

THE HIGHLAND COUNCIL

**NORTH PLANNING APPLICATIONS COMMITTEE –
17 SEPTEMBER 2013**

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| Agenda Item | 6.7 |
| Report No | PLN/088/13 |

**13/02429/S42 : RWE NPOWER (BURN OF WHILK WIND FARM)
BURN OF WHILK, EAST CLYTH, LYBSTER, CAITHNESS**

Report by Head of Planning and Building Standards

SUMMARY

Description : Amend two conditions attached to the Burn of Whilk Wind Farm Planning Permission.

Recommendation - GRANT

Ward : 4 Landward Caithness

Development category : Major Application

Pre-determination hearing : none

Reason referred to Committee : more than 5 objections.

1. PROPOSED DEVELOPMENT

- 1.1 The application seeks to amend Condition 7 and Condition 25 of the Burn of Whilk Wind Farm (nine turbines) planning permission.
- 1.2 Condition 7 - It is proposed that the first word of condition 7 (Development) is changed to the words "Turbine erection". It is also proposed that the words at the end of 7(i) (For the avoidance of doubt turbine transformers shall be housed within the turbine towers unless otherwise agreed in writing with the planning authority) is removed. The effect of this change is to allow the commencement of the development whilst the procurement of the final turbine is undertaken. It also seeks the use of external transformers at each turbine base.
- 1.3 Condition 25 - It is proposed that condition 25, relating to noise, is also amended to a simplified condition with a 35dB limit at the nearest properties. The effect of this change is to recognise the updated good practice on noise issues relative to the consented development.

2. SITE DESCRIPTION

- 2.1 The site of the consented wind farm is approximately 10km south-west of Wick and extends about 1.5km northwest to southeast and is about 1.5km wide. The dispersed communities of East and Mid Clyth lie to the south and east of the site (1.5 to 2km from the turbines). The communities of Roster and Upper Lybster lie about 2km to the west of the site. The site occupies an area of 1.2 sq kilometres with the topography being a mainly north to south slope on Moss of Whilk but within an area currently under plantation forest. The site is rural in character with a number of small agricultural holdings and crofts in the vicinity of the site. There are no residential properties within 1km of the site. The nearest potential property, recently granted planning permission (13/00596/FUL) at Torrie Dhu is set 1,300m from the nearest turbine.

3. PLANNING HISTORY

- 3.1 **14 April 2011** Wind Farm of 9 wind turbines, 70 metres to hub height and 116 metres maximum blade tip height and associated infrastructure granted planning permission (**06/00676/FULCA**).

4. PUBLIC PARTICIPATION

- 4.1 Advertised : Neighbour Notification

Representation deadline : 09 August 2013

Timeous representations : 17

Late representations : 0

- 4.2 Considerations raised are summarised as follows:

- Impact on archaeology.
- Impact on landscape of the wind farm.
- Turbines should not be erected before conditions are fulfilled.
- The initial decision / conditions should be maintained.
- No development should take place.
- Impact on wildlife
- Impact on local residents / new house.
- Too many amendments being sought agreed.

- 4.3 All letters of representation are available for inspection via the Council's eplanning portal which can be accessed through the internet www.wam.highland.gov.uk/wam. Access to computers can be made available via Planning and Development Service offices.

5. CONSULTATIONS

- 5.1 **TECS – Environmental Health** has no objection to the proposed amendment to Condition 25.

6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application.

6.1 Highland Wide Local Development Plan 2012

Policy 67 Renewable Energy

7. OTHER MATERIAL CONSIDERATIONS

7.1 Highland Council Supplementary Planning Policy Guidance

- Onshore Wind Energy

7.2 Scottish Government Planning Policy and Guidance

- SPP
- PAN 56 – Planning and Noise
- 2020 Routemap for Renewable Energy

7.3 Highland Renewable Energy Strategy

- Policy H1 Education and Training
- Policy K1 Community Benefit
- Policy N1 Local Content of Works

8. PLANNING APPRAISAL

8.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

8.2 This means that the application requires to be assessed against all policies of the Development Plan relevant to the application, all national and local policy guidance and all other material considerations relevant to the application.

Material Considerations

- 8.3
- Extant Planning Permission
 - Development Commencement and Design
 - Noise

Development Plan

8.4 The Development Plan comprises the Adopted Highland wide Local Development Plan (HwLDP) and those parts of the Caithness Local Plan continued in force as a consequence of the adoption of the HwLDP. There are no policies within the Caithness Local Plan pertinent to this application. The principal policy on which the application needs to be determined is HwLDP Policy 67 - Renewable Energy.

- 8.5 Policy 67 highlights that the Council will consider the contribution of the project towards renewable energy targets, positive and negative effects on the local and national economy and other material considerations including making effective use of existing and proposed infrastructure and facilities. In that context the Council will support proposals where it is satisfied they are located, sited and designed such as they will not be significantly detrimental overall individually or cumulatively with other developments. If the Council is satisfied on these matters then the application will accord with the Development Plan.
- 8.6 The extant planning permission for this site establishes that the development is acceptable. The only criteria that needs to be considered further is design and noise.

Development Commencement and Design

- 8.7 When granting planning permission on a major development, supported by an Environmental Statement (ES) it is normal practice for the planning authority to ensure that many detailed design issues are bottomed out prior to the commencement of development. This is particularly focused on ensuring the details of Construction and Environmental Management Document is clearly understood by all parties, particularly the contractor, who will have been engaged by the developer to build the development. At the time of writing this report, the planning authority will discharge Condition 13. This confirms that the Planning authority following consultation with SEPA and SNH, is content that the requirements of this suspensive planning condition on the above issues have been met.
- 8.8 With regard to the specific elements of the current Section 42 application the planning authority is being ask to allow the commencement of the development prior to confirmation of the details of the turbine being procured by the developer and to allow the use of an external transformer at the base of each turbine all as set out in planning permission - Condition 7. In design terms the planning authority has permitted a development which will not exceed a blade tip height of 116m. In addition the layout of the wind farm / turbine positions has been secured – subject to a final micro-siting distance of 50m. The applicant has advised of the likely candidate turbine but advised that final procurement is not confirmed. Representations have not highlighted specific concerns on this matter. Given these circumstances the Planning Authority can on this occasion be sufficiently relaxed to consider agreeing to the request change to planning condition 7. A revised condition would require that the final turbine be approved prior to their delivery to the site.
- 8.9 The Council, through its assessment of many wind farms and within its HRES strategy, has a clear preference for internal transformers rather than external transformers. This position is based on seeking to minimise visual clutter around each turbine, particularly to those parties who would view the development in the landscape generally / surrounding area. The applicant has submitted its plans for external transformers, which would be set in a deliberate manner adjacent to each turbine, with an element of positioning to minimise the cluttering effect, when

viewing the development from the Core Path that runs to the west of the site. The specific plans and characteristics of the site suggest that the use of external transformers would not create a significant adverse visual impact locally or further afield. Representations have not highlighted specific concerns on this matter.

Noise

- 8.10 The Council in its assessment of the initial application has undertaken an assessment of the development on properties in the vicinity of the site. There are no properties within 1km of the nearest turbine. The nearest interest lies to the south of the turbine envelope, with a planning permission for a house at Torrie Dhu, Mid Clyth would lie 1,300m south of the nearest turbine.
- 8.11 The applicant has submitted an assessment of the noise impact on the surrounding area based on a number of turbines, and a specific Turbine the Nordex N90. This demonstrates compliance with the Council's simplified planning condition, which establishes a noise level within which the operation of the wind farm must comply. Following consideration of this information the Council's Environmental Health Officer is content to raise no objection to this Section 42 application. The new condition will ensure that noise levels do not exceed a 35dB limit at the nearest properties.

Other Considerations – not material

- 8.12 Representations have highlighted a number of issues that are not relevant to the terms of this particular amending application. These include: -
- Archaeology
 - Landscape
 - Wildlife
 - Development should not be progressed
 - Too many amendments
- 8.13 The representation present arguments on the principal of the development which has already been granted planning permission. It is not appropriate to revisit these matters in the consideration of this application.

9. CONCLUSION

- 9.1 All relevant matters have been taken into account when appraising this application. Despite the level of representations against this application, the concerns raised would seem to be focused more on the principal of the development, rather than the specific practicalities on turbines to be used at this wind farm. The fact that the development is already approved and holds an extant planning permission is a significant material consideration. The amendments to the initial conditions, following assessment of this particular site, do not raise significant adverse impacts.

9.2 It is considered that the application to amend two conditions to an extant planning permission accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

10. RECOMMENDATION

Action required before decision issued n

Notification to Scottish Ministers n

Notification to Historic Scotland n

Conclusion of Section 75 Agreement n

Revocation of previous permission n

Subject to the above, it is recommended the application be **granted planning permission** subject to the following revised set of conditions, reasons and informatives: -

1. The development to which this planning permission relates must commence within THREE YEARS of the date of this decision notice.

Reason: In order to accord with the statutory requirements of the Town and Country Planning (Scotland) Acts.

2. The permission granted shall endure for a period of 25 years from the date when electricity is first exported from any of the wind turbines to the electricity grid network ("First Export Date"). Written confirmation of the First Export Date shall be provided to the Planning Authority within 1 month of the First Export Date.

Reason: The application is for a temporary period of 25 years.

3. Not later than 12 months before the end of the consent period, a decommissioning and site restoration scheme shall be submitted for the written approval of the Planning Authority, such scheme to include the removal of above-ground elements of the development, management and timing of any works, environmental management provisions and a traffic management plan to address any traffic impact issues during the decommissioning period. The scheme shall be implemented as approved.

Reason: To ensure the decommissioning and removal of the development in an appropriate and environmentally acceptable manner and the restoration of the site, in the interests of safety, amenity and environmental protection.

4. If any wind turbine fails to supply electricity to the grid for a continuous period of 9 months then, unless otherwise agreed in writing with the Local Planning Authority, a scheme for the removal of that wind turbine and any surface ancillary works solely relating to that wind turbine shall be submitted in writing for the approval of the Planning Authority. The scheme shall then be implemented as approved.

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

5. (i) The Development shall be constructed and operated in accordance with the application and the Environmental Statement and in accordance with the terms of the conditions.
ii) The Development shall be undertaken in its entirety with no partial implementation.

Reason: In order to clarify the terms of this permission and to ensure restoration of the site; and to protect local residents and the water environment.

6. (i) No wind turbine may be sited or access track constructed more than 50 metres in any direction from the approved location without the prior written approval of the planning authority in consultation with Scottish Natural Heritage and the Scottish Environment Protection Agency.

(ii) Any request for such approval shall include a revised site layout for the location of all turbines and access roads.

(iii) Notwithstanding any approval under paragraph 6(a) above:-

- a) no turbines shall be located within 20 metres of a water body;
- b) other than at watercourse crossings, there shall be no construction works within -
 - (i) 10 metres of a headwater stream less than two metres wide;
 - (ii) 20 metres of a stream or water body wider than two metres; and
 - (iii) 50 metres of any watercourse in areas of peat

Reason: In order to clarify the terms of this permission and to ensure restoration of the site; and to protect local residents and the water environment.

7. Turbine erection shall not commence until the planning authority have given approval in writing for the final specification of the wind turbines.

i) The final approved specification is to include details of the make, model, design, power rating and warranted sound power levels; the colour and matt paint finish and the mechanism to avoid potential ice throw.

ii) The developer's noise assessment shall be updated as necessary to reflect the turbine specification approved, and shall be submitted to the planning authority prior to the commencement of development. In the event of predicted exceedance

of ETSU-R-97 levels or as otherwise agreed, the developer shall submit mitigation measures to the planning authority for their prior written approval in advance of the commencement of development.

Reason: In order to clarify the terms of the permission and retain effective control over the development; to avoid nuisance to nearby residents arising from noise or blade glint; and to avoid the possibility of ice throw.

8. Development shall not commence until the planning authority have given approval in writing for the final specification of the means of access, fencing, design, materials and colours and external finishes and construction, of all ancillary elements to the development, including in particular details relating to the substation and control building. The site access shall be positioned 50 metres northwards from the boundary with Bruan Lodge. Notwithstanding indicative drawings and for the avoidance of doubt turbine transformers shall be housed within the turbine towers unless otherwise agreed in writing by the Planning Authority.

Reason: In order to ensure a high standard of design in the interest of visual amenity.

9. Development shall not commence until a Construction Traffic Management Plan has been submitted to and agreed in writing by the Planning Authority. The Construction Traffic Management Plan shall include proposals for construction vehicle routing, the location and design of accesses from the public highway onto the site, management of traffic at junctions to and crossings of the public highway and other public rights of way, the scheduling and timing of movements, details of escorts for abnormal loads, temporary warning signs, temporary removal or replacement of highway infrastructure and street furniture, off-site road works and banksman details etc. The approved Construction Traffic Management Plan shall be implemented as approved in writing by the Planning Authority. For the avoidance of any doubt this will include details to advise the public including road users on the A882 and those living along the access route of the expected abnormal loads associated with the delivery of turbine parts.

Reason: In order to protect highway safety and the amenity of other users of the public highway and rights of way

10. Development shall not commence until an agreement dealing with liability for remedial work required as a result of any damage to the local road network directly attributable to the Wind Farm construction and providing for pre and post construction surveys of the said local road network has been submitted to and agreed in writing with the Planning Authority.

Reason: In order to protect highway safety and the amenity of other users of the public highway and rights of way

11. Development shall not commence until the planning authority have approved in consultation with Scottish Natural Heritage and the Scottish Environment Protection Agency an indicative scheme for the re-instatement of the Site.

- i) The re-instatement scheme is to make provision for the removal of all wind turbines and ground reinstatement.
- ii) The re-instatement scheme shall be reviewed, and amended as necessary, and the amended scheme shall be approved in writing by the planning authority, at least 12 months prior to actual de-commissioning and re-instatement works.

Reason: To ensure that the restoration of the site is achieved after decommissioning.

12. No work shall commence on the Site until the applicant has provided documentary evidence that a bond or other financial provision to cover all decommissioning and site restoration costs is in place and written confirmation has been given by the planning authority to the Company that the proposed bond or other financial provision is satisfactory.

- i) The applicant shall ensure that the approved bond or other financial provision is maintained throughout the duration of this consent.
- iii) The bond or other financial provision will be subject to a five yearly review from the commencement of the development, to be conducted by a competent independent professional who has relevant experience within the wind energy sector [and provided to the applicant, operator, landowners, and the planning authority.

Reason: To ensure that the restoration of the site is achieved after decommissioning.

13. Development shall not commence until a Construction and Environmental Management Plan is submitted to and in writing by the Local Planning Authority in consultation with SNH, SEPA and Scottish Water. Construction of the development shall proceed in accordance with the approved Plan, unless otherwise agreed in writing by the Planning Authority. The Plan shall address the following matters (and shall be implemented as approved):

- Environmental Policy - Statement of responsibility for all environmental features, safeguards and mitigation.
- Details of construction works, the construction methods and surface treatment of all hard surfaces and tracks.
- Details of temporary site compounds for storage of materials and machinery (including areas designated for car parking).
- Siting and details of wheel washing facilities
- Details of the timing of works and methods of working for cable trenches and foundation works

- Details of the timing of works and construction of the substation/control buildings and anemometry mast
- Details of the bridges and culverts for all new water crossings.
- Peat Stability including implementation of mitigation requirements contained within Peat Stability Risk Assessment.
- Dust management
- Cleaning of site entrances, site tracks and the adjacent public highway and the sheeting of all HGVs taking spoil or construction materials to / from the site to prevent spillage or deposit of any materials on the highway.
- Pollution control arrangements, including protection of water courses and ground water and soils, bunding of fuel storage areas, and sewage disposal
- Disposal of surplus materials
- Post construction restoration/reinstatement of the temporary working areas and borrow pit
- Construction noise management plan (including identification of access routes, locations of materials lay-down areas, details of equipment to be employed, operations to be carried out, mitigation measures and a scheme for the monitoring of noise in the event of complaints)
- Appointment and scope of work for a Project Ecologist who shall have responsibility for monitoring compliance with the provisions of the approved Plan and who shall report all breaches of the approved Plan to the Planning Authority.

Reason: To protect highway safety, water assets, amenity and the environment.

14. The hours of construction work during the development and any traffic movements to or from the site associated with the construction of the development shall be: -

- 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 Sunday workings without the prior written approval of the Planning Authority.
- There shall be no working on 25/26 Dec, 1/2 Jan or during the Saturday/Sunday of the Easter weekend.

Reason: For the protection of residential amenity.

15. Development shall not commence until, a scheme for archaeological investigation and monitoring has been submitted to and approved in writing by the planning authority.

i) The archaeological scheme is a scheme setting out how site clearance and excavation works are to be carried out. This shall include the proposed mitigation in Section 5.7.2 to 5.7.9 of the Burn of Whilk Environmental Statement and:-

- Micro-siting of the access track to enable the preservation in situ of Sites 215 and 25
- All known sites to be fenced off in advance of and during construction
- Tree felling in the vicinity of Moss of Whilk (site 145) to be conducted in such a way as to ensure that trees are felled away from the scheduled area, so as to avoid accidental damage.
- Following tree felling an archaeological survey will be conducted to identify any sites of archaeological interest not previously known or identified.
- An archaeological watching brief will be conducted on all ground breaking works associated with the development.

ii) All site clearance or excavation works shall be implemented in accordance with the approved archaeological scheme.

Reason: In order to protect any features of archaeological importance.

16. Prior to commencement of development but after tree felling a LiDAR laser scanning survey will be undertaken to ensure that the archaeological landscape this is to be impacted by the development is preserved by record. The area to be surveyed shall include the application area and the archaeological landscapes of the Loch of Yarrows and Warehouse Hill. The LiDAR survey shall be professionally interrogated and analysed with the core areas also being subject to ground-truthing. The results of the survey and findings will be made fit for public publication and dissemination and shall be lodged with the Highland Historic Environment Record.

Reason: To enhance the understanding of the cultural heritage of the area and to enable the identification and preservation of previously unknown archaeological remains.

17. Prior to the commencement of the development a Conservation Management Plan (CMP) detailing measures to offset the potentially adverse effects of the proposed development on the natural heritage, particularly on peatland habitat interests and on birds, and to include further details of the method of tree felling and mulching or removal shall be submitted to and require the approval in writing of the Planning Authority in consultation with Scottish Natural Heritage, Forestry Commission Scotland and the Royal Society for the Protection of Birds. This scheme (CMP), shall be implemented as approved throughout the operational life of the wind farm.

Reason: To protect and enhance local nature conservation interests.

18. Prior to the wind farm becoming operational, detailed proposals for ornithological monitoring, including arrangements for submitting the results of monitoring, shall be submitted to and require the approval in writing of the Planning Authority in consultation with Scottish Natural Heritage and the Royal Society for the Protection of Birds. The proposals thereby approved shall be implemented thereafter to the satisfaction of the Planning Authority.

Reason: To protect and enhance local nature conservation interests.

19. Prior to the commencement of the development, details of the measures to be taken to protect breeding birds and specifically to discourage birds from breeding on those areas of the site to be worked on during the breeding season, shall be submitted by the Developer to the Planning Authority for their approval after consultation with SNH and RSPB. Thereafter the measures, as approved by the Planning Authority, shall be implemented. In order to avoid disturbance to nesting Annex 1 species during the construction period. There shall be no felling of any trees between 1st of February to the 31st of July of any year unless the felling has previously been started. A survey of the area to be felled shall be conducted, at the Developers cost, to specifically look for nest sites of birds listed in Annex 1 of the Directive on the Conservation of Wild Birds (79/409/EEC) and in Schedule 1 of the Wildlife and Countryside Act 1981 (as amended). Should no such nest sites be discovered by the survey, the Developer may continue to fell the trees. Should any nest sites be discovered by the survey, the results will be submitted to the Planning Authority and Scottish Natural Heritage. Construction works shall avoid commencement during the main bird breeding period - mid April to 31 July.

Reason: To protect and enhance local nature conservation interests.

20. Construction activities shall not start until one hour after sunrise and shall end at least one hour before sunset to ensure that peak otter activity periods are avoided.

Reason: To protect and enhance local nature conservation interests.

21. Development shall not commence until a scheme of mitigation for shadow flicker has been submitted to and approved in writing by the planning authority.

i) The scheme shall include mitigation measures to reduce the impact of shadow flicker on nearby houses and shall be based on a detailed assessment of the impact of each turbine on those houses.

ii) The approved scheme shall be implemented prior to the commissioning of the wind farm.

Reason: To protect the occupiers of nearby houses from the effects of shadow flicker.

22. Development shall not commence until a TV and radio reception mitigation plan has been submitted to and approved in writing by the planning authority.

- i). The plan shall provide for a baseline TV reception survey to be carried out prior to commencement of turbine installation, the results of which shall be submitted to the planning authority.
- ii). Within 12 months of the commissioning of the development, any claim by any individual person regarding TV picture loss or interference at their house, business premises or other building, shall be investigated by a qualified engineer and the results submitted to the planning authority.
- iv) Should any impairment to the TV signal be attributable to the wind farm, the developer shall remedy such impairment so that the standard of reception at the affected property is equivalent to the baseline TV reception.

Reason: To ensure that any effect on TV or radio reception is rectified.

23. No development shall commence until an Access and Heritage Interpretation Plan shall be submitted to and agreed in writing with the Planning Authority. The Access and Heritage Interpretation Plan will detail which archaeological sites should have their access improved and which sites would benefit from interpretation, along with proposals for maintaining and encouraging public access to the archaeological resource as well as details of signage and promotion of a Heritage Trail. Utilising the proposed new access to the site a new visitor trail will be implemented and linked to the existing Yarrows Archaeological trail. The Access and Interpretation Plan shall include:-

- provision for production of educational packs based on the archaeological sites in the Yarrows/Warehouse area for dissemination in local schools
- Details of provisions for improving the visitor experience at the existing Yarrows Archaeological Trail, including waymarkers, footpath improvements, leaflets, interpretation and use of new media.
- Details of a community programme to engage with the archaeological resource including field surveys, ground truthing of LiDAR survey and excavation.

In consultation with the Highland Council Archaeology Unit and other relevant stakeholders implementation of the Plan is required as part of this condition.

Reason: To improve access and interpretation across this development site, whilst securing a measure of control and protection of valued local archaeology.

24. Two months prior to the commencement of development the applicant will provided 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 Airport Authority Ltd, containing the following information:

- The date of commencement of the construction;
- The exact position of the turbine towers in latitude and longitude;
- A description of all structures over 300 feet high
- The maximum extension height of any construction equipment;

- The height above ground level of the tallest structure; and
- turbines shall be fitted with 25 candela omni-directional red lighting at the highest practicable point on the turbines.

Reason: In order to ensure aviation safety.

25. 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 A Good Practice Guide To The Application Of ETSU-R-97 For The Assessment And Rating Of Wind Turbine Noise published by the Institute of Acoustics.
26. 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 A Good Practice Guide To The Application Of ETSU-R-97 For The Assessment And Rating Of Wind Turbine Noise published by the Institute of Acoustics. All wind speed data shall be made available to the Planning Authority on request in Microsoft Excel compatible electronic spreadsheet format.
27. At the reasonable 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.

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 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 A Good Practice Guide To The Application Of ETSU-R-97 For The Assessment And Rating Of Wind Turbine Noise published by the Institute of Acoustics.

Mitigation measures to be enacted, along with a timetable(s) for implementation, should noise emissions exceed the limits prescribed under this planning permission.

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.

INFORMATION

1. Please note: 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.

2. SEPA has advised that authorisation under CAR will be required for some proposed activities.
3. For the avoidance of any doubt any on-site or off-site borrow pits to supply materials to the wind farm will require to be subject of a further planning application and subject to screening for an Environmental Impact Assessment
4. Contact should be made with TR-NMD Bridges Branch (Tel No 0131 244 4363) as to the feasibility of abnormal load movements from the nearest suitable port. Abnormal load authorisation from Scotland Transerv may be required contact Trunk Roads Development Management 0141 272 7338 for further information
5. Maintenance issues, requiring HGV or Abnormal traffic movements to the site, may be necessary throughout the 25 year lifetime of the development. Such access issues need prior discussion with the Council's TEC Services.
6. Road Openings Permit / Road Construction Consent: you may require consent from the Roads Authority prior to the commencement of this development. You are therefore advised to contact them direct to discuss the matter.
7. In line with the Council's Gaelic Language Plan and Policies, you are encouraged to consider the adoption of Gaelic signage 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).
8. Scottish Water: You are advised that a supply and connection to Scottish Water infrastructure is dependent on sufficient spare capacity at the time of the application for connection to Scottish Water. The granting of planning permission does not guarantee a connection. Any enquiries with regards to sewerage connection and/or water supply should be directed to Scottish Water on 0845 601 8855.
9. No development shall start on site until the completed Notice of Initiation of Development (NID) form attached to this decision notice has been submitted to and acknowledged by the Planning Authority.
10. Upon completion of the development the completed Notice of Completion form attached to this decision notice shall be submitted to the Planning Authority

Signature: Malcolm MacLeod

Designation: Head of Planning and Building Standards

Author: Ken McCorquodale

Background Papers: Documents referred to in report and in case file.

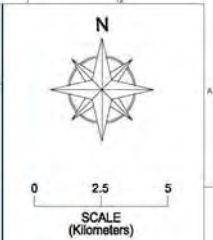
LIST OF REPRESENTATIONS FOR Application under Section 42 for an amendment to wording of two conditions attached to planning permission ref. 06/00676/FULCA.

AT BURN OF WHILK, EAST CLYTH, MID CLYTH, LYBSTER,

PLANNING REFERENCE 13/02429/S42

OBJECTORS

1. D Edwards,
2. Mrs M Sinclair, Balnabruich House Braemore Road, Dunbeath
3. Mr William Brown, Dunvegan Achscrabster Achscrabster Road, Thurso
4. Mrs Denise Brown, Upper Larel Farm, Halkirk, KW12 6UZ,
5. Dr Angela Robertson, Bruan Lodge, Mid Clyth, By Lybster, KW3 6BA,
6. Miss Carol Breckenridge, The Sheiling,, Brough, Thurso, KW14 8XR,
7. Mrs Brenda Herrick, Sandmill, Harbour Road, Castletown, Thurso, KW14 8TG,
8. Mr David Poupard, Eriska, Achow, Lybster, KW3 6BY,
9. Mr Ian Wallace, Oliclate Farm, Thrumster, nr Wick, KW1 5AC,
10. Mrs Islay MacLeod, Thrumster House, Thrumster, Wick, KW1 5TX,
11. Mrs Lyndall Leet, 8 Burnside, Scrabster, Thurso, KW14 7UG,
12. Mr William Wilson, Old Schoolhouse, Lyth, WICK, KW1 4UD,
13. Miss Catherine MacLeod, Angies Cottage, Thrumster, Wick, KW1 5TU,
14. MR Phil Southby, 50 Summerhouse Rd, Wroughton, Swindon, sn4 9hz,
15. Mr & Mrs Graham Hills, Torriedhu,, Mid-Clyth, Lybster, KW3 6BA,
16. Mr David Poupard, Eriska Achow Achow - Osclay Road, Lybster, KW3 6BY,
17. Terry & Jane Clarke,



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| EW | 26.02.13 | A |
| Drawn | Checked | Date |
| Approved | Rev. | |
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| | |
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| Size of original | Scale of original |
| A3 | 1:200,000 |

Site: **BURN OF WHILK WIND FARM**

Title: **Location Of Site**

Status: **NOT APPROVED**

Drawing number: **RENDEV/R0351/AP1**

This drawing should be read in conjunction with CEGB standard 988101. All symbols defined in CEGB standard 988101 unless otherwise stated. Copies of this standard are available from the address on drawing sheet.

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