key of this plan is also shown as a line or feature by the Ordnance Survey, and that line or feature is located in a different position on the ground than shown by the Ordnance Survey, then the line or feature shall be deemed to follow the position as existing on the ground.