

THE HIGHLAND COUNCIL

**NORTH PLANNING APPLICATIONS COMMITTEE
18 June 2013**

Agenda Item	5.1
Report No	PLN/056/13

**11/04718/S36 : WKN Sallachy Ltd
Sallachy Wind Farm, Sallachy and Duchally Estate, Lairg.**

Report by Head of Planning and Building Standards

SUMMARY

This report presents suggested planning conditions relative to the Section 36 Application for Sallachy Wind Farm.

1 Introduction

- 1.1 At the 21 May 2013 North Planning Application Committee Members determined that the Council raise no objection to the Section 36 application for Sallachy Wind Farm. Should Ministers approve the development, it will carry deemed planning permission under Section 57(2) of the Town and Country Planning (Scotland) Act 1997.
- 1.2 The Council can offer draft planning conditions for the consideration of the Minister determining the application. The attached list of planning conditions and informatives as set out in Annex A attached to this report has been prepared for the approval of the Committee.

2. RECOMMENDATION

- 2.1 It is recommended that the Council approve the suggested list of conditions to add to its response to the Scottish Government's consultation on Sallachy Wind Farm application.

Signature: Malcolm MacLeod

Designation: Head of Planning and Building Standards

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Background Papers: Documents referred to in report and in case file 11/04718/S36

Annex A

Section 36 Application Sallachy Wind Farm at Sallachy and Duchally Estate, Lairg, Highland Planning Reference 11/04718/S36

Development Details - Wind Farm 66MW / 22 turbines with associated infrastructure, see layout plan attached, comprising: -

- Turbines maximum tip height 125m with internal transformers.
- 12 km of new access tracks (4m wide) with cable ducts trenches adjacent.
- 6 km of improved roadway (widened to 4m).
- Borrow pit - delivering 20,000m² of rock.
- Control and Maintenance Building / Substation.
- Temporary Site Compound.

SUGGESTED PLANNING CONDITIONS

1. This planning permission shall expire and cease to have effect after a period of 30 years from the date when electricity is first exported from any of the approved wind turbines to the electricity grid network (the "First Export Date"). Upon the expiration of a period of 25 years from the First Export Date, the wind turbines shall be decommissioned and removed from the site, with decommissioning and restoration works undertaken in accordance with the terms of condition 2 of this permission. Written confirmation of the First Export Date shall be submitted in writing to the Planning Authority within one month of the First Export Date.

Reason: - Wind turbines have a projected lifespan of 25 years, after which their condition is likely to be such that they require to be replaced, both in terms of technical and environmental considerations. This limited consent period also enables a review and, if required, reassessment to be made of the environmental impacts of the development and the success, or otherwise, of noise impact, species protection, habitat management and mitigation measures. The 30 year cessation date allows for a 5 year period to complete commissioning and site restoration work.

2. No development shall commence until a draft Decommissioning and Restoration Plan (DRP) for the site has been submitted to, and approved in writing by, the Planning Authority in consultation with SNH and SEPA. Thereafter:
 - a. No later than 3 years prior to the decommissioning of the development, the draft DRP shall be reviewed by the Wind Farm Operator and a copy submitted to the Planning Authority for their written approval, in consultation with SNH and SEPA; and
 - b. No later than 12 months prior to the decommissioning of the development, a detailed DRP, based upon the principles of the approved draft plan, shall be submitted to, and approved in writing by, the Planning Authority, in consultation with SNH and SEPA.

For the avoidance of doubt, the DRP shall include the removal of all above-ground elements of the development, all new access tracks, the treatment of disturbed ground surfaces, management and timing of the works, environmental management provisions and a traffic management plan to address any traffic impact issues during the decommissioning period. The detailed Decommissioning and Restoration Plan shall be implemented as approved.

Reason: To ensure that all wind turbines and associated development is removed from site in the interests of safety, amenity and environmental protection.

3. No development shall commence until:
 - a. Full details of a bond or other financial provision to be put in place to cover all of the decommissioning and site restoration measures outlined in the Decommissioning and Restoration Plan approved under condition 2 of this permission have been submitted to, and approved in writing by, the Planning Authority; and
 - b. Confirmation in writing by a suitably qualified independent professional that the amount of financial provision proposed under part (i) above is sufficient to meet the full estimated costs of all decommissioning, dismantling, removal, disposal, site restoration, remediation and incidental work, as well as associated professional costs, has been submitted to, and approved in writing by, the Planning Authority; and
 - c. Documentary evidence that the bond or other financial provision approved under parts (i) and (ii) above is in place has been submitted to, and confirmation in writing that the bond or other financial provision is satisfactory has been issued by, the Planning Authority.

Thereafter, the Wind Farm Operator shall:

- d. Ensure that the bond or other financial provision is maintained throughout the duration of this permission; and
- e. Pay for the bond or other financial provision to be subject to a review five years after the commencement of development and every five years thereafter until such time as the wind farm is decommissioned and the site restored.

Each review shall be:

- f. conducted by a suitably qualified independent professional; and
- g. published within three months of each five year period ending, with a copy submitted upon its publication to both the landowner(s) and the Planning Authority; and
- h. approved in writing by the Planning Authority without amendment or, as the case may be, approved in writing by the Planning Authority following amendment to their reasonable satisfaction.

Where a review recommends that the amount of the bond or other financial provision should be altered (be that an increase or decrease) or the framework

governing the bond or other financial provision requires to be amended, the Wind Farm Operator shall do so within one month of receiving that written approval, or another timescale as may be agreed in writing by the Planning Authority, and in accordance with the recommendations contained therein.

Reason: To ensure financial security for the cost of the restoration of the site to the satisfaction of the Planning Authority.

4. The Wind Farm Operator shall, at all times after the First Export Date, record information regarding the monthly supply of electricity to the national grid from each turbine within the development and retain the information for a period of at least 12 months. The information shall be made available to the Planning Authority within one month of any request by them. In the event that:
 - a. any wind turbine installed and commissioned fails to supply electricity on a commercial basis to the grid for a continuous period of 6 months, then the wind turbine in question shall be deemed to have ceased to be required. Under such circumstances, the wind turbine, along with any ancillary equipment, fixtures and fittings not required in connection with retained turbines, shall, within 3 months of the end of the said continuous 6 month period, be dismantled and removed from the site and the surrounding land fully reinstated in accordance with this condition; or
 - b. the wind farm fails to supply electricity on a commercial basis to the grid from 50% or more of the wind turbines installed and commissioned and for a continuous period of 12 months, then the Wind Farm Operator must notify the Planning Authority in writing immediately.

Thereafter, the Planning Authority may direct in writing that the wind farm shall be decommissioned and the application site reinstated in accordance with this condition. For the avoidance of doubt, in making a direction under this condition, the Planning Authority shall have due regard to the circumstances surrounding the failure to generate and shall only do so following discussion with the Wind Farm Operator and such other parties as they consider appropriate.

All decommissioning and reinstatement work required by this condition shall be carried out in accordance with the approved detailed Decommissioning and Reinstatement Plan, or, should the detailed Decommissioning and Reinstatement Plan not have been approved at that stage, other decommissioning and reinstatement measures, based upon the principles of the approved draft DRP, as may be specified in writing by the Planning Authority.

Reason: - To ensure that any redundant or non-functional wind turbines removed from site, in the interests of safety, amenity and environmental protection.

5. No development shall commence until the developer has submitted protocols to secure that all development activity will be undertaken in a manner that seeks to minimise the risk of harm to existing hydro electric generation infrastructure within and immediately adjacent to the application site. The development must only be undertaken in compliance with the protocols approved by the Planning Authority.

Reason: - To ensure existing hydro generation facilities are adequately protected from all construction works including temporary construction facilities and borrow pit workings associated with this development.

6. No development shall commence until full details of the proposed wind turbines (including make, model, design, power rating and sound power levels) have been submitted to, and approved in writing by, the Planning Authority. The approved turbines shall operate with internal transformers unless otherwise agreed in writing by the Planning Authority. Thereafter, development shall progress in accordance with these approved details and, for the avoidance of doubt, all wind turbine blades shall rotate in the same direction.

Reason: - To ensure that the turbines chosen are suitable in terms of visual, landscape noise and environmental impact considerations.

7. All wind turbines shall be finished in a non-reflective pale grey semi-matt colour, unless otherwise approved in writing by the Planning Authority.

Reason: - To ensure that the turbines chosen are suitable in terms of visual impact considerations.

8. Notwithstanding the provisions of the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984 (as amended), and unless there is a demonstrable health and safety or operational reason, none of the wind turbines, anemometers, power performance masts, transformers, ancillary buildings or above ground fixed plant shall display any name, logo, sign or other advertisement without express advertisement consent having been granted on application to the Planning Authority.

Reason: - To ensure that the turbines are not used for advertising, in the interests of visual amenity.

9. No development shall commence until a scheme of aviation lighting is submitted to, and approved in writing by, the Planning Authority after consultation with the Ministry of Defence. Thereafter the approved scheme of aviation lighting shall be fully implemented on site. The Company shall provide both the Ministry of Defence and the Defence Geographic Centre (AIS Information Centre) with a statement, copied to the Planning Authority and Highland and Islands Airports Limited, containing the following information:

- a. the date of Commencement of the Development;
- b. the exact position of the wind turbine towers in latitude and longitude;
- c. a description of all structures over 300 feet high;
- d. the maximum extension height of all construction equipment;
- e. the height above ground level of the tallest structure; and
- f. detail of an infra red aviation lighting schemes agreed with aviation interests and the Planning Authority.

Reason: -To ensure that the erected turbines present no air safety risk and in a manner that is acceptable to local visual impact considerations.

10. Turbines, access tracks, crane hard-standing areas, peat / soil storage areas and the temporary construction compound areas may be micro sited but shall not be micro sited more than 50 metres from the positions shown in the approved plans unless otherwise agreed in writing with the Planning in consultation with SEPA. For the avoidance of any doubt any micro-siting must comply with the following additional and specific limitations, unless agreed in writing with the Planning Authority: -

- a. The MOD's request that turbines are not located nearer the valley floor
- b. Turbines T12, T16, T17, T19 and T21 as shown on the Drawing WF11.098 within Appendix9-A - page 4 is limited to a micro-siting northwards limit of 10m.
- c. A 50 buffer area around all watercourses is maintained free of development, with the exception of agreed watercourse crossings.

Reason: - To minimise the impact of the development in the landscape; allow areas of deep peat and wetlands to be avoided in the finished design and to maintain local infrastructural safeguards.

11. No development shall commence until a scheme for the working of each borrow pit is submitted to and approved in writing by the Planning Authority, after consultation with SEPA. The scheme shall then be implemented as approved. The scheme shall make provision for:

- a. method of working;
- b. overburden (peat, soil and rock) handling;
- c. drainage including measures to prevent the drying out of surrounding peatland;
- d. a programme of implementation;
- e. re-instatement, restoration and aftercare of the borrow pits.

Reason: - To ensure a scheme is in place to control the use of borrow pits to minimise the level of visual intrusion and any adverse impacts as a result of the construction phase of the Development.

12. No development shall commence until final details of the external appearance, dimensions, and surface materials of the substation building, associated compounds, back up generators and parking areas are submitted to and approved in writing by the Planning Authority. The substation building, associated compounds, fencing, external lighting and parking areas shall be implemented in accordance with the approved details.

Reason: To ensure the final design uses materials that are suitable in terms of visual impact considerations.

13. No development shall commence until a Construction Environmental Management Document (CEMD), in accordance with The Highland Council's Guidance Note on Construction Environmental Management Process for Large Scale Projects (August 2010) (as amended, revoked or re-enacted; with or without modification), has been submitted to, and approved in writing by, the Planning Authority (in consultation with SEPA, SNH and TECS). The CEMD shall be submitted at least two months prior to the intended start date on site and shall include the following:
14. An updated Schedule of Mitigation (SM) drawing together all approved mitigation proposed in support of the planning application and other agreed mitigation (including that required by agencies and relevant planning conditions attached to this permission);
 - a. Change control procedures to manage/action changes from the approved SM, CEMD and Construction Environmental Management Plans;
 - b. Construction Environmental Management Plan(s) (CEMP), covering construction phase;
 - c. Habitat and Species Protection Plan including appropriate pre construction surveys for otter, bat, badger water vole and protected birds as advised by SNH, to be carried out within 500m of all wind farm infrastructure and the provision of advice for all construction staff working on-site;
 - d. Pollution Prevention and Control to prevent the release of sediment reaching the River Oykel SAC and to minimise impacts upon Groundwater Dependant Terrestrial Ecosystems.
 - e. Dust Management;
 - f. Noise Mitigation;
 - g. Minimises on site storage of chemicals/ fuels, with appropriate containment defences.
 - h. Site Waste Management;
 - i. Surface and Ground Water Management Plan including: -
 - i. drainage and sediment management measures from all construction areas including access track improvements;
 - ii. mechanisms to ensure that construction work which increases the risk of pollution incidents will not take place during periods of high flow or high rainfall.
 - iii. Details of any dewatering from borrow pits or other excavations and how this will be mitigated;
 - iv. Details of any proposed on site concrete batching along with details of the associated water supply and pollution prevention measures;
 - j. Water Course Management Plan including measures to ensure no construction activities other than that those associated with watercourse crossings shall be undertaken within 50m of a watercourse. For the avoidance of any doubt all watercourse crossings must be in the form of bridges or bottomless culverts, be designed to maintain or improve existing flow conditions and aquatic life and that any new or modify crossings be designed to maintain the same or greater channel capacity. Existing culverts should be opened when ever possible.

- k. Peat Management Plan embracing in full the provisions set out within the Halcrow Report on Peat Stability Assessment for Sallachy Wind Farm provided to the Energy Consent Unit.
- l. Emergency Response Plan;
- m. Special Plans, including post construction monitoring as presented with the Supporting Environmental Statement, for example the Habitat Management Plan, addressing : -
 - i. Peat Management and Restoration.
 - ii. Estate Liaison for positive Deer Management to minimise impact on the designated peat-lands adjacent to the wind farm.
 - iii. Water Course Inspection and Monitoring as per the submitted ES Annex 6 of Appendix 7-B
 - iv. Post-construction restoration and reinstatement of temporary working areas, compounds and borrow pits;
- n. Details for the appointment, at the developer's expense, of a suitably qualified Environmental Clerk of Works (ECoW), including roles and responsibilities and any specific accountabilities required by conditions attached to this permission;
- o. A statement of responsibility to 'stop the job/activity' if a breach or potential breach of mitigation or legislation occurs; and
- p. Methods for monitoring, auditing, reporting and the communication of environmental management on site and with client, Planning Authority and other relevant parties. This must include weather forecasting and actions to be taken in advance of adverse forecasts.

Thereafter, development shall be carried out in accordance with the approved Schedule of Mitigation, Construction Environmental Management Document and any Construction Environmental Management Plans approved thereunder.

Reason: - To control and reduce impact of construction activity on the local environment including potential pollution of air, land and water.

15.No development shall commence until a Traffic Management Plan has been submitted and approved by the Planning Authority in consultation with Transport Scotland Network Management and TEC Services. The Plan must describe all measures to manage traffic during the construction periods. The Plan must then be implemented as approved. This plan must ensure that the local road network, including access onto the public road, is upgraded to a suitable standard to the satisfaction of the Roads Authorities. This will require as a minimum the following measures to be addressed: -

- a. A route assessment report for abnormal loads including swept path analysis and details on the movement of any street furniture and any traffic management measures.

- b. Any additional signing or temporary traffic control measures deemed necessary due to the size or length of any loads being delivered or removed must be undertaken by a recognised QA traffic management consultant, to be approved by Transport Scotland before delivery commences.
- c. Visibility to the left for vehicles leaving the site will need to be improved to 160m visibility in both directions.
- d. An assessment of the capacity of the existing local road network to cater for predicted construction traffic volumes and measures to strengthen and improve the road to cater for this traffic. All identified road works are to be completed before any other works commence on site unless otherwise agreed with TEC Services.
- e. An assessment of the capacity of existing bridges and other structures along the construction access route(s) to cater for all construction traffic.
- f. A trial run to confirm the ability of the local road network to cater for turbine delivery. Three weeks notice of this trial run must be made to the Local Roads Authority who needs to be able to attend this trial run.
- g. A concluded Wear and Tear agreement in accordance with Section 96 of the Roads (Scotland) Act 1984 under which the developer is responsible for the repair of any damage to the local road network that can reasonably be attributed to construction related traffic. As part of this agreement, pre-start and post construction road condition surveys will need to be carried out by the developer to the satisfaction of TEC Services.

Reason: - To protect the integrity of the local road network during the construction and when any abnormal loads are required to deliver to this development.

16. A community liaison group must be established by the developer, in collaboration with The Highland Council and local community councils, to allow advanced dialogue on the provision of all road mitigation measures and to keep under review the timing of the delivery of turbine components. This should also ensure local events, such as the Lairg Lamb Sales, appropriate measures to coordinate deliveries to ensure no conflict between construction traffic and the increased traffic generated by such events.

Reason: To assist with the provision of mitigation measures to minimise the potential hazard to road users, including pedestrians and school pupils travelling to and from school on the road networks.

17. No development shall commence until an Access Management Plan for the construction and operational phases, must be submitted to, and approved in writing by the Planning Authority. The Plan shall then be implemented as approved. The Plan must address how the public access rights will be managed during the construction phase, and if temporary stopping up or diversion is required this should be detailed should be detailed in the Plan. Further that: -

- a. Any signs or information panel relating to public access shall be approved in writing by the planning authority prior to erection.

- b. Any access control on the site, when operational, should take into account the rights of responsible access exercisable by the public. As such field / vehicle gates should be left unlocked or side pedestrian gates should be installed to BS5709. That is 1.5m wide gate with access and egress to the gate to be the same standard as the track/route which it is placed.

Reason: - to maximise the opportunities for continued public access to the countryside during the construction and operation of this wind farm.

18. Construction work associated with the development and any construction works traffic movements to or from the site associated with the construction of the development shall be restricted to the following hours without the prior written approval of the Planning Authority:

April – September:

weekdays 7.00 – 19.00 hrs & Saturdays only 7.00 – 14.00 hrs.

October – March:

weekdays 7.30 – 17.00 hrs & Saturdays only 7.30 – 14.00 hrs.

There shall be no construction work or construction works traffic movements to or from the site on Sundays without the prior written approval of the Planning Authority.

Reason: - To ensure there is some respite from construction to those who use the surrounding countryside.

19. No development shall commence until a Noise Measurement and Mitigation Scheme has been submitted to, and approved in writing by, the Planning Authority. The scheme shall include:

- a. A framework for the measurement and calculation of noise levels to be undertaken in accordance with “The Assessment & Rating of Noise from Wind Farms”, September 1996, ESTU report number ETSU-R-97 having regard to paragraphs 1-3 and 5-11 inclusive, of The Schedule, pages 95 to 97; and Supplementary Guidance Notes to the Planning Obligation, pages 99 to 109. Wind speeds shall be determined using the methods in “Prediction and Assessment of Wind Turbine Noise” (published in IOA Bulletin March/April 2009); and
- b. Mitigation measures to be enacted, along with a timetable(s) for implementation, should noise emissions exceed the limits prescribed under this planning permission.

Reason: - To ensure that the impact of the built turbines does not exceed the predicted noise levels set out within the supporting Environmental Statement.

20. The Wind Farm Operator shall, beginning with the first day upon which the wind farm becomes operational, log wind speed and wind direction data continually and shall retain the data for a period of at least 12 months from the date that it was logged. The data shall include the average wind speed, measured in metres

per second, over 10 minute measuring periods. These measuring periods shall be set to commence on the hour and at 10 minute consecutive increments thereafter. Measurements shall be calculated at 10m above ground level using the methods described in "Prediction and Assessment of Wind Turbine Noise" (published in IOA Bulletin March/April 2009). All wind speed data shall be made available to the Planning Authority on request in Microsoft Excel compatible electronic spreadsheet format.

At the request of the Planning Authority, the Wind Farm Operator shall assess, at its own expense and using a suitably qualified consultant(s) not involved in the original noise assessment, the level of noise emissions from the Wind Turbines. Assessment shall be carried out in accordance with the Noise Measurement and Mitigation Scheme approved under this planning permission and a report of assessment shall be submitted to the Planning Authority within two months of a request under this condition, unless an alternative timescale is otherwise agreed in writing by the Planning Authority.

If noise emissions are found to exceed limits prescribed under this planning permission, then the Wind Farm Operator shall implement mitigation measures in full accordance with the approved Noise Measurement and Mitigation Scheme, or alternative equal or better mitigation measures as may first be approved in writing by the Planning Authority, in order to reduce noise levels to comply with prescribed limits. The time period for implementing mitigation measures shall be as outlined in the approved Noise Measurement and Mitigation Scheme or as otherwise may be specified writing by the Planning Authority.

Reason: - to ensure the Planning authority can investigate and assess noise arising from the development and if necessary seek appropriate measures to ensure compliance with agreed noise limits.

INFORMATIVES

1. The following are statutory requirements of the Town and Country Planning (Scotland) Act 1997 (as amended). Failure to meet their respective terms represents a breach of planning law and may result in formal enforcement action.
 - a. The developer must submit a Notice of Initiation of Development (NID) in accordance with Section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) to the Planning Authority prior to work commencing on site. Furthermore, work must not commence until the notice has been acknowledged in writing by the Planning Authority.
 - b. On completion of the development, the developer must submit a Notice of Completion in accordance with Section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to the Planning Authority.
2. Your attention is drawn to the conditions attached to this permission. Any pre-conditions (those requiring certain works, submissions etc. prior to commencement of development) must be fulfilled prior to work starting on site.

Failure to meet these conditions may invalidate your permission or result in formal enforcement action.

3. Any trunk road works will necessitate a Minute of Agreement with the Trunk Roads Authority prior to commencement of any works.
4. In line with the Council's Gaelic Language Plan and Policies, you are encouraged to consider the adoption of Gaelic or Gaelic-influenced names in this development. For further guidance, you may wish to contact the Council's Gaelic Development Manager (01463 724287) or Comunn na Gàidhlig (01463 234138).
5. Definition of Terms Used in this Decision Notice

"Wind Turbine Noise Level" means the rated noise level due to the combined effect of all the Wind Turbines, excluding existing background noise level but including any tonal penalty incurred under the methodology described in ETSU-R-97, pages 99 – 109.

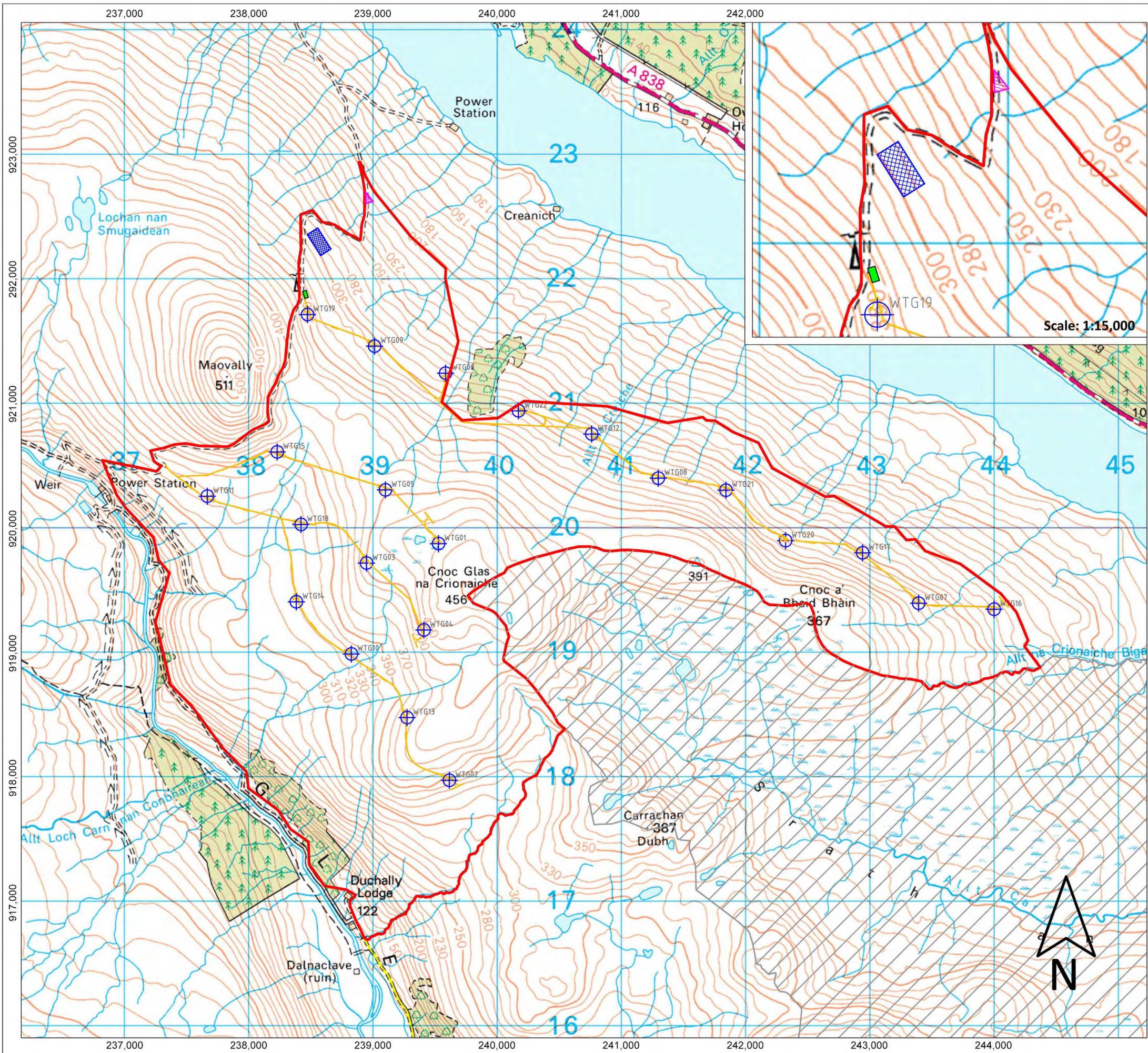
"Wind Farm Operator" means the individual(s), organisation(s) or company(ies) responsible for the day-to-day operation of the windfarm, who may or may not also be the owner of the windfarm.

"Background Noise Level" means the ambient noise level already present within the environment (in the absence of noise generated by the development) as measured and correlated with Wind Speeds.

"Wind Speeds" means wind speeds measured or calculated at a height of 10 metres above ground level on the site at a specified Ordnance Survey grid reference agreed in writing by the Planning Authority

"Night hours" means 23:00 – 07:00 hours on all days.

"Noise-Sensitive Premises" means any building, structure or other development that, on the date of this planning permission, exists or is yet to exist but benefits from extant planning permission, the lawful use of which falls within Classes 7 (Hotels & Hostels), 8 (Residential Institutions) or 9 (Houses) of the Town and Country Planning (Use Classes) (Scotland) Order 1997 (as amended) or is as a flat or static residential caravan. Where such documents exist, this definition also includes any other premises defined as being noise-sensitive within any Environment Statement or other assessment or survey submitted in support of the planning application. For the purposes of this definition, 'premises' includes any relevant curtilage. The Wind Turbine Noise Level, including the application of any tonal penalty specified in ETSU-R-97 at pages 99-109, shall not exceed 35 dB LA90,10min at any Noise-Sensitive Premises.. This condition shall only apply at wind speeds up to 10m/s measured or calculated using the methods described in "Prediction and Assessment of Wind Turbine Noise" (published in IOA Bulletin March/April 2009).



Legend

-  WTG Location
-  Wind Farm Boundary
-  Substation (not to scale)
-  Crane Pad and Access Road
-  Site Compound
-  Borrow Pit
-  Caithness & Sutherland Peatlands SPA and SAC (incl. Strath an Loin SSSI)

225,000 / 925,000
Coordinates in BNG (AIRY)

Date: 21.11.2011



Scale: 1:30,000 @ DIN A3

Wind Farm Layout

Figure 3-02

