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13 September 2019

Dear Mr LeJeune

**CONSENT UNDER S36 OF THE ELECTRICITY ACT 1989 AND DEEMED PLANNING PERMISSION UNDER S57(2) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 FOR THE CONSTRUCTION AND OPERATION OF ENOCH HILL WIND FARM IN EAST AYRSHIRE**

**Application**

I refer to the application made by E.ON Climate and Renewables UK Developments Limited, ("the Company"), a company incorporated under the Companies Acts with company number 05266294 and having its registered office at Westwood Way, Westwood Business Park, Coventry, CV4 8LG, dated 28 September 2015, for consent under section 36 of the Electricity Act 1989 ("the Electricity Act") for the construction and operation of Enoch Hill Wind Farm. The proposed Development is located approximately 6 kilometers ("km") southwest of New Cumnock and 7 km northeast of Dalmellington, East Ayrshire, within the planning authority area of East Ayrshire Council.

The application (as amended) is for the construction and operation of a wind powered generating station with 16 wind turbines, with a tip height of up to 130 meters and a generating capacity exceeding 50 Mega Watts ("MW")

**This letter contains the Scottish Ministers' decision to grant consent for the Development as described at Annex 1 subject to conditions.**

## **Planning Permission**

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

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

## **Background**

On 28 September 2015, the Company submitted an application to construct and operate Enoch Hill Wind Farm. The application proposed 19 turbines with ground to blade tip height 130 metres, and a total installed capacity of up to 64.6 MW. In accordance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000 ("the 2000 Regulations") an Environmental Statement ("ES") describing the proposed development and giving an analysis of its environmental effects was submitted. The application was subsequently amended, reducing the number of turbines from 19 to 16 and revising the layout and other infrastructure. The amended application was supported by Further Environmental Information ("FEI"), provided in February 2017.

## **Consultation**

In accordance with statutory requirements, a notice of the proposed development was published on the Company's website and advertised in local and national press and the application was placed in the public domain, and the opportunity given for those wishing to make representations to do so. The 2000 Regulations have subsequently (with effect from 16 May 2017) been replaced by the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (the "2017 Regulations"). The 2017 Regulations now apply to this application subject to certain modifications. These modifications, among other things, provide that where the 2017 Regulations refer to an "EIA Report" this includes an "environmental statement" prepared under the 2000 Regulations.

Under paragraph 2(1) of Schedule 8 of the Electricity Act and the 2000 Regulations, the relevant Planning Authority is required to be notified in respect of a Section 36 consent application. In terms of the 2000 Regulations, notifications were sent to East Ayrshire Council as the relevant Planning Authority, Scottish Natural Heritage, the Scottish Environmental Protection Agency and Historic Environment Scotland. A wide range of other relevant organisations were also notified and consulted.

On 9 February 2017, in response to consultation responses received, the Company submitted FEI, to amend the proposal, by removing three turbines (from 19 to 16 turbines) and amending the layout and other infrastructure. The FEI was also subject to a wide-ranging consultation and advertised in the local and national press. The relevant documents were placed in the public domain and the opportunity given for those wishing to make representation to do so.

## **Consultation Responses**

East Ayrshire Council objected to the application on 8 September 2017 in relation to unacceptable landscape and visual effects, cumulative landscape and visual effects, and impact on priority peatland habitat. The Council withdrew their objection on impacts on priority peatland habitat on review of supplementary environmental information provide at the inquiry.

Scottish Environmental Protection Agency (“SEPA”) did not object to the application subject to the following requirements being secured by conditions: construction and environment management plan; pollution prevention plan; site waste management plan and construction method statement. SEPA originally objected in relation to disturbance and re-use of excavated peat, however, following clarification, their objection was removed.

Scottish Natural Heritage (“SNH”) advised on matters relating to ecology, landscape and protected species. SNH advised there would likely be significant cumulative landscape and visual effects from the proposed Development. SNH consider the removal of the three turbines would reduce the west-east extent of the proposed Development both on the ground and the horizontal field of view in some local and wider views. In particular, the proposed wind turbine array would appear less stretched out in some views from the north such as viewpoint 4 for New Cumnock Cemetery, viewpoint 5 near Auchinross, viewpoint 7 Lochside Hotel and viewpoint 12 Corsencon Hill. SNH also recommended conditions covering deer management, birds, bats and decommissioning.

Historic Environmental Scotland (“HES”) advised that they are content that the significance of effects of the revised proposals and layout are not of an order to warrant an objection.

The following consultees provided no objection subject to comments and/or conditions as set out in Annex C: Transport Scotland, Visit Scotland, Civil Aviation Authority, Galloway Fisheries Trust, Kircudbrightshire Dee District Salmon Fishery Board, Marine Scotland, Scottish Water, Defence Infrastructure Organisation, Glasgow Prestwick Airport Limited and Royal Society for the Protection of Birds.

The following consultees had no objections; The British Horse Society Ayrshire Branch, British Telecom, The Crown Estate, Scottish Power and Scotia Gas Networks, Scottish Wild Land Group, AM Geomorphology Limited, The Scottish Rights of Way and Access Society, Met Office, The Nith District Salmon Fisheries Board, Ayrshire Roads Alliance, West of Scotland Archaeological Service, New Cumnock Community Council, Patna Community Council, Joint Radio Company. No responses were provided from Drogan, Rankinston and Stair, Dalmellington, Ochiltree, Auchinleck, Cumnock, Cumnock Landward and Lugar and Logan Community Councils.

NATS Safeguarding initially objected however withdrew their objection subject to an agreed condition.

Carsphairn Community Council objected to the application due to landscape and visual impact from the Galloway Hills Scenic Area and the inhabited glen of Deugh. Impacts on the historic upland heritage and visitor numbers were also raised, and the impact on property prices.

A summary of all consultation responses regarding the proposed Development are set out in Chapter 1.7 – 1.12 of the Public Local Inquiry Report and have been taken into account in the determination of the proposed Development.

### **Representations**

Two representations were received which object to the proposed Development. The objections relate to impacts on water, noise, quality of life, landscape and visual, heritage, ecology and wildlife, and negative socio-economic effects.

A summary of the representations regarding the proposed Development are set out in Chapter 1 of the Public Local Inquiry report and have been taken into account in the determination of the proposed Development.

### **Public Local Inquiry (“PLI”)**

In accordance with paragraph 2(2) of Schedule 8 of the Electricity Act 1989, where the relevant Planning Authority objects to an application and the objection is not withdrawn the Scottish Ministers shall cause a Public Local Inquiry (PLI) to be held. If Ministers wish to accede to the application, paragraph 2(4) of Schedule 8 of the Electricity Act 1989 states that Ministers can do so subject to modifications or conditions as will give effect to the objection of the relevant Planning Authority. East Ayrshire Council objected and did not withdraw that objection. Scottish Ministers did not consider it possible to accede to the application by way of applying conditions to give effect to East Ayrshire Council’s objection, it was advised that a PLI was required.

The inquiry sessions were held on 19-21 June 2018 and the hearing sessions took place on 18 June 2018 and 21 June 2018. Closing submissions were exchanged in writing, with the final closing submission being lodged on 20 July 2018.

Unaccompanied inspections of the appeal site, its surroundings and locations referred to in evidence on 18 June 2018 and 3-5 September 2018. Accompanied site inspections took place on 22 June 2018.

The PLI report was received by the Scottish Ministers on 14 March 2019.

**The Reporters’ recommendation to Scottish Ministers is that consent is granted under section 36 of the Electricity Act and that a direction is given that planning permission is deemed to be granted, both subject to conditions.**

## **The Scottish Ministers Considerations**

### **Environmental matters**

The Scottish Ministers are satisfied that the Environmental Statement and FEI have been produced in accordance with the applicable Regulations and that the procedures regarding publicity and consultation laid down in the those Regulations have been followed.

In accordance with paragraph 3 of Schedule 9 to the Electricity Act, the Scottish Ministers have had regard to the desirability of preserving the natural beauty of the countryside, of conserving flora, fauna, and geological and physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic, or archaeological interest. The Scottish Ministers must also avoid, so far as possible, causing injury to fisheries or to the stock of fish in any waters.

The Scottish Ministers are satisfied that the Company has done what it reasonably can to mitigate any effect that the proposals would have on the natural beauty of the countryside or any such flora, fauna, features, sites, buildings or objects.

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

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

SEPA's advice has been considered as required by section 36(5A) and Ministers have had due regard to the requirements of the Water Environment (Controlled Activities) (Scotland) Regulations 2011 (as amended).

The Scottish Ministers have considered fully and carefully the application, including the Environmental Statement, Further Environmental Information, supplementary information, consultation responses, public representations, the findings, conclusions and recommendation of the PLI report and all other material information and, are satisfied that the environmental impacts of the Development have been assessed and have taken the environmental information into account when reaching their decision.

Scottish Ministers are satisfied that the reasoned conclusion is still up to date.

## **Main determinative issues**

The Scottish Ministers having taken account of all relevant information agree with the Reporter that the main determining issues are:

- landscape and visual effects;
- cumulative landscape and visual effects;
- the benefits of the Development, including its renewable energy generation, carbon emissions savings and net economic impact; and
- the extent to which the Development accords with and is supported by Scottish Government policy and the terms of the development plan.

## **Public Local Inquiry Report**

In each chapter of the PLI Report, the Reporter summarised the arguments for each party, taking account of the precognitions, hearing statements, the discussion at the Inquiry and hearing sessions and the closing submissions. The Reporter also took into account the environmental information included in the Environmental Statement, Further Environmental Information and the supplementary information submitted, the written representations and all of the other information supplied for the Inquiry and hearing sessions. The chapters of the PLI provide the following:

Chapter 1 Background;

Chapter 2 Policy context;

Chapter 3 Landscape and visual impact;

Chapter 4 Other relevant matters;

Chapter 5 Proposed conditions and legal agreements;

Chapter 6 Overall conclusions and recommendations.

## **Scottish Government Policy Context**

The Development would contribute to and support the Scottish Government Scottish Energy Strategy targets to achieve by 2030, the equivalent of 50% of the energy for Scotland's heat, transport and electricity consumption to be supplied from renewable sources and an increase by 30% in the productivity of energy use across the Scottish economy. The Onshore Wind Policy Statement ("OWPS") reaffirms the vital role for onshore wind in meeting Scotland's energy targets. The statement sets out the Scottish Government's position for the ongoing need for more onshore wind development and capacity in locations across Scotland where it can be accommodated. As set out in the OWPS, the Scottish Government remains committed to overcoming barriers to deployment to support the growth in onshore wind where possible to help meet climate change and renewables targets.

Chapter 2 of the PLI refers to Scottish Energy Strategy and OWPS and the contribution that the proposal makes to renewable energy generation targets and reducing greenhouse gas emissions are considered at Chapters 1 and 4 of the PLI report.

## **Scottish Planning Policy (2014) (“SPP”)**

The Scottish Government supports wind energy development in appropriate locations. SPP introduces a presumption in favour of development that contributes to sustainable development. The SPP sets out that policies and decisions should be guided by certain principles including:

- Giving weight to net economic benefit;
- Supporting delivery of infrastructure, including energy; and
- Protecting the natural heritage, including landscape and the wider environment.

It is considered that the Development would result in some limited significant landscape and visual impacts which are not considered unacceptable, and would provide net economic benefit, support provision of renewable energy and climate change mitigation, and protect the historical and natural environment. On balance of the costs and benefits of the proposal over the longer term, it is considered that the impact of the Development is such that it can be considered as development that contributes to sustainable development.

Chapters 1, 3, 4, 5, 6 consider the proposed Development against the provisions of SPP.

## **Local Development Plan (“LDP”)**

The development plan covering the application site comprises the East Ayrshire Local Development Plan (February 2017) and relevant supplementary guidance. The Reporter concludes the proposal would align with the vision of the LDP by promoting a wind energy development in the rural area and falls within an area shown in the LDP as having potential for wind energy development.

## **Landscape and Visual Impact**

In the assessment of landscape and visual impact of the Development, the Reporter has taken into account matters including relevant landscape designations, landscape character, landscape and visual effects and cumulative landscape and visual effects. The Reporter concluded there would be a limited number of significant landscape and visual impacts, including cumulative impacts.

Significant direct landscape impacts would be contained within 2 - 2.5 kilometres to the host landscape (Southern upland). The proposed turbines lie some 2 - 8 km from many settlements which include New Cumnock, Leggate, Connel Park, Bankglen, Burnside and Dalleagles. The proposal would add marginally to the already significant cumulative impact, primarily arising from existing and consented schemes, Hare Hill Wind Farm and its extension, Afton Wind Farm, Windy Standard Wind Farm and its extension, High Park Farm, Taiglim Farm, Mansfield Mains and Sanquhar Six.

The assessments and the Reporters' conclusions are detailed in Chapter 3 of the PLI Report. Scottish Ministers have taken account of the Reporters' overall conclusions on the landscape and visual effects and cumulative effects of the proposed Development, and are content to adopt them for the purpose of their own decision.

### **Other relevant matters**

Other issues raised by parties and contained in the Environmental Statement and Further Environmental Information were:

- Carbon payback period;
- Noise;
- Shadow Flicker;
- Historic environment;
- Ecology;
- Ornithology;
- Geology, Hydrology, and hydrogeology;
- Traffic and transportation;
- Socio-economics, tourism and recreation;
- Infrastructure, telecommunications and safety;
- Aviation;
- Wild Land;
- Property value and sales; and
- Community engagement.

The Reporter set out their findings on these issues in Chapter 4 of the PLI report which concluded that any impacts of the Development in relation to noise; shadow flicker; the historic environment; ecology, birds; geology; hydrology and hydrogeology; traffic and transportation; socio-economic; recreation and tourism; infrastructure; telecommunications and safety; aviation and wild land would be insignificant, acceptable and/or mitigated successfully with conditions. In addition, any influence on property value is not material to the determination of the application.

The Scottish Ministers, having taken account of all relevant information agree with the Reporter that the main determining issue was in relation to landscape and visual matters. The Scottish Ministers also agree with the Reporters' conclusion that the Development is supported by national policies that promote the development of onshore wind farms in appropriate locations, and is consistent with the provisions of the East Ayrshire Local Development Plan, supplementary guidance and national guidance.

The Reporter is satisfied that any adverse environmental effects of the proposal would be satisfactorily mitigated by the conditions attached to the consent at Annex 2, part one and two.



### **Duration of planning permission**

Section 58(1) of the Town and Country Planning (Scotland) Act 1997 provides that planning permission will lapse if development has not begun within a period of 3 years. Section 58(2) of that Act enables Ministers to direct that a longer period is allowed before planning permission will lapse. Scottish Government policy is that due to the constraints, scale and complexity of constructing such developments, a 5-year time scale for the commencement of development is appropriate.

### **The Scottish Ministers' Determination**

The Scottish Ministers have considered fully the Reporters' findings and his reasoned conclusions, and adopt them for the purposes of their own decision.

The Scottish Ministers agree with the Reporters' recommendation that section 36 consent should be granted for the construction and operation of the wind farm at Enoch Hill, and that a direction deeming planning permission to be granted should be given for the Development.

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

Subject to the conditions set out in **Annex 2 part 1**, the Scottish Ministers **grant consent** under section 36 of the Electricity Act 1989 for the construction and operation of the Enoch Hill wind powered electricity generating station in the East Ayrshire Council area. As described in the application and at **Annex 1**.

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

### **Section 36 consent and expiry of Planning Permission**

The consent hereby granted will last for a period of 25 years from the earlier of:

- i) The date when electricity is first exported to the electricity grid network from all of the wind turbines hereby permitted; or
- ii) The date falling 18 months after electricity is generated from the first of the wind turbines hereby permitted.

Scottish Ministers direct that section 58(1) of the Town and Country Planning (Scotland) Act 1997 is not to apply with regard to that planning permission, 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.

In accordance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017, the Company must publicise notice of this determination and how a copy of this decision letter may be inspected on the application website, in the Edinburgh Gazette and a newspaper circulating in the locality in which the land to which the application relates is situated.

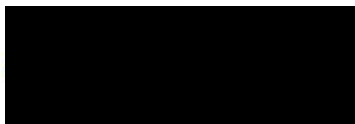
Copies of this letter have been sent to the public bodies consulted on the application including the Planning Authority, SNH, SEPA and Historic Environment Scotland. This letter has also been published on the Scottish Government Energy Consents website at <http://www.energyconsents.scot>.

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/docs/default-source/rules-and-practice/rules-of-court/court-of-session/chap58.pdf?sfvrsn=12>

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

Yours faithfully



**William Black**  
**Head of Energy Consents**  
**A member of the staff of the Scottish Ministers**

## **Description of the Development**

The Enoch Hill Wind Farm with a generating capacity exceeding 50 MW, comprising a 16 turbine wind-powered electricity generating station, located 6 km south west of New Cumnock and 7KM north-east of Dalmellington in East Ayrshire.

All as more particularly shown on plan reference **Figure 1.1 Revised Site Layout** appended to this decision letter and all as specified in the application submitted by E.ON Climate and Renewables UK Developments Limited, incorporated under the Companies Acts (Registered Number 03758407) and having its registered office at Westwood Way, Westwood Business Park, Coventry, CV4 8LG and supporting environmental information, which comprises the Environmental Statement dated September 2015, Further Environmental Information dated February 2017 and supplementary information dated March 2018.

The principal components and ancillary development comprise;

- 16 wind turbines with a maximum tip height of 130 metres;
- Turbine transformers;
- New on-site access tracks, with associated passing places and up to 5 watercourse crossings;
- Two permanent meteorological masts not exceeding a height of 80 metres;
- A control building, a substation building and associated compounds;
- Cable trenches for installation of underground cables for electricity transmission and for control systems / telecommunications;
- A temporary construction compound including temporary areas of hardstanding to be used as laydown areas, security fencing and concrete batching facilities; and
- Up to two borrow pit(s) for sourcing aggregates for construction of on-site access tracks.

**Part one  
CONDITIONS**

**Conditions attached to Section 36 consent**

The consent granted in accordance with section 36 of the Electricity Act 1989 is subject to the following conditions:

**Commencement of Development**

1. The Commencement of the Development shall be no later than five years from the date of this consent, or such other period as the Scottish Ministers may hereafter direct in writing. Written confirmation of the intended date of Commencement of Development shall be provided to the Planning Authority and Scottish Ministers no later than one calendar month before that date.

*Reason: To avoid uncertainty and ensure that the consent is implemented within a reasonable period.*

**Non-Assignment**

2. This consent may not be assigned without prior written authorisation of the Scottish Ministers. The Scottish Ministers may authorise the assignment of the consent (with or without conditions) or refuse assignment as they may, in their own discretion, see fit. The consent shall not be capable of being assigned, alienated or transferred otherwise than in accordance with the foregoing procedure. The Company shall notify the local planning authority in writing of the name of the assignee, principal named contact and contact details within 14 days of written confirmation from the Scottish Ministers of an assignment having been granted.

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

**Serious Incident Reporting**

3. In the event of any breach of health and safety or environmental obligations relating to the Development during the period of this consent, the Company will provide written notification of the nature and timing of the incident to the Scottish Ministers, including confirmation of remedial measures taken and/or to be taken to rectify the breach, within 24 hours of the incident occurring.

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

## **Part two CONDITIONS**

### **Conditions attached to Deemed Planning Permission**

#### **Implementation in accordance with approved plans and requirements of this consent**

1. The Development must be carried out in accordance with the Application, Environmental Statement (September 2015), Further Environmental Information (February 2017), and Technical Note – micro siting proposals on peat (March 2018 document reference 37898CGOS0103i1R), including all mitigation and monitoring measures therein, and in accordance with the conditions attached to the deemed planning permission and any plans, schemes or similar documents required to be obtained by those conditions.

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

#### **Design and operation of turbines**

2. No development shall commence unless details of the turbine size, type, external finish and colour and any anemometry masts have been submitted to and approved in writing by the Planning Authority.

- a) The maximum height of the turbines shall not exceed 130 metres (to blade tip);
- b) All wind turbine blades shall rotate in the same direction;
- c) The Development shall be constructed and maintained in accordance with the approved details until such time as the Development is decommissioned.

*Reason: To ensure that the environmental impacts of the turbines forming part of the Development conform to the impacts of the candidate turbine assessed in the environmental statement and in the interest of the visual amenity of the area.*

#### **Displays**

3. None of the wind turbines, anemometers, or buildings/enclosures, or above ground fixed plant shall display any external name, logo, sign or other advertisement (other than health and safety signage) unless otherwise approved in advance in writing by the Planning Authority.

*Reason: In the interests of visual amenity.*

## **Design of sub-station and ancillary development**

4. Prior to the commencement of works in respect of each or any of;

- control building;
- substation;
- associated compounds;
- any construction compound boundary fencing;
- external lighting; and
- parking areas.

Final details of the external appearance, dimensions, and surface materials of the relevant element shall be submitted to and approved in writing by the Planning Authority.

The substation building, associated compounds, fencing, external lighting and parking areas approved 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 environmental statement and in the interests of the visual amenity of the area.*

## **Micro-siting**

5. Micro-siting

(1) All wind turbines, buildings, masts, areas of hardstanding and tracks shall be constructed in the locations shown on the Figure 1.1 Revised Site Layout 37898-Gos60v2, as amended by the 2018 supplementary information (Technical note on micro-siting; document reference 37898CGOS0103i1R), save that the final position of each may be adjusted within the boundary of the site by up to the extent specified below:

- a) No wind turbine foundation shall be positioned higher, when measured in metres, Above Ordinance Datum (Newlyn), than the position shown on Figure 1.1 Revised Site Layout (drawing number 37898-Gos60v2) unless the planning authority agree otherwise having regard to whether any higher position would materially change the prominence and visual impact of any such turbine.
- b) No wind turbine, building, mast or hard-standing may be positioned more than 50m from the outer edge of the position shown on the Site Layout Plan.
- c) No access track shall be moved more than 25m from the outer edge of the position shown on the Site Layout Plan, provided that realignment by up to 50m is permitted where necessary to connect access tracks to micro-sited turbines, masts and associated crane pads.
- d) No micro-siting shall take place where infrastructure would be micro-sited into an area of materially deeper peat than the current approved location, with the exception of any floated infrastructure.

- e) Micro-siting shall not result in infrastructure being moved into areas hosting Ground Water Dependent Terrestrial Ecosystems as identified in the ES.
  - f) Micro-siting shall not result in infrastructure being moved into areas within a 100 metre buffer zone surrounding all watercourses and known functioning drains with the exception of:
    - i. Water crossings, where the prior written agreement of the Planning Authority in consultation with SEPA and (in the case of drains owned by and forming part of their undertaking) Scottish Water has been given: and
    - ii. The Little Chang, Catlock and the unnamed tributary of the Little Chang, where works may take place up to but not closer than a 50 metre buffer zone.
  - g) All micro-siting permissible under this condition must be undertaken under the direction of, the Environmental Clerk of Works (ECoW) appointed under **condition 9** of the Planning Permission.
- (2) No later than one month after the Date of Final Commissioning, an updated site plan must be submitted to the planning authority showing the final position of all wind turbines, masts, areas of hard-standing, 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 written ECoW approval

*Reason: to control environmental impacts while taking account of local ground conditions.*

## **Borrow Pits – Scheme of Works**

### 6. Borrow Pits – Scheme of Works

- (1) No borrow pit shall be opened up and worked unless a scheme for the working and restoration of that borrow pit has been submitted to and approved in writing by the planning authority in consultation with SEPA and SNH. The scheme shall include:
- a) A detailed working method statement based on site survey information and ground investigations.
  - b) Details of the handling of any overburden (including peat, soil and rock).
  - c) Drainage, including any measures required to prevent surrounding areas of peatland, and/or Ground Water Dependant Terrestrial Ecosystems (GWDTE) from drying out.
  - d) A programme of implementation of the works described in the scheme.
  - e) Full details of the restoration and aftercare of the borrow pit(s) at the end of the construction period and a timetable for these works. Details are to include, but not be limited to, topographic surveys of preconstruction profiles and details of topographical surveys to be undertaken of the restored borrow pit profiles and when the findings of such post restoration surveys shall be submitted to the planning authority.

- (2) The scheme approved under part (1) shall thereafter be implemented in full.

*Reason: to ensure that excavation of materials from the borrow pit(s) is carried out in a manner that minimises the impact of road safety, amenity and the environment, and that the mitigation measures contained in the Environmental Statement accompanying the application, or as otherwise agreed, are fully implemented; and to secure the restoration of borrow pit(s) at the end of the construction period.*

### **Borrow Pits – Blasting**

#### **7. Borrow Pits - Blasting**

(1) No blasting shall take place until such time as a blasting method statement has been submitted to and approved in writing by the planning authority. The method statement shall include details of measures required to minimise the impact of blasting on residential dwellings in the vicinity of the site.

(2) Blasting shall be carried out in accordance with the method statement approved under part (1) unless otherwise agreed in advance and in writing with the planning authority.

(3) Blasting shall only take place on the site between the hours of 09.00 to 14.00 on Monday to Friday inclusive with no blasting taking place outside these hours.

*Reason: to ensure that blasting activity is carried out within defined timescales to control impact on amenity.*

### **Planning Monitoring Officer**

8. No development shall commence unless the planning authority has approved in writing the terms of appointment by the Company of an independent and suitably qualified environmental consultant to assist the planning authority in monitoring compliance with the terms of the deemed planning permission and conditions attached to this consent ("PMO"). The terms of appointment shall:

- a) Impose a duty to monitor compliance with the terms of the deemed planning permission and conditions attached to this consent.
- b) Require the PMO to submit a monthly report to the planning authority summarising works undertaken on site.
- c) Require the PMO to report to the planning authority any incidences of non-compliance with the terms of the terms of the deemed planning permission and conditions attached to this consent at the earliest practical opportunity.

The PMO shall be appointed on the approved terms throughout the period from Commencement of Development to completion of post construction restoration works.

*Reason: To enable the development to be suitably monitored to ensure compliance with the consent issued*



## Ecological Clerk of Works

9. (1) No development shall commence unless the planning authority has approved in writing the terms of appointment by the Company of an independent Ecological Clerk of Works (ECoW) in consultation with SNH and SEPA. The terms of appointment shall:

- a) Impose a duty to monitor compliance with the ecological and hydrological commitments provided in the ES, the Construction and Environmental Management Plan approved in accordance with **condition 10** the Habitat Management Plan approved in accordance with **condition 15** and the Breeding Bird Protection Plan approved in accordance with **condition 25** (the "ECoW works").
- b) Require the ECoW to report to the Company's nominated construction project manager and the planning authority any incidences of material non-compliance with the ECoW works at the earliest practical opportunity.
- c) Require the ECoW to submit a monthly report to the planning authority summarising the ECoW works undertaken on site which shall include any incidences of non-compliance with the ECoW works.
- d) Require the supervision of the micro-siting.

(2) The ECoW shall be appointed on the terms approved under part (1) throughout the period from Commencement of Development, throughout any period of construction activity and during any period of post construction restoration works approved as part of the CEMP.

(3) No later than 18 months prior to decommissioning of the Development or the expiration of the 25 year period specified in condition 1 of the consent (whichever is the earlier), the Company shall submit details of the terms of appointment by the Company of an independent ECoW throughout the decommissioning, restoration phases of the Development to the planning authority for approval in consultation with SNH and SEPA. The terms of appointment shall:

- a) Impose a duty to monitor compliance with the ecological and hydrological aspects of the decommissioning and restoration plan approved under **condition 29** (the ECoW works).
- b) Require the ECoW to report to the Company's nominated project manager and the planning authority any incidences of material non-compliance with the ECoW works at the earliest practical opportunity.
- c) Require the ECoW to submit a monthly report to the planning authority summarising the ECoW works undertaken on site.

(4) The ECoW shall be appointed on the terms approved under part (3) throughout the decommissioning and restoration phases of the Development.

*Reason: to secure effective monitoring of and compliance with the environmental mitigation and management measures associated with the Development.*

## **Construction and Environmental Management Plan (CEMP)**

10. (1) Prior to the commencement of any intrusive site or ground investigations, the Company shall submit for the written approval of the planning authority, in consultation with SEPA, a Site Investigation and Ground Investigation Scheme (“the scheme”) which shall detail all preliminary SI and GI works, in compliance with BS 5930:2015, proposed to inform the CEMP as required by part (3) below. The scheme shall include (but shall not be limited to):

- i) The phasing of investigative works.
- ii) Full details of all intrusive sit investigation and ground investigation works proposed.
- iii) Access plan including environmental mitigation works, any water crossings and measures in respect of any private water supply (PWS) that require protection.
- iv) Detailed method statements for carrying out all the investigative works including any general mitigation measures required to protect the environment.

(2) The site investigation and ground investigation works shall be carried out in full accordance with the scheme approved under part (1), above, unless otherwise agreed in writing by the planning authority.

(3) No development shall commence unless a Construction and Environmental Management Plan (“CEMP) outlining 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 authority in consultation with SNH and SEPA.

(4) Save the extent addressed by a plan submitted under or required by any other planning condition, the CEMP shall include:

- 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) A dust management plan;
- d) Details for management and operation of any concrete batching plant;
- e) A pollution prevention and control plan(PPP), including arrangements for the storage of oil and fuel on the Site and providing for notification to Scottish Water of any pollution incident which could reach the abstraction at Carsfad Loch or the boreholes located in the River Nith catchment;
- f) Soil storage and management;
- g) A peat management plan (PMP), which shall be based on the draft PMP submitted as Appendix 6.A of the FEI;

- h) A drainage management strategy, addressing the management of surface, ground and waste water arising during and after development;
- i) Sewage disposal and treatment;
- j) Temporary site illumination;
- k) The method of construction of the crane pads, turbine foundations, cable trenches and for construction and erection of wind turbines and meteorological masts;
- l) Details of watercourse crossings;
- m) Species protection plans for otter and water vole within the Site; and
- n) Details for post-construction restoration/reinstatement of temporary working construction areas not required during the operation of the Development.

(5) The construction of the Development shall be carried out in accordance with the CEMP approved under parts (3) and (4) unless otherwise approved in advance in writing by the planning authority in consultation with SNH and SEPA.

*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 Environmental Statement accompanying the application, or as otherwise agreed, are fully implemented.*

### **Construction Hours**

11 (1) Construction work 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 13.00 on Saturdays, with no construction work taking place on a Sunday or on national public holidays.

Out with these specified hours, development on the site shall be limited to turbine erection, pouring of concrete bases where such works commenced prior to the expiring of that working hours period, maintenance, emergency works, dust suppression, and the testing of plan and equipment.

(2) HGV movements to and from the site (excluding abnormal loads) during construction of the wind farm shall be limited to 07.00 to 19.00 Monday to Friday, and 07.00 to 13.00 on Saturdays, with no HGV movements to or from site taking place on a Sunday or on national public holidays.

(3) No new water crossing shall be constructed in the period from 1 January to 31 May inclusive.

*Reason: in the interests of local amenity.*

## **Traffic Management Plan (TMP)**

12. (1) No development shall commence until a Traffic Management Plan (TMP) has been submitted to and approved in writing by the planning authority. The TMP shall include:

- a) The routing of all traffic associated with the Development on the local road network including any speed restrictions;
- b) The scheduling of construction traffic excluding abnormal indivisible loads and the management of traffic associated with the Development on the B741 at the times of school pupil pick-up and drop-off and how this will be monitored and enforced;
- c) Measures to ensure that the specified routes are adhered to, including monitoring procedures;
- d) Details of all signage and lining arrangement to be put in place;
- e) Provisions for emergency vehicle access;
- f) Identification of a nominated person to whom any road safety issues can be referred;
- g) The works required to achieve vehicular access from the Site to the public road which shall include swept path analysis for TDB's and vertical and horizontal alignment details demonstrating that visibility sightline splays of 4.5m by 215m can be achieved;
- h) Contingency plans including emergency public road repairs to damage caused by site construction traffic, making safe of broken down construction traffic on public roads and winter maintenance resources, if any;
- i) Vehicle parking and turning arrangements within the Site;
- j) Details of the access overrun area and proposals to stop up or otherwise make the overrun area unavailable following completion of the last abnormal load delivery;
- k) Details of measures to be taken to prevent loose or deleterious material being deposited on the local road network, such as wheel cleaning and/or lorry sheeting facilities, and including measures to clean the site entrances and the adjacent local road network.

(2) The TMP approved under part (1) shall be implemented unless otherwise agreed in writing with the planning authority.

*Reason: In the interest of road safety*

## **Abnormal Loads Delivery**

13. (1) Prior to the delivery of any abnormal load, the transportation route, timings and delivery methodology shall be submitted to and approved in writing by the planning authority in consultation with the Ayrshire Roads Alliance (ARA) and Transport Scotland. The methodology shall include:

- a) All temporary works including relocation of signs, guardrails, bollards, street furniture and any other temporary measures;
- b) The duration, frequency and temporary measures required at each of the affected locations;
- c) Details of the reinstatement of areas of temporary measures.

(2) All works associated with abnormal loads shall be undertaken in accordance with the details approved under part (1) of this condition.

*Reason: To ensure that abnormal loads access the site in a safe manner*

### **Abnormal Loads**

14. (1) Prior to the movement of any abnormal loads the Company must undertake and submit structural assessments of all bridges, culverts, and other drainage structures on sections of the B741 along which such abnormal loads will pass, for the written approval of the Planning Authority in consultation with the Ayrshire Roads Alliance.

(2) Following completion of the structural assessments and prior to the movement of any abnormal load on the said sections of the B741, a scheme setting out appropriate mitigation measures to address the findings of the assessments shall be submitted for the written approval of the Planning Authority in consultation with the Ayrshire Roads Alliance.

(3) Prior to any movement of abnormal loads the company must complete any mitigation works set out in the scheme approved under part (2) of this condition, and maintain such measures during the period of abnormal load deliveries.

*Reason; to ensure that abnormal loads access the site in a safe manner.*

### **Habitat Management Plan (HMP)**

15. (1) No development shall commence unless a habitat management plan (HMP) has been submitted to and approved in writing by the planning authority in consultation with SNH and SEPA.

(2) The HMP shall set out proposals for post-construction bird monitoring, measures to mitigate the effects on peatland and enhance habitat for black grouse and golden plover within the site as referred to in Chapter 12 of the 2017 FEI.

(3) The approved HMP will include provision for regular monitoring and review to be undertaken to consider whether amendments are needed to better meet the habitat plan objectives. Any amendments to the HMP shall be submitted to the planning authority for written approval in consultation with SNH and SEPA.

(4) The HMP approved under part (1) or amended HMP approved under part (3) shall be implemented in full.

*Reason: in the interest of good land management and the protection of habitats.*

### **Programme of Archaeological Works**

16. (1) No development shall commence unless the Planning Authority, in consultation with the West of Scotland Archaeology Service, has approved a Written Scheme of Investigation (“the Scheme”) which sets out the terms of a programme of archaeology works to be observed during construction of the Development.

(2) Unless otherwise agreed by the Planning Authority, the Scheme shall include the measures specified in Table 18.1 of the ES and shall provide the details of an appropriately qualified person(s) who will oversee the implementation of the Scheme

(3) The Scheme approved under part (1) shall thereafter be implemented in full.

*Reason: to ensure the protection or recording of archaeological features on the site.*

### **Peat Landslide Management**

17.(1) No development shall commence until a detailed peat landslide risk assessment, addressing construction phase of the development and post-construction monitoring, has been approved in writing by the Planning Authority.

(2) The peat landslide risk assessment shall comply with best practice contained in “Peat Landslide Hazard and Risk Assessments: Best Practice Guide for Proposed Electricity Generation Developments” published by the Scottish Government in January 2007, or such replacement standard as may be in place at the time of submission of the peat landslide risk assessment for approval. The peat landslide risk assessment shall include a scaled plan and details of any mitigation measures to be put in place.

(3) The approved peat landslide risk assessment shall thereafter be undertaken in accordance with the timing specified therein.

(4) No development shall commence until the Company have appointed an independent and suitably qualified geotechnical engineer acceptable to the Planning Authority, the terms of whose appointment (including specification of duties and duration of appointment) shall be approved by the Planning Authority.

(5) Where and to the extent recommended by the peat landslide risk assessment, the Company shall undertake monitoring of ground conditions during the construction phase of the Development. If a risk of peat failure is identified, the Company shall undertake any remediation work as may be considered necessary by the geotechnical engineer.

*Reason: to minimise the risk of peat failure arising from the Development.*

### **Television Reception**

18. (1) No development shall commence unless a Television Reception Mitigation Plan has been submitted to, and approved in writing by, the Planning Authority. The Television Reception Mitigation Plan shall provide for a baseline television reception survey to be carried out prior to the installation of any turbine forming part of the Development, the results of which shall be submitted to the Planning Authority. The approved Television Reception Mitigation Plan shall thereafter be implemented in full.

(2) Any claim by any individual person regarding television picture loss or interference at their house, business premises or other building, made during the period from installation of any turbine forming part of the Development to the date falling twelve months after the date of Final Commissioning, shall be investigated by a qualified engineer appointed by the Company and the results shall be submitted to the Planning Authority.

(3) Should any impairment to the television signal be attributable to the Development, the Company shall remedy such impairment so that the standard of reception at the affected property is equivalent to the baseline television reception.

*Reason: to protect the television reception of residents.*

### **Private Water Supplies (PWS)**

19. (1) No development shall commence unless a method statement has been submitted to and approved in writing by the Planning Authority detailing monitoring of the quality, quantity and continuity of the private water supply (PWS) for Craighouse Cottage. The method statement shall take account of SEPA LUPS-GU31 guidance and shall detail water quality sampling methods and shall specify the abstraction point(s) and shall include any necessary mitigation and/or contingency measures to be taken by the Company in the event that monitoring identifies any adverse impact to the Craighouse PWS.

(2) The PWS scheme approved under part (1) shall be implemented and thereafter undertaken and adhered to by the Company.

*Reason: to maintain a secure and adequate quality of water supply to all properties with private water supplies which may be affected by the development.*

### **Redundant Turbines**

20. (1) Unless otherwise agreed in writing by the Planning Authority, if any turbine fails to generate electricity for a continuous period of 12 months a scheme, that takes cognisance of **condition 28** (decommissioning strategy), setting out how the relevant turbine(s) and associated infrastructure will be removed from the site and the ground restored and the timescale for doing so shall be submitted for the written approval of the Planning Authority no later than one month after the date of expiry of the twelve month period.

(2) The scheme approved under part (1) shall be implemented within the agreed timescale.

*Reason: to ensure that any redundant wind turbine is removed from Site, in the interests of safety, amenity and environmental protection.*

### **Aviation Safety**

21. No development shall commence until the Company has provided the Planning Authority, Ministry of Defence, Defence Geographic Centre and NAT with the following information, and has provided evidence to the Planning Authority of having done so:

- The date of the expected commencement of each stage of turbine erection;
- The height above ground level of the tallest structure forming part of the Development
- The maximum extension height of any construction equipment; and
- The position of the turbines and masts in latitude and longitude

*Reason: in the interests of aviation safety.*

### **Aviation Lighting**

22. (1) Prior to the erection of the first wind turbine, the Company shall submit a scheme for Ministry of Defence (MOD) accredited infra-red aviation lighting in respect of the perimeter turbines and any permanent meteorological masts to the Planning Authority for written approval following consultation with the MOD.

(2) No lighting other than that described in the scheme may be applied at the site, other than as required for health and safety, unless otherwise agreed in advance and in writing by the Planning Authority.

(3) No turbines shall be erected on site until the scheme has been approved in writing and the development shall thereafter be operated fully in accordance with the approved scheme.

*Reason: in the interests of aviation safety.*

### **Glasgow Prestwick Radar**

23. (1) No development shall commence unless and until such time as the Planning Authority receives confirmation from the Airport Operator that (a) a Radar Mitigation Scheme has been identified; and (b) the Radar Mitigation Scheme can be implemented and maintained for the lifetime of the Development.

(2) No blade shall be fitted to any turbine or turbines forming part of the Development and no such turbine shall operate, save as provided for and in accordance with the Testing Protocol, unless and until such time as the Planning Authority receives confirmation from the Airport Operator that:



- a) All measures required by the Radar Mitigation Scheme prior to operation of any turbine have been implemented; and
- b) The Civil Aviation Authority has evidenced its approval to the Airport Operator that the Radar Mitigation Scheme is acceptable mitigation for the development and has been satisfactorily implemented by the Airport Operator.

(3) No turbine shall operate other than in accordance with the terms of the Radar Mitigation Scheme.

*Reason: in the interests of aviation safety.*

Definitions for this condition 23:

**“Airport Operator”** means Glasgow Prestwick Airport Limited or any successor as holder of a licence under the Air Navigation Order 2000 from the Civil Aviation Authority to operate Glasgow Prestwick Airport.

**“Radar Mitigation Scheme”** Means such equipment, procedural or technological measures, as the Airport Operator identifies as necessary and sufficient to prevent the operation of the development or of any turbines forming part of the development impacting adversely on radar performance or on the performance of other navigational aids at Glasgow Prestwick Airport or on maintaining safe and efficient air traffic control services or procedures or airspace and which the Airport Operator is willing and able to implement and maintain for the lifetime of the development or for such shorter period as may be agreed in consultation with the Airport Operator as necessary to mitigate any such adverse impact.

**“Testing Protocol”** means the protocol to control the operation of any turbine or turbines forming part of the development for the purposes of testing of the Radar Mitigation Solution.

**NATS (En-Route) Radar**

24. NATS (En-Route) Radar

(1) No above ground works shall commence until a Primary Radar Mitigation Scheme has been submitted to and approved in writing by the Planning Authority following consultation with the Operator.

(2) No blades shall be fitted to any turbine until the technical mitigation measures set out in the approved Primary Radar Mitigation Scheme have been implemented in accordance with its terms and the development shall thereafter be operated fully in accordance with such approved Primary Radar Mitigation Scheme.

Definitions for this condition 24:

**“Operator”** means NATS (En-Route) plc, incorporated under the Companies Act (4129273) whose registered office is 4000 Parkway, Whiteley, Fareham, Hants PO15 7FL or such other organisation licensed from time to time under sections 5 and 6 of the Transport Act 2000 to provide air traffic services to the relevant managed area (within the meaning of section 40 of that Act).

**“Primary Radar Mitigation Scheme” or “Scheme”** means a detailed scheme agreed with the Operator which sets out the measures to be taken to avoid at all times the impact of the development on the surveillance infrastructure and air traffic management operation of the Operator at Lowther Hill.

### **Breeding Bird Protection**

25. (1) No development shall commence unless a breeding bird protection plan (BBPP) has been submitted to and approved in writing by the Planning Authority.

(2) The BBPP will specify any construction survey requirements prior to or during construction (which shall include black grouse lek and Schedule 1 raptor surveys in each breeding survey in which construction is carried out) and any mitigation measures required in relation to:

- Any construction works to be undertaken between 1 March and 31 August;
- Construction restrictions within 500m of any identified black grouse lek during their breeding season core lekking period (mid-March to end of May);
- Speed restriction on any section of access track which is located within 500m of a black grouse lek during the core lekking period.

(3) The BBPP approved under part (1) shall be implemented during construction works;

*Reason: in the interests of bird protection*

### **Bat Protection**

26. (1) During the period 1 June to 31 August inclusive, turbines numbered T1, T3, T4, and T16 shall not operate for a period of three hours after sunset if wind speeds fall below 6 metres per second or such other parameters agreed in writing by the Planning Authority as informed by the results and recommendations of the approved Strategy implemented by part (4) of this condition.

(2) Prior to the Final Commissioning of the Development, a post-construction monitoring Strategy (the Strategy) for bat activity and mortality within the Site shall be submitted to and approved in writing by the Planning Authority in consultation with SNH.

(3) The Strategy shall provide for:

- (a) A monitoring period of (not less than) 3 years;
- (b) How monitoring results and related recommendations will be provided to the Planning Authority and SNH.

(4) The monitoring strategy approved under part (2) shall be implemented in full from the date of final commissioning of the Development or such other time as is agreed in writing by Planning Authority.

*Reason: in the interests of protecting and monitoring bats.*

### **Site Decommissioning and Restoration and Aftercare**

27. The Development will be decommissioned following the expiry of the 25 year period specified in condition 1 of the Consent. The total period for restoration of the site in accordance with this condition but including / excluding any aftercare period shall not exceed three years from the date of final decommissioning without prior written approval of 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.*

### **Decommissioning, Restoration and Aftercare Strategy**

28. No development shall commence unless a decommissioning, restoration and aftercare strategy has been submitted to and approved in writing by the Planning Authority in consultation with SNH and SEPA. The strategy shall outline measures for the decommissioning of the development and the restoration and aftercare of the site and will include, without limitation, proposals for:

- (a) The removal of the above ground elements of the Development;
- (b) The treatment of ground surfaces (including access tracks and hard standing areas and any sub surface elements including cabling) to restore the site to its former condition, or other such condition as is agreed by the Planning Authority;
- (c) The management and timing of the works including environmental management provisions, the incorporation of relevant matters from the CEMP, justification for retention of any elements of the Development and traffic management provisions;
- (d) How and when the Strategy will be reviewed during the operational life of the Development.

*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.*

## **Decommissioning, Restoration and Aftercare Plan**

29. (1) No later than three years prior to decommissioning of the Development or the expiration of the 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 to the Planning Authority for written approval in consultation with SNH and SEPA.

The detailed decommissioning, restoration and aftercare plan will provide updated and detailed proposals for removal of above ground elements of the Development, the treatment of ground surfaces, the management and timing of the works and environmental management provisions which shall address the same matters addressed by the CEMP insofar as relevant to decommissioning, restoration and aftercare of the Site.

(2) The Development shall be decommissioned, the Site restored and aftercare thereafter undertaken in accordance with the plan approved under part (1), unless otherwise agreed in writing in advance with the Planning Authority in consultation with SNH and SEPA.

*Reason: to ensure that the site is decommissioned and restored with aftercare arrangement in the interests of safety, amenity and environmental protection.*

## **Financial Guarantee**

30. (1) No development shall commence unless the Company has delivered to the Planning Authority for its written approval a bond or other form of financial guarantee in favour of and in terms acceptable to the Planning Authority as security in respect of the cost of the decommissioning restoration and aftercare obligations required by deemed planning conditions 27 to 29.

(2) An approved financial guarantee shall thereafter be maintained in favour of the Planning Authority from the Commencement of Development until the date of completion of all restoration and aftercare obligations.

(3) The value of the financial guarantee shall be reviewed by agreement or by a suitably qualified independent professional within at least every five years of the date of the guarantee to take account of any variation in costs of compliance with the decommissioning restoration and aftercare obligations.

(4) Following each review and at least 28 days prior to the expiry of the existing financial guarantee the Company shall submit for the written approval of the Planning Authority a replacement guarantee in favour of and in terms acceptable to the Planning Authority and for the value agreed under part (3).

*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.*

## **Access Management Plan**

31. (1) No development shall commence unless and until an Access Management Plan (AMP) has been submitted to and approved in writing by the Planning Authority.

(2) The AMP shall:

- (a) Identify access restrictions on public access during the construction stage and how these will be managed including any temporary or permanent diversion or stopping up of Public Rights of Way;
- (b) Set out the access management regime during the operational phase.

(3) The AMP approved under part (1) shall be implemented in full, unless otherwise agreed in writing with the Planning Authority.

*Reason: in order to protect and manage access during construction and operation.*

## **Water Quality Monitoring**

32. (1) No development shall commence unless and until a detailed Water Monitoring Scheme (WMS) comprising an integrated aquatic biota and water quality monitoring programme is submitted to and approved in writing by the Planning Authority in consultation with Marine Scotland Science. The WMS shall form an appendix to the CEMP and shall inform the CEMP. The WMS shall:

- (a) Include an infrastructure layout plan showing suitable monitoring and control positions within the Site and/or at publically accessible locations, with national grid references for all monitoring locations;
- (b) Have regard to and take account of the Marine Science Scotland guidance "Generic monitoring programme for monitoring watercourses in relation to onshore wind farm developments;
- (c) Set out the frequency of the monitoring/surveying programme which shall provide for at least:
  - i. Twelve months of monitoring and reporting pre-construction;
  - ii. Monthly monitoring and reporting to be undertaken during the construction phase; and
  - iii. Twelve months of post-construction monitoring and reporting.
- (d) Provide details for the submission of raw and interpreted written results to the Planning Authority and Marine Science Scotland and the frequency of the submissions.

(2) The WMS shall be implemented as approved under part (1) unless any revision thereto is first agreed in writing by the Planning Authority in consultation with Marine Scotland Science.

*Reason: in order to protect water quality*

## **Noise**

33. The rating level of noise immissions from the combined effects of the wind turbines forming the Development (including the application of any tonal penalty) when determined in accordance with the attached Guidance Notes (to this condition), shall not exceed the values set out in Table 1 or Table 2 below as appropriate. The coordinates to be used in determining the location of each of the dwellings listed in Tables 1 and 2 shall be those listed in Table 3 below. Furthermore:

- (a) The wind farm operator shall continuously log power production, wind speed and wind direction, all in accordance with Guidance Note 1(d). This data shall be retained for a period of not less than 24 months. The wind farm operator shall provide this information in the format set out in Guidance Note 1(e) to the Planning Authority on its request, within 14 days of receipt in writing of such a request.
- (b) No electricity shall be exported until the wind farm operator has submitted to the Planning Authority for written approval a list of proposed independent consultants who may undertake compliance measurements in accordance with this condition. Amendments to the list of approved consultants shall be made only with the prior written approval of the Planning Authority.
- (c) Within 21 days from receipt of a written request from the Planning Authority following a complaint to it from an occupant of a dwelling alleging noise disturbance at that dwelling, the wind farm operator shall, at its expense, employ a consultant approved by the Planning Authority in terms of (b) above to assess the level of noise immissions from the wind farm at the complainant's property in accordance with the procedures described in the attached Guidance Notes. The written request from the Planning Authority shall set out at least the date, time and location that the complaint relates to and any identified atmospheric conditions, including wind direction, and include a statement as to whether, in the opinion of the Planning Authority, the noise giving rise to the complaint contains or is likely to contain a tonal component.
- (d) Prior to the operation of the first turbine the wind farm operator shall submit to the Planning Authority for its written approval a noise complaints assessment protocol, which sets out the steps to be taken to investigate any noise complaints received in relation to the Development. The noise complaints assessment protocol shall set out in detail the sequence of noise measurements and actions required to investigate any noise complaint with the objective that the wind farm responsible for potential breaches of their limits can be identified.

- (e) The assessment of the rating level of noise immissions shall be undertaken in accordance with an assessment protocol that shall previously have been submitted to and approved in writing by the Planning Authority and which takes account of noise complaints assessment protocol approved under (d) above.
- (f) The protocol shall include the proposed measurement location identified in accordance with the Guidance Notes where measurements for compliance checking purposes shall be undertaken, whether noise giving rise to the complaint contains or is likely to contain a tonal component, and also the range of meteorological and operational conditions (which shall include the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise immissions. The proposed range of conditions shall be those which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the written request of the Planning Authority under paragraph (c).
- (g) Where a dwelling to which a complaint is related is not listed in the tables attached to these conditions, the wind farm operator shall submit to the Planning Authority for written approval proposed noise limits selected from those listed in the Tables to be adopted at the complainant's dwelling for compliance checking purposes. The proposed noise limits are to be those limits selected from the Tables specified for a listed location which the independent consultant considers as being likely to experience the most similar background noise environment to that experienced at the complainant's dwelling. The rating level of noise immissions resulting from the combined effects of the wind turbines forming the Development when determined in accordance with the attached Guidance Notes shall not exceed the noise limits approved in writing by the Planning Authority for the complainant's dwelling.
- (h) The wind farm operator shall provide to the Planning Authority the independent consultant's assessment of the rating level of noise immissions undertaken in accordance with the Guidance Notes within 2 months of the date of the written request of the Planning Authority for compliance measurements to be made under paragraph (c), unless the time limit is extended in writing by the Planning Authority. The assessment shall include all data collected for the purposes of undertaking the compliance measurements, such data to be provided in the format set out in Guidance Note 1(e) of the Guidance Notes. The instrumentation used to undertake the measurements shall be calibrated in accordance with Guidance Note 1(a) and certificates of calibration shall be submitted to the Planning Authority with the independent consultant's assessment of the rating level of noise immissions.

- (i) Where a further assessment of the rating level of noise immissions from the wind farm is required pursuant to Guidance Note 4(c), the wind farm operator shall submit a copy of the further assessment within 21 days of submission of the independent consultant's assessment pursuant to paragraph (e) above unless the time limit has been extended in writing by the Planning Authority.

*Reason: to protect nearby residents from undue noise and disturbance; and to ensure that noise limits are not exceeded and to enable prompt investigation of complaints.*

**Noise condition continued - Tables 1, 2 and 3, and the guidance notes  
Table 1: Between 07:00 and 23:00- Noise limits expressed in dB LA90,10 minute as a function of the standardised wind speed (m/s) at 10 metre height as determined within the site averaged over 10 minute periods.**

Receptor	Proposed Noise Limit, dB LA90 at standardised 10m height wind speed ( $V_{10}$ ) $\text{ms}^{-1}$									
	3	4	5	6	7	8	9	10	11	12
R1 – Meikle Hill	35.0	35.0	35.0	35.0	35.0	35.0	37.9	40.5	40.5	40.5
R2 – Nith Lodge	35.0	35.0	35.0	35.0	35.0	35.0	37.9	40.9	40.9	40.9
R3 – Maneight	35.0	35.0	35.0	35.0	35.0	35.0	37.9	41.1	41.1	41.1
R4 - Knockburnie	45.0	45.0	44.9	44.9	44.8	44.8	44.8	44.8	44.8	44.8
R5 – Dalleagles	35.0	35.0	35.3	35.9	36.7	37.5	38.4	39.4	39.4	39.4
R6 – Dalleagles Terrace	35.0	35.0	35.3	35.9	36.7	37.5	38.4	39.4	39.4	39.4
R7 – Brockloch	45.0	45.0	44.9	44.8	44.7	44.7	44.7	44.7	44.7	44.7
R8 – Laglaff	35.0	35.0	35.0	35.0	36.1	37.5	38.9	39.7	39.7	39.7



**Table 2: Between 23:00 and 07:00- Noise limits expressed in dB LA90,10-minute as a function of the standardised wind speed (m/s) at 10 metre height as determined within the site averaged over 10 minute periods.**

Receptor	Proposed Noise Limit, dB LA90 at standardised 10m height wind speed ( $V_{10}$ ) $ms^{-1}$									
	3	4	5	6	7	8	9	10	11	12
R1 – Meikle Hill	38.0	38.0	38.0	38.0	38.0	38.0	38.0	38.0	38.0	38.0
R2 – Nith Lodge	38.0	38.0	38.0	38.0	38.0	38.0	38.0	38.0	38.0	38.0
R3 – Maneight	38.0	38.0	38.0	38.0	38.0	38.0	38.0	38.0	38.0	38.0
R4 - Knockburnie	45.0	45.0	44.9	44.9	44.8	44.8	44.8	44.8	44.8	44.8
R5 – Dalleagles	38.0	38.0	38.0	38.0	38.0	38.0	38.0	38.0	38.0	38.0
R6 – Dalleagles Terrace	38.0	38.0	38.0	38.0	38.0	38.0	38.0	38.0	38.0	38.0
R7 – Brockloch	45.0	45.0	44.9	44.8	44.7	44.7	44.7	44.7	44.7	44.7
R8 - Laglaff	38.0	38.0	38.0	38.0	38.0	38.0	38.0	38.0	38.0	38.0

**Table 3: Coordinate locations of the properties listed in Tables 1 and 2.**

Ref.	Receptor	Easting	Northing
R1	Meikle Hill	253500	608850
R2	Nith Lodge	253600	609270
R3	Maneight	254277	609669
R4	Knockburnie	256231	610424
R5	Dalleagles	257292	610564
R6	Dalleagles Terrace	257682	610580
R7	Brockloch	259441	610532
R8	Laglaff	260210	610300

Guidance Notes for Wind Farm Noise Conditions

These notes are to be read with and form part of the noise condition. They further explain the condition and specify the methods to be employed in the assessment of complaints about noise immissions from the wind farm. The rating level at each integer wind speed is the arithmetic sum of the wind farm noise level as determined from the best-fit curve described in Guidance Note 2 of these Guidance Notes and any tonal penalty applied in accordance with Guidance Note 3. Reference to ETSU-R-97 refers to the publication entitled “The Assessment and Rating of Noise from Wind Farms” (1997) published by the Energy Technology Support Unit (ETSU) for the Department of Trade and Industry (DTI).

## Guidance Note 1

- (a) Values of the LA<sub>90, 10 minute</sub> noise statistic should be measured at the complainant's property, using a sound level meter of EN 60651/BS EN 60804 Type 1, or BS EN 61672 Class 1 quality (or the equivalent UK adopted standard in force at the time of the measurements) set to measure using the fast time weighted response as specified in BS EN 60651/BS EN 60804 or BS EN 61672-1 (or the equivalent UK adopted standard in force at the time of the measurements). This should be calibrated in accordance with the procedure specified in BS 4142: 1997 (or the equivalent UK adopted standard in force at the time of the measurements). Measurements shall be undertaken in such a manner to enable a tonal penalty to be applied in accordance with Guidance Note 3.
- (b) The microphone should be mounted at 1.2 – 1.5 metres above ground level, fitted with a two-layer windshield or suitable equivalent approved in writing by the Local Planning Authority, and placed outside the complainant's dwelling. Measurements should be made in "free field" conditions. To achieve this, the microphone should be placed at least 3.5 metres away from the building facade or any reflecting surface except the ground at the approved measurement location. In the event that the consent of the complainant for access to his or her property to undertake compliance measurements is withheld, the Developer shall submit for the written approval of the Local Planning Authority details of the proposed alternative representative measurement location prior to the commencement of measurements and the measurements shall be undertaken at the approved alternative representative measurement location.
- (c) The LA<sub>90, 10 minute</sub> measurements should be synchronised with measurements of the 10-minute arithmetic mean wind and operational data logged in accordance with Guidance Note 1(d), including the power generation data from the turbine control systems of the wind farm.
- (d) To enable compliance with the conditions to be evaluated, the Developer shall continuously log arithmetic mean wind speed in metres per second and wind direction in degrees from north at hub height for each turbine and arithmetic mean power generated by each turbine, all in successive 10-minute periods. Unless an alternative procedure is previously agreed in writing with the Planning Authority, this hub height wind speed, averaged across all operating wind turbines, shall be used as the basis for the analysis. All 10 minute arithmetic average mean wind speed data measured at hub height shall be 'standardised' to a reference height of 10 metres as described in ETSU-R-97 at page 120 using a reference roughness length of 0.05 metres. It is this standardised 10 metre height wind speed data, which is correlated with the noise measurements determined as valid in accordance with Guidance Note 2, such correlation to be undertaken in the manner described in Guidance Note 2. All 10-minute periods shall commence on the hour and in 10- minute increments thereafter.
- (e) Data provided to the Local Planning Authority in accordance with the noise condition shall be provided in comma separated values in electronic format.

- (f) A data logging rain gauge shall be installed in the course of the assessment of the levels of noise immissions. The gauge shall record over successive 10-minute periods synchronised with the periods of data recorded in accordance with Note 1(d).

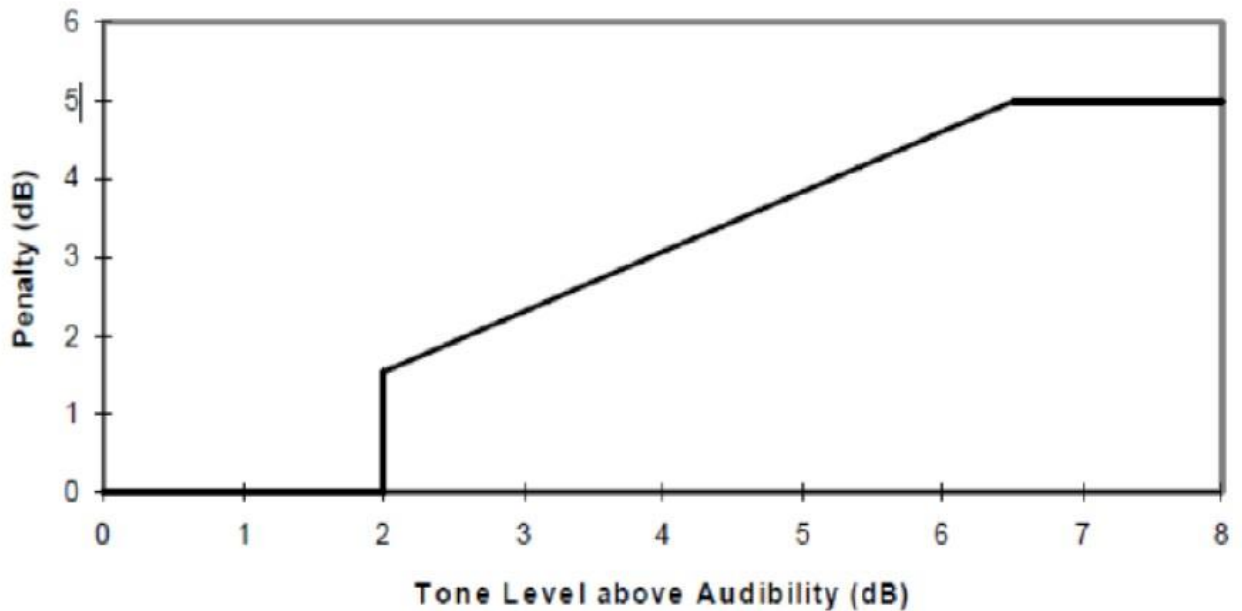
### **Guidance Note 2**

- (a) The noise measurements shall be made so as to provide not less than 20 valid data points as defined in Guidance Note 2 (b).
- (b) Valid data points are those measured in the conditions specified in the agreed written protocol under paragraph (d) of the noise condition, but excluding any periods of rainfall measured in the vicinity of the sound level meter. Rainfall shall be assessed by use of a rain gauge that shall log the occurrence of rainfall in each 10 minute period concurrent with the measurement periods set out in Guidance Note 1. In specifying such conditions the Local Planning Authority shall have regard to those conditions which prevailed during times when the complainant alleges there was disturbance due to noise or which are considered likely to result in a breach of the limits.
- (c) For those data points considered valid in accordance with Guidance Note 2(b), values of the LA90, 10 minute noise measurements and corresponding values of the 10- minute wind speed, as derived from the standardised ten metre height wind speed averaged across all operating wind turbines using the procedure specified in Guidance Note 1(d), shall be plotted on an XY chart with noise level on the Y-axis and the standardised mean wind speed on the X-axis. A least squares, "best fit" curve of an order deemed appropriate by the independent consultant (but which may not be higher than a fourth order) should be fitted to the data points and define the wind farm noise level at each integer speed.

### **Guidance Note 3**

- (a) Where, in accordance with the approved assessment protocol under paragraph (d) of the noise condition, noise immissions at the location or locations where compliance measurements are being undertaken contain or are likely to contain a tonal component, a tonal penalty is to be calculated and applied using the following rating procedure.
- (b) For each 10 minute interval for which LA90, 10 minute data have been determined as valid in accordance with Guidance Note 2 a tonal assessment shall be performed on noise immissions during 2 minutes of each 10 minute period. The 2 minute periods should be spaced at 10 minute intervals provided that uninterrupted uncorrupted data are available ("the standard procedure"). Where uncorrupted data are not available, the first available uninterrupted clean 2 minute period out of the affected overall 10 minute period shall be selected. Any such deviations from the standard procedure, as described in Section 2.1 on pages 104-109 of ETSU-R-97, shall be reported.

- (c) For each of the 2 minute samples the tone level above or below audibility shall be calculated by comparison with the audibility criterion given in Section 2.1 on pages 104-109 of ETSU-R-97.
- (d) The tone level above audibility shall be plotted against wind speed for each of the 2 minute samples. Samples for which the tones were below the audibility criterion or no tone was identified, a value of zero audibility shall be used.
- (e) A least squares “best fit” linear regression line shall then be performed to establish the average tone level above audibility for each integer wind speed derived from the value of the “best fit” line at each integer wind speed. If there is no apparent trend with wind speed then a simple arithmetic mean shall be used. This process shall be repeated for each integer wind speed for which there is an assessment of overall levels in Guidance Note 2.
- (f) The tonal penalty is derived from the margin above audibility of the tone according to the figure below.



**Guidance Note 4**

- (a) If a tonal penalty is to be applied in accordance with Guidance Note 3 the rating level of the turbine noise at each wind speed is the arithmetic sum of the measured noise level as determined from the best fit curve described in Guidance Note 2 and the penalty for tonal noise as derived in accordance with Guidance Note 3 at each integer wind speed within the range specified by the Local Planning Authority in its written protocol under paragraph (d) of the noise condition.
- (b) If no tonal penalty is to be applied then the rating level of the turbine noise at each wind speed is equal to the measured noise level as determined from the best fit curve described in Guidance Note 2.

- (c) In the event that the rating level is above the limit(s) set out in the Tables attached to the noise conditions or the noise limits for a complainant's dwelling approved in accordance with paragraph (e) of the noise condition, the independent consultant shall undertake a further assessment of the rating level to correct for background noise so that the rating level relates to wind turbine noise immission only.
- (d) The Developer shall ensure that all the wind turbines in the Development are turned off for such period as the independent consultant requires to undertake the further assessment. The further assessment shall be undertaken in accordance with the following steps:
- I. Repeating the steps in Guidance Note 2, with the wind farm switched off, and determining the background noise (L3) at each integer wind speed within the range requested by the Local Planning Authority in its written request under paragraph (c) and the approved protocol under paragraph (d) of the noise condition.
  - II. The wind farm noise (L1) at this speed shall then be calculated as follows where L2 is the measured level with turbines running but without the addition of any tonal penalty:

$$L_1 = 10 \log \left[ 10^{L_2/10} - 10^{L_3/10} \right]$$

- III. The rating level shall be re-calculated by adding arithmetically the tonal penalty (if any is applied in accordance with Note 3) to the derived wind farm noise L1 at that integer wind speed.
- IV. If the rating level after adjustment for background noise contribution and adjustment for tonal penalty (if required in accordance with note 3 above) at any integer wind speed lies at or below the values set out in the Tables attached to the conditions or at or below the noise limits approved by the Local Planning Authority for a complainant's dwelling in accordance with paragraph (e) of the noise condition then no further action is necessary. If the rating level at any integer wind speed exceeds the values set out in the Tables attached to the conditions or the noise limits approved by the Local Planning Authority for a complainant's dwelling in accordance with paragraph (e) of the noise condition then the Development fails to comply with the conditions.

## Definitions

**“Commencement of the Development”** means the implementation of the consent and deemed planning permission by the carrying out of a material operation within the meaning of section 26 of the Town and Country Planning (Scotland) Act 1997.

**“the Company”** means E.ON Climate and Renewables UK Developments Limited, a company incorporated under the Companies Acts with company number 05266294 and having its registered office at Westwood Way, Westwood Business Park, Coventry, CV4 8LG or such other person as from time to time has the benefit of the consent granted under section 36 of The Electricity Act 1989.

**“development”** means the implementation of the consent and deemed planning permission by the carrying out of a material operation within the meaning of section 27 of the Town and Country Planning (Scotland) Act 1997.

**“Date of First Commissioning”** means the date on which electricity is first exported to the grid network on a commercial basis from any of the wind turbines forming part of the Development.

**“Date of Final Commissioning”** means the earlier of (i) the date on which electricity is exported to the grid on a commercial basis from the last of the wind turbines forming part of the Development erected in accordance with this consent; or (ii) the date falling eighteen months from the date of First Commissioning.

**“Planning Authority”** means East Ayrshire Council.

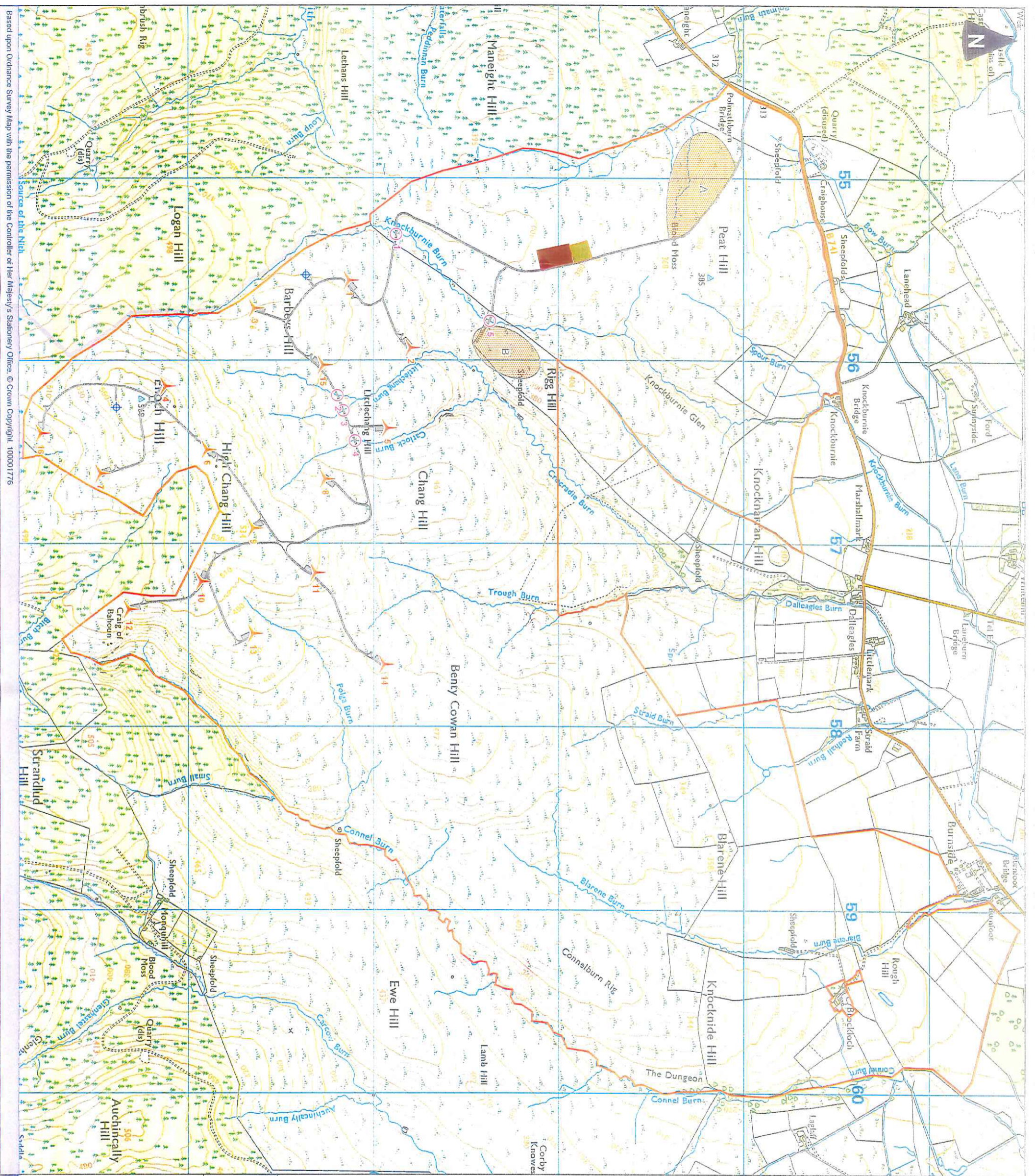
**“Public Holiday”** means;

- New Year's Day, if it is not a Sunday or, if it is a Sunday, 3rd January.
- 2nd January, if it is not a Sunday or, if it is a Sunday, 3rd January.
- Good Friday.
- Easter Monday.
- The first Monday in May.
- The fourth Monday in May.
- The first Monday in August.
- The third Friday and fourth Monday in September (subject to change according to published East Ayrshire school holidays).
- 30th November, if it is not a Saturday or Sunday or, if it is a Saturday or Sunday, the first Monday following that day.
- Christmas Day, if it is not a Sunday or, if it is a Sunday, 27th December.
- Boxing Day, if it is not a Sunday or, if it is a Sunday, 27th December.

**“SEPA”** means Scottish Environmental Protection Agency.

**“SNH”** means Scottish Natural Heritage.

**“HES”** means Historic Environment Scotland.



This is the map referred to in the consent by the Scottish Ministers in terms of section 36 of the Electricity Act 1989 for the construction and operation of a wind powered electricity generating station at Enoch Hill as confirmed by the Scottish Ministers.

- Key**
- Site boundary
  - Turbine location
  - Crane pads
  - Wind farm access tracks
  - Substation
  - Watercourse crossing
  - Permanent meteorological mass
  - Borrow pit search area
  - Temporary construction compound

0 km  
1:200m  
Scale 1:20,000 @ A3



**Enoch Hill Wind Farm**  
Further Environmental  
Information



**Figure 1.1**  
Revised Site Layout