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Mr Steven Pottinger
Baillie Wind Farm Ltd
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Edinburgh,
EH2 4DF

Dear Mr Pottinger,

**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 THE
BAILLIE
WIND POWERED ELECTRICITY GENERATING STATION
IN CAITHNESS IN THE HIGHLAND COUNCIL AREA**

Application

1. I refer to the application, made on behalf of Baillie Wind Farm Ltd (“the Company”), dated 12 July 2004, as amended by as amended by the supplementary environmental information submitted by the Company in January 2006 and October 2007 (“the Application”) for –

- (i) consent under section 36 of the Electricity Act 1989 (“the Electricity Act”) to construct and operate the Baillie wind powered electricity generating station in Highland Council area, and

(ii) a direction under section 57(2) of the Town and Country Planning (Scotland) Act 1997 (“the Planning Act”) that planning permission be deemed to be granted in respect of that generating station and any ancillary developments.

Description and background

2. The application site is located in an area of mainly open undulating countryside, comprising mixed farmland and elements of forestry plantation and moorland vegetation. It lies some seven kilometres west of Thurso and about three kilometres south-east of Dounreay. It extends to around five square kilometres, bounded to the south by the C1 road from Westfield to Shebster, to the west by the minor road from Shebster to Forss, and by the Forss Water to the east. However the turbines would occupy a smaller area extending west from Bardnaheigh farm and north towards Stemster Hill. Most of the wind farm site would also be visible from the minor road from Westfield to Forss, which runs in an elevated position to the east of the Forss Water. As amended, the scheme which is under consideration is for 21 wind turbines, each capable of generating between 2.5 and 3 megawatts. All would have a hub height of 70 metres, with a total height to blade tip of 110 metres.

Consultation

3. In accordance with the Electricity (Applications for Consent) Regulations 1990, advertisements of the application had to be placed in the local press. Ministers note that these requirements have been met. Under Schedule 8 of the Electricity Act, Highland Council as the relevant planning authority were notified of the section 36 consent application. Notification was also given to Scottish Natural Heritage and the Scottish Environmental Protection Agency.
4. **Highland Council** objected to the application for the following reasons-
 - Contrary to Caithness Local Plan
 - Contrary to SPP6
 - Contrary to Highland Renewable Energy Strategy Policy and Guidance
 - Unacceptable cumulative impact
 - Unacceptable visual impact;
5. **Scottish Natural Heritage (SNH)** initially objected to the proposal on grounds of unacceptable impacts on:

- Greylag goose populations (and the Greylag goose interest of the Caithness Lochs SPA and Ramsar site and Loch Calder SSSI)
- Feeding habitat loss effecting the interests of the Caithness Lochs SPA

Following the undertaking of a cumulative impact assessment SNH concluded that an Appropriate Assessment would be required. This was conducted by Scottish Ministers as the competent authority and concluded that the Baillie proposal would not adversely affect the integrity of the Caithness Lochs Special Protection Area and SNH was able to withdraw all their objections to the scheme, provided Post Construction Monitoring was secured through condition.

6. The hydrological impacts of the development have been assessed by the **Scottish Environment Protection Agency (SEPA)**. SEPA initially objected to the proposal pending receipt of further information. Upon receipt of this SEPA was able to withdraw its objection to the scheme subject to a full site specific construction method statement or pollution prevention plan. This should specifically address buffer distances to watercourses in areas of peat and the establishment of a daily environmental checklist to monitor and plan construction activities.
7. **The Royal Society for the Protection of Birds (RSPB Scotland)** objected due to the potential impact on Icelandic Greylag goose, Greenland white-fronted goose and Whooper swan. RSPB also expressed concerns that the collision risk figures may be an underestimate and that an approved waterfowl research project should be conducted. RSPB also requested an Appropriate Assessment be undertaken. This was conducted by Scottish Ministers as the competent authority and concluded that the Baillie proposal would not adversely affect the integrity of the Caithness Lochs Special Protection Area.
8. **Highlands and Islands Airports** had no objection to the proposal provided the overall turbine height did not exceed 110m.
9. **Historic Scotland** objected to the proposal due to unacceptable adverse impact on the historic environment, especially the setting of the Cnoc Freideadain Long Cairns and other scheduled monuments in the area, especially Hill of Shebster chambered cairn and Cnoc Freiceadain stone rows. After further dialogue between the developer and Historic Scotland, Historic Scotland continued to maintain their objection and they stated that impacts could not be reduced to an acceptable level by the proposed mitigation.
10. **Fisheries Research Services** (now known as MARLAB and part of Marine Scotland) initially requested further information and survey work to advise their position. On provision of this data Fisheries Research Services were able to withdraw their holding objection and state that all outstanding points on fisheries issues had been addressed and clarified.

11. **Forestry Civil Engineering** initially requested clarification from the developer on whether a system of geotechnical risk management had been commenced. Once this was received FCE were content that their recommendations had been met.
12. The following bodies had no objection and no comments to make on the proposal: Association of Salmon Fishery Boards, CAA Airspace, Crown Estate, The Scottish Government Water Environment Unit, Trunk Road Management, Defence Estates, The Scottish Government Environment Group, Health and Safety Executive, Department of Trade and Industry, BT, OFCOM and NATS.

Inquiry

A public inquiry in respect of the application was held in Thurso between 17th and 26th March 2009. The Report of the Inquiry was finalised and submitted to Scottish Ministers in August 2008.

Environmental matters

An Environmental Statement has been produced in accordance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000. Scottish Ministers have considered the Environmental Statement that was provided with the application as well as the supplementary information provided to the Inquiry. Ministers note and adopt the Reporter's findings in fact, and agree and adopt the Reporter's conclusions and recommendations on environmental matters. An appropriate assessment was undertaken in accordance with the Conservation (Natural Habitats, &c.) Regulations 1994. This assessment was carried out after having consulted Scottish Natural Heritage and the Scottish Environmental Protection Agency. The assessment relevant to this application is at Annex 3. Ministers are satisfied that all environmental matters can be dealt with by way of mitigation.

The Scottish Ministers' Consideration

13. The Scottish Ministers have considered carefully all the evidence presented at the Inquiry, the Reporter's findings, reasoning, conclusions and recommendation thereon. They accept the Reporter's findings, agree with his reasoning and conclusions and adopt them for the purposes of their own decision, and accept the Reporter's recommendation that, subject to conditions, consent under section 36 of the Electricity Act 1989 be given and a direction made under section 57(2) of the Town and Country Planning (Scotland) Act 1997 that planning permission be deemed to be granted. The Scottish Ministers are content to apply, with minor re-drafting modifications, the conditions recommended by the reporter. However, a number of additional conditions have been applied to the section 36 consent. These additions/changes reflect the evolving nature of wind farm development and seek to build on good practice.

14. While Planning Policy requires the commencement of a development to begin within a 3 year timescale, it is recognised that due to the constraints, scale and complexity of constructing a wind farm over 50MW, that a 5 year timescale for the commencement of the development is granted and the Scottish Ministers therefore consider a direction should be made to this effect under section 58 of the Town and Country Planning (Scotland) Act 1997.

The Scottish Ministers' Determination

15. The Scottish Ministers therefore have decided-
 - (a) subject to the conditions set out in Part 1 of Annex 2, to grant consent under section 36 of the Act, for the construction of a generating station comprising 21 wind turbines as described in Annex 1; and
 - (b) subject to the conditions set out in Part 2 of Annex 2, to issue a direction that planning permission is deemed to be granted in respect of the development described in Annex 1.
16. Scottish Ministers direct that section 58(1) of the Town and Country Planning (Scotland) Act 1997 is not to apply as respects that planning permission but that the permission is to lapse on the expiration of a period of 5 years from the date of this direction.
17. Copies of this letter have been sent to Highland Council as the planning authority, and to SEPA, SNH and the Scottish Government library. This letter, the consent and the PLI report will also be published on the Scottish Government website.
18. The Minister's decision is final, subject to the right of any aggrieved review is the mechanism by which the Court of Session in Scotland supervises the proper exercise of administrative functions, including how the Scottish Government carries out its statutory function to grant or refuse consents. Guidance on the Judicial Review process can be found at Scottish Court website:
<http://www.scotcourts.gov.uk/session/rules/Chapter58.asp>

- 19 Finally, within 2 months of the approval of the Application (and within 2 months of the final commissioning if there has been any variation on the original approved plan), the Applicant shall provide to Scottish Ministers a detailed plan showing the site boundary and all turbines, anemometer masts, access tracks and infrastructure in a format compatible with the Scottish Government's Spatial Data Management Environment (SDME), along with appropriate metadata. The SDME is based around Oracle RDBMS and ESRI ArcSDE and all incoming data should be supplied in ESRI shapefile format. The SDME also contains a metadata recording system based on the ISO template within ESRI ArcCatalog (agreed standard used by the Scottish Government), all metadata should be provided in this format.

Yours sincerely

Jamie Hume

Director – Renewable Energy Division, Scottish Government

Description of the Development

The Development shall have a maximum capacity of 52.5 MW and shall comprise a wind-powered electricity generating station Bardnaheigh Farm, Westfield, by Thurso in Highland Council area including:

- i) Not more than 21 turbines, with a total height to blade tip of 110m.
- ii) Substation
- iii) Two anemometer masts
- iv) Site tracks
- v) Cabling
- vi) Temporary Contractors Compound and Turbine Laydown Area

all as specified in the application, the Environmental Statement and addenda;

**CONSTRUCTION AND OPERATION OF THE BAILLIE
WIND POWERED ELECTRICITY GENERATING STATION
IN CAITHNESS IN THE HIGHLAND COUNCIL AREA**

CONDITIONS

Part 1

Conditions applying only to section 36 consent

Commencement of installation

1. Works in relation to the Development shall be commenced within 5 years from the date of this consent unless otherwise agreed by the Scottish Ministers.

[Reinstatement of the Site]

2. If works in relation to the Development have not been commenced within the period of 5 years from the date of this consent (or such longer period as may have been agreed by the Scottish Ministers, the Company shall, within six months of the expiry of that period, fully reinstate the Site [and the ground] to the satisfaction of the Scottish Ministers in consultation with the planning authority.

[Reason: to ensure control over the implementation of the development.]

Assignment of consent

3. The applicant shall not be permitted to assign, alienate or transfer this consent without the prior written authorisation of the Scottish Ministers.

[Reason: To ensure all responsibilities under the consent are satisfied, if transferred.]

Part 2

Conditions applying only to the deemed planning permission

4. This permission shall lapse after a period of 25 years from the date of final commissioning of the Development.

(2) The Company shall notify the planning authority of the date of final commissioning of the Development within 3 months of that date.

(3) At the end of this period, unless the express approval in writing of the planning authority is given, all wind turbines, buildings and ancillary equipment, shall be dismantled and removed from the Site, and the ground fully re-instated in accordance with the approved scheme referred to in Condition [6.6] below.

[Reason: In order to clarify the terms of this permission and to ensure restoration of the site.]

Construction

General

5.—(1) The Development shall be constructed and operated in accordance with—

- (a) the Application; and
- (b) the Environmental Statement (as revised by the Addendum and Supplementary Information to the Environmental Statement,

and in accordance with the terms of the conditions in this Annex and any approval required thereunder.

(2) The Development shall be undertaken in its entirety with no partial implementation.

[Micro-siting of turbines and access tracks]

6.—(1) Subject to paragraph (3), no wind turbine may be sited or access track constructed more than 25 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.

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

(3) Notwithstanding any approval under paragraph (1)—

- (a) no turbine shall be located closer to a non-stakeholder property than the minimum distance between any turbines and that property as detailed in the Addendum to the Environmental Statement dated 2006;
- (b) no turbines shall be located within 20 metres of a water body;
- (c) 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.]

Approval of wind turbine specification

7.—(1) No works in relation to the Development are to commence until the planning authority have given approval in writing for the final specification of the wind turbines.

(2) 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.

(3) 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.]

Approval of ancillary matters

8. No works in relation to the Development are to 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.

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

amenity.]

9.—(1) No works in relation to the Development shall be commenced 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.

(2) The re-instatement scheme is to make provision for the removal of all wind turbines and ground reinstatement.

(3) 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.

Bond

10.—(1) No work shall commence on the Site until the Company 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.

(2) The Company shall ensure that the approved bond or other financial provision is maintained throughout the duration of this consent.

(3) 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 Company, operator, landowners, and the planning authority.]

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

11.—(1) No works in relation to the Development shall be commenced until the planning authority have, following consultation with Scottish Natural Heritage and the Scottish Environment Protection Agency, approved a Construction Method Statement.

(2) The Construction Method Statement shall detail contractor arrangements for the following:

- (a) the appointment, at the expense of the developer, of a suitably qualified ecologist to supervise construction activities;
- (b) detailed justification for any culverting elements and design of any such culverting;

- (c) measures to prevent entry of cement or any other pollutant materials to watercourses;
- (d) the source of all fill and bulk materials;
- (e) identification of waste streams arising from the works, such as peat, spoil and other excavated material, and the means of dealing with these;
- (f) excavation and make-up of internal access tracks and hard-standing, including measures to address silt-laden run-off from temporary and permanent access tracks, soil storage and other engineering operations;
- (g) construction arrangements for turbine foundations including concrete batching and de-watering arrangements to treat potentially sediment-laden water;
- (h) cable laying within the Site;
- (i) construction management operations including site lighting, temporary servicing for workers, vehicle storage and other storage arrangements;
- (j) associated vehicle movements and routeing for different phases of construction;
- (k) proposals for phasing of operations, including the provision of information on the construction timetable which takes into account the implications of times of the year when high rainfall is more likely;
- (l) the detailed siting and design of the construction works compound together with associated concrete batching areas including a strategy for their eventual removal and satisfactory re-instatement;
- (m) re-instatement of ground post-construction, including re-vegetation of access track edges and hard-standing areas, together with monitoring and maintenance arrangements;
- (n) arrangements for fuel storage and fuelling, the storage and handling of oils and lubricants, and the handling of cement materials all to prevent any entry to watercourses with contingency plans in the event of spillage;
- (o) measures to prevent erosion, sedimentation or discolouration of watercourses, together with monitoring proposals and contingency plans;

- (p) measures to monitor pre- and post-construction surface water run-off and, where necessary, further mitigation measures to be implemented to manage surface water flow;
 - (q) surface water drainage arrangements, to comply with "Sustainable Urban Drainage Systems" (SUDS) principles, including provision of calculations of pre- and post-development run-off to equivalent of predevelopment run-off, and sensitivity testing of the effect of large return period rainfall events;
 - (r) provision of welfare facilities on site during construction and the means of disposal of sewage effluent;
 - (s) mechanisms to ensure that sub-contractors and all other parties on the site are managed and aware of issues and provisions relating to pollution, including emergency procedures;
 - (t) contingency measures for periods of unexpected bad weather;
 - (u) avoiding excavation close to watercourses where possible, especially in wet weather;
 - (v) avoiding construction activity near watercourses suitable for spawning/juvenile fish habitat in sensitive periods;
 - (w) measures for monitoring fisheries during construction; and
 - (x) measures including the installation of box culverts, rams and covers over excavations to minimise potential impacts on otters.
- (3) The Development shall be carried out in accordance with the approved Construction Method Statement.

[Reason: In order to ensure satisfactory construction arrangements and any necessary mitigation.]

Ornithological Impact

12.—(1) No works in relation to the Development shall commence before, an ornithological impact monitoring scheme has been submitted to and approved in writing by the planning authority, following consultation with Scottish Natural Heritage.

(2) The ornithological impact monitoring scheme is a scheme to monitor and mitigate the impact of the Development on the three bird species for which the Caithness Lochs special protection area has been designated, and shall—

- (a) provide for bird flights through the wind farm site, and feeding activity in proximity to the wind farm, to be monitored together with any adverse

effect on the integrity of the local populations of these species arising from collision or disturbance; and

- (b) incorporate measures to ensure turbine shutdown to mitigate the impact of the wind farm on these bird populations where necessary, such measures and periods of shutdown to reflect the cause, level and nature of the impacts identified, and to ensure that the integrity of the Special Protection Area is maintained.

(3) The Development shall be carried out and operated in accordance with the approved ornithological impact monitoring scheme.

[Reason: To ensure that the wind farm will not have an adverse effect on the integrity of the Caithness Lochs special protection area.]

Archaeology

13.—(1) No works in relation to the Development shall commence before, an archaeological scheme has been submitted to and approved in writing by the planning authority.

(2) The archaeological scheme is a scheme setting out how site clearance and excavation works are to be carried out.

(3) 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.]

Protection of sites of archaeological or historical interest

14.—(1) Prior to commencement of any works in relation to the Development, the following sites of archaeological or historical interest shall be identified and physically marked out on the ground—

- (a) the sheepfold (ND06NW0100);
- (b) the enclosure (ND06NW0099); and
- (c) the two cairns and sheepdip on Stemster Hill (ND06NW0037).

(2) These sites shall be so identified throughout the duration of the construction works.

[Reason: In order to protect known features of archaeological importance and to avoid accidental damage.]

Period and time of construction

15.—(1) Unless otherwise agreed by the planning authority, the wind farm shall be wholly constructed and commissioned within one construction period in accordance with this approval.

(2) Unless agreed in writing by the planning authority in advance, any construction activity involving audible noise at any nearby house shall also be restricted to 07:00 to 19:00 hours on Mondays to Fridays and from 07:00 to 12:00 on Saturdays with no such access/egress on Sundays or Bank Holiday.

[Reason: To minimise the period of disturbance to local residents and to avoid prolonged uncertainty.]

Access to Site by heavy goods vehicles

16. Access to the site by heavy goods vehicles shall be restricted to 07:00 to 19:00 hours on Mondays to Fridays and from 07:00 to 12:00 on Saturdays with no such access/egress on Sundays or Bank Holidays (except for the delivery of abnormal loads under escort).

[Reason: In order to minimise noise and disturbance during construction.]

17.—(1) No works in relation to the Development shall commence before, a road safety and traffic management plan has been submitted to and approved in writing by the planning authority.

- (2) The road safety and traffic management plan shall make provision for—
- (a) allowing traffic to pass on at least 3 occasions during the transportation of abnormal loads;
 - (b) utilising optimal size abnormal load convoys to reduce incidences of delay;
 - (c) appropriate route and signage for contractors and public safety;
 - (d) co-ordination of abnormal loads with Network Rail and rail operators, if appropriate;
 - (e) appropriate contingency plans in the event of breakdown;
 - (f) the avoidance of potential combined effects with other wind farm construction traffic;
 - (g) details of a liaison group which shall inform and consult local residents regarding traffic movements; and

(h) a scheme of monitoring and repair, to ensure that any adverse impact of construction on the fabric of the public road network is rectified.

(3) The Development shall be carried out in accordance with the approved road safety and traffic management plan.

[Reason: In order to minimise the impact of construction of the development on the public road network and its users.]

Shadow flicker

18. No works in relation to the Development shall commence until a scheme of mitigation for shadow flicker has been submitted to and approved in writing by the planning authority.

(2) 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.

(3) 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.]

TV and Radio reception

19.—(1) No works in relation to the Development shall commence until a TV & radio reception mitigation plan has been submitted to and approved in writing by the Planning Authority.

(2) 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.

(3) 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.

(4) 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.]

Scheduled Monuments

20.—(1) No works in relation to the Development shall commence until an archaeological mitigation scheme has been submitted to and approved in writing by the Planning Authority, in consultation with Historic Scotland.

(2) The scheme shall include measures to improve public access to the Hill of Shebster and Cnoc Freiceadain scheduled ancient monuments; and for improved interpretation of the cairns, incorporating the results of a L1DAR laser scanning survey to be undertaken on behalf of the applicant in consultation with Historic Scotland.

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

[Reason: To secure improved access to and interpretation of the scheduled ancient monuments, in mitigation of the visual impact of the wind farm on visitors.]

Aviation

21. Prior to commencement of works in relation to the Development, the applicant shall provide the Ministry of Defence (Defence Estates - Safeguarding) and the Civil Aviation Authority with the following information, a copy to be submitted to the planning authority—

- (a) proposed date of commencement of construction;
- (b) estimated date of completion of construction;
- (c) precise location and height above ground level of the tallest structure;
- (d) maximum extension in height of any construction equipment; and
- (e) position of the turbines in latitude and longitude plus eastings and northings.

[Reason: In order to ensure aviation safety.]

22. Within one month of the commissioning of the final turbine, the applicant shall provide the Civil Aviation Authority and Ministry of Defence (Defence Estates - Safeguarding) with written confirmation of –

- (a) the date of completion of construction;
- (b) the height above ground level of the tallest structure; and
- (c) the latitude and longitude of that structure,

with a copy to be submitted to the planning authority.

[Reason: In order to ensure aviation safety.]

Warning lights

23.—(1) Details of any proposal to install aircraft navigation warning lights on any turbine shall be submitted to and be approved in writing by the Planning Authority prior to installation.

(2) Such warning lights shall be installed in accordance with the approved proposals.

[Reason: In the interests of aviation safety and visual amenity.]

Wind speed data

24.—(1) The wind farm operator shall log wind speed and wind direction data continually and shall retain the data which has been obtained for a period of no less than 12 months.

(2) The data shall include the average wind speed in metres-per second for each 10 minute period and the measuring periods shall be set to commence on the hour or in 10 minute increments thereafter. Where the wind speed is measured at a height other than 10 metres, the data shall be supplemented by adjusted values which allow for wind shear, normalised to 10 metre height. Details of the wind shear calculation shall be provided.

(3) The wind speed data shall be made available to the Planning Authority on request on a Microsoft Excel spreadsheet in electronic format.

Wind turbine noise

25.—(1) At wind speeds not exceeding 12 metres per second, as measured or calculated at a height of 10 metres above ground level (at the location of the meteorological mast shown at location easting 302610 northing 965639 on the approved layout plan) the wind turbine noise level at any house or other Noise Sensitive Premises shall not exceed-

- (a) during night hours, 43 dB LA90,10min, or the night hours LA90,10min background noise level plus 5 dB(A), whichever is the greater;

- (b) during quiet waking hours, 35 dB LA90,10min or the quiet waking hours LA90,10min background noise level plus 5 dB(A), whichever is the greater; and
- (c) at all times 45 dB, LA90,10min or the (day/night as appropriate) hours LA90, 10min background noise level plus 5 dB(A), whichever is the higher in respect of any house where the occupier is a stakeholder in the development,

providing that this condition shall only apply to dwellings or other Noise Sensitive Premises lawfully existing at the date of this planning permission.

(2) At the request of the planning authority and following a valid complaint to the Planning Authority relating to noise emissions from the wind turbines, the wind farm operator shall measure or calculate, at its own expense, the level of noise emissions from the wind turbines.

(3) The measurement and calculation of noise levels shall be undertaken in accordance with "The Assessment and Rating of Noise from Wind Farms", September 1996, ETSU 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; and calculations of noise made using the approach reported in the environmental statement submitted with the planning application. The assessment approach shall be approved by the Planning Authority prior to undertaking the detailed assessment.

(4) In comparing measured wind turbine noise levels with background noise levels, regard shall be had to the prevailing background noise levels as measured at specified properties and shown by the best fit curves in the environmental statement submitted with this Section 36 application.

(5) In the event of a complaint from a property other than one of the specified properties in the environmental statement, the measured wind turbine noise levels at that other property shall be compared to the prevailing background noise levels at the specified property which is most likely to have similar background noise levels.

(6) Should the noise levels specified in paragraph (1) be exceeded, the wind farm operator shall take immediate steps to ensure that noise emissions from the wind farm are reduced to or below such levels or less, and obtain written confirmation of that reduction from the Planning Authority.

[Reason: In order to control noise in the interest of residential amenity.]

Failure to supply electricity

26. In the event that any wind turbine fails to produce electricity supplied to a local grid for a continuous period of 12 months (not due to it being under repair or awaiting replacement), then it shall be deemed to have ceased to be

required and, unless otherwise agreed in writing by the planning authority (whose consent shall not be unreasonably withheld), that wind turbine and its ancillary equipment shall be dismantled and removed from the Site within the following six months and the ground fully re-instated to a specification approved in writing by the planning authority.

[Reason: In order to protect visual amenity .]

Interpretation

27.—(1) In the section 36 consent and the deemed planning permission, and in the conditions, unless the context otherwise requires:

‘applicant’ means Baillie Wind Farm Limited, having its Registered Office at 16 Charlotte Square, Edinburgh, EH2 4DF and its successors and assignees;

"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.

‘commissioning of the development’ means the date on which the first turbine generator forming part of the development first supplies electricity on a commercial basis;

‘construction period’ means the period from the commencement of the development until the site compounds have been reinstated in accordance with the conditions of this consent;

‘Development’ has the meaning given in Annex 1; [means a wind-powered electricity generating station at Bardnaheigh Farm, Westfield, by Thurso comprising a maximum of 21 turbines, 2 anemometer masts and 1 substation and control building, to be sited as shown on the amended section 36 application plan showing the amended overall wind farm Application Boundary and Proposed Site Layout (rev u), figure number 1.2). The access track leading to turbines 4 and 10 will be amended as shown on the revised plan forming part of the Second Addendum (Application Boundary and Revised Layout (rev x, figure 1.2) as agreed with the Scottish Environmental Protection Agency.]

‘environmental statement’ means the Environmental Statement submitted by Baillie Wind Farm Ltd in July 2004;

‘ETSU-R-97’ means the ETSU Report number ETSU-R-97 ‘The Assessment and Rating of Noise from Wind Farms’ published in September 1996;

ETSU-R-97 derived ‘quiet waking hours’ or ‘night hours’ noise limit means the noise limits derived in accordance with paragraphs 1.2.3, 1.3.1 and 1.3.2 of

the Supplementary Guidance Notes to the Planning Obligation, pages 101 to 102, of ETSU-R-97;

'final commissioning of the development' means the date on which all wind turbine generators forming the development have supplied electricity on a commercial basis or such earlier date as the Scottish Ministers deem the development to be complete;

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

"Noise sensitive premises" means existing premises, the occupants of which could be exposed to noise from the wind farm.

'operational period' means the period from the date of the final commissioning of the development until the last date on which any of the wind turbine generators supplies electricity on a commercial basis;

'Planning Authority' means the Highland Council;

"Quiet waking hours" means 18:00 - 23:00 hours on all days, plus 07:00 - 18:00 on Sundays and 13:00 - 18:00 hours on Saturdays.

'SEI' means the environmental information supplementary to the environmental statement submitted by Baillie Wind Farm Ltd in January 2006 and in October 2007

'Site' means the area of land outlined in red on Revision U - Figure 1.2 as appended to this consent;

"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 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 with the planning authority.

(2) References to the date or time of the commencement of the Development means the date on which the development shall be taken as begun in accordance with section 27 of the Town and Country Planning (Scotland) Act 1997 but shall not include any activities, including works necessary to give effect to the conditions of this consent, site investigations or surveys, setting out works or any other works or activities.

**APPLICATION FOR 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 A WIND POWERED ELECTRICITY GENERATING STATION AT BAILLIE, WESTFIELD, NEAR
THURSO, CAITHNESS**

Scottish Government: Enterprise, Energy & Tourism Directorate

**Appraisal of the Implications of the proposed Baillie wind farm development on the Caithness Lochs Special Protection Area (SPA) -
October 2008**

The following appraisal has been prepared by the Scottish Ministers as the Competent Authority to inform the Appropriate Assessment of the above proposal. The frameworks are based on those provided in the European Commission's guidance document " Assessment of plans and projects significantly affecting Natura 2000 sites: Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC".

1. SPA and Project Description		
1	Brief description of the project	<p>On 12 July 2004, Baillie Wind Farm Ltd applied for consent to construct and operate a wind farm, located at Westfield, near Thurso, Caithness. The proposed development would comprise of 25 turbines with an upper blade tip height of 110m and associated civil and cabling works, access and site tracks, construction facilities, an anemometry mast, a control building with grid substation and all ancillary works. The anticipated maximum generating capacity would not exceed 75MW. On 27 January 2006, Baillie Wind Farm Ltd submitting an addendum to the original application which reduced the number of turbines to 21 and increased the number of permanent anemometer masts to two.</p> <p>The proposed development is 3km from the Loch Calder SSSI and 2km from the Broubster Leans SSSI. Both the Loch Calder SSSI and the Broubster Leans SSSI are components of the Caithness Lochs Special Protection Area.</p>
2	Brief description of the designated Natura site	Caithness Lochs are located in lowland Caithness in northern Scotland. The site comprises Broubster Leans, a complex area of mire and fen developed on a river

		<p>floodplain; Loch of Mey, a shallow ephemeral loch fringed by fen and marshy grassland; Loch Watten, a large, shallow, base-rich loch; Loch Scarmclate, a shallow mesotrophic marl loch; Loch Calder, an oligotrophic loch deeper than the other lochs within the site; and Loch of Wester and Loch Heilen, shallow mesotrophic sand lochs. The Caithness Lochs are classified as an SPA under article 4.1 of the Birds Directive by regularly supporting in winter, populations of European importance of the Annex 1 species whooper swan and Greenland white-fronted goose. The site also qualifies under Article 4.2 by regularly supporting in winter a population of greylag goose, also of European importance. The site lies at the northern limit of these three species' wintering distributions and is important to the maintenance of the species' wintering range.</p>
3	<p>Conservation objectives for the Caithness Lochs SPA against which the impacts on site integrity will be judged</p>	<p>To avoid deterioration of the habitats of the qualifying species or significant disturbance to the qualifying species, thus ensuring that the integrity of the site is maintained.</p> <p>To ensure for the qualifying species that the following are maintained in the long term:</p> <ul style="list-style-type: none"> • Population of the species as a viable component of the site • Distribution of the species within site • Distribution and extent of habitats supporting the species • Structure, function and supporting processes of habitats supporting the species • No significant disturbance of the species <p>Qualifying Species:</p> <ul style="list-style-type: none"> • Whooper swan • Greenland white-fronted goose • Greylag goose
<p>2. Significance of Effects: Screening</p>		
4	<p>Is the proposal directly connected with, or necessary to, conservation management of the Natura site?</p>	<p>The proposal is not directly connected with, or necessary to, the conservation management of the Caithness Lochs Special Protection Area.</p>

5	Consider whether there are any likely direct, indirect or secondary impacts of the project on the Natura site	<p>The whooper swan, Greenland white-fronted goose and greylag goose qualifying interest of Caithness Lochs SPA could be affected by the following direct impacts:</p> <ul style="list-style-type: none"> • Short-term disturbance if construction work is undertaken during the wintering period when the birds are feeding within or close to the development site. • Long-term disturbance from the sight of the spinning turbines when the birds are feeding within or close to the development site. • Bird strike could affect the birds if they collide with the moving blades of the turbines as they fly between feeding and roosting areas.
6	Consider the key phases of development and the risk of effects associated with each.	<p>The construction and decommissioning of the proposed wind farm development have the greatest potential to give rise to disturbance effects on the Greenland white-fronted goose and greylag goose qualifying interests because they have been recorded feeding within and close to the proposed development site. Whooper swans are rarely recorded feeding within this area so there is a low risk of disturbance effects to this qualifying species.</p> <p>The operational phase of the proposed development would have the greatest potential to present a collision risk to all three qualifying species of Caithness Lochs SPA.</p>
7	Appraise which individual elements of the overall project would give rise to the greatest risk of effects. State any element of the project where the scale or magnitude of effect is not known	<p>Short-term disturbance. Short-term effect limited to maximum of one wintering period. The proposed development is a minimum of 2km from the nearest roost site within the Caithness Lochs SPA. There is therefore no risk of disturbance to roosting birds as a result of construction work. Further, no whooper swans were recorded feeding within 2km of the proposed development site. Consequently there will be no significant disturbance to roosting or feeding whooper swan interests of the Caithness Lochs SPA due to the construction of the proposed wind farm.</p> <p>The data presented from the ES survey work clearly shows the Greenland white-fronted geese feed approximately 600m away from the proposed wind turbines and some greylag geese feed within the turbine footprint.</p> <p>Long-term disturbance. As for short-term disturbance, the absence of feeding or roosting whooper swan in the vicinity of the proposed development area means that there will be no significant disturbance to roosting or feeding whooper swan interests of the Caithness Lochs SPA due to the operation of the proposed wind farm.</p> <p>This effect could exist for the operational lifespan of any planning consent granted (i.e. 25 years sought), with qualifying interests (principally greylag goose and Greenland white-</p>

		<p>fronted goose) being displaced from feeding areas. Additional information was provided by the applicant regarding the proportion of feeding habitat that could be lost as a result of the wind farm and an assessment has been made of the proportionate loss in habitat. This effect would principally affect the greylag goose interest, as turbines have already been moved away from areas used by Greenland white-fronted geese for feeding. The data presented from the ES survey work clearly shows the Greenland white-fronted geese feed approximately 600m away from the proposed wind turbines and some greylag geese feed within the turbine footprint.</p> <p>Collision risk. Finally, the qualifying species could be directly affected through collisions with the moving blades of the turbines as they fly between feeding and roosting areas. A collision with a turbine could result in the serious injury or death of the qualifying species. This is a long-term effect which could exist for 25 years once turbines are operational. The collision risk estimates range from less than one collision per year for Greenland white-front (0.16) and whooper swan (0.3) to 11 per year for greylag goose. Over the lifespan of the wind farm (25 years) this equates to 4 Greenland white-front, 7.5 whooper swan and 275 greylag, which would be estimated to be killed.</p>
8	Is the plan/project likely to have a significant effect on the Caithness Lochs SPA, either alone or in combination, with other plans or projects?	<p>Short term disturbance will have a “likely significant effect” on greylag goose and Greenland white-fronted goose.</p> <p>Long-term disturbance will have a “likely significant effect” on greylag goose and Greenland white-fronted goose.</p> <p>The predicted collisions will have a “likely significant effect” on whooper swan, greylag goose and Greenland white-fronted goose.</p>
3. Appraisal of Impacts on Site Integrity		
9	Identify the relevant conservation objectives to consider for the Caithness Lochs SPA	<p>The proposed development is outwith the boundary of Caithness Lochs SPA which means that the likely significant effects on <u>whooper swan, Greenland white-fronted goose and greylag goose</u> identified in section 2 are assessed against the first conservation objective: maintenance of the population of the species as a viable component of the site.</p> <p style="text-align: center;">•</p>
10	Can it be ascertained that the proposal/plan will not adversely affect the integrity of the Caithness Lochs SPA	<p>It has been concluded that the Baillie Hill wind farm would have likely significant effects on the greylag goose, whooper swan and Greenland white-fronted goose qualifying interests of the Caithness Lochs SPA. These species commute to off-site feeding areas in proximity of the proposed development site. The estimated mortality of all three qualifying</p>

		species arising from collision with the turbines will not affect the population of the species as a viable component of the site. In addition, the risk of construction and operational disturbance to Greenland white-fronted goose and greylag goose is low and will not affect the population of the species as a viable component of the site. This assessment considered both the effects of Baillie on its own, and in combination with other wind farm developments which affect this SPA. The Baillie proposal will not adversely affect the integrity of the SPA.
11	Consider whether mitigation measures can be adopted to avoid impacts on site integrity	No specific mitigation measures are necessary to avoid impacts on the site integrity.
	<u>Conclusion of Appraisal</u>	
12	Can impacts on site integrity be avoided	The Baillie wind farm proposal will not adversely affect the integrity of the Caithness Lochs Special Protection Area.