

**THE HIGHLAND COUNCIL**

**NORTH PLANNING APPLICATIONS COMMITTEE**  
**17 February 2015**

Agenda Item	6.5
Report No	PLN/006/15

**14/04554/S42: RWE Renewables Ltd**  
**Land at Bad a' Cheò, Achkeepster, Spittal, Caithness**

**Report by Head of Planning and Building Standards**

**SUMMARY**

**Description:** Construction of a 13 wind turbine (105m to blade tip) wind farm (Bad a' Cheò Wind Farm) without compliance with Condition 1 of permission 14/02480/S42; increasing the maximum tip height from 105m to 112m.

**Recommendation:** **GRANT** planning permission

**Ward:** 4 – Landward Caithness

**Development category:** Major Application

**Pre-determination hearing:** None

**Reason referred to Committee:** Variation of condition on a Major Application

**1.0 PROPOSED DEVELOPMENT**

1.1 The application seeks to remove an obligation under Condition 1 of the planning permission 14/02480/S42 that was an amendment to the permission granted on appeal (PPA-270-2098) on 06 May 2014 for the Bad a' Cheò wind farm which required the development to proceed in accordance with the provisions of the application as submitted.

1.2 Condition 1 of the planning permission states:

*Unless otherwise agreed with the planning authority, the development shall be constructed and operated in accordance with the provisions of the application, the submitted plans, and the Environmental Statement (ES) of June 2012, including Supplementary Environmental Information of March 2013. This permission shall be for a maximum of 13 turbines and 1 anemometer mast, to be sited as shown on the site layout drawing (Figure 4.1a) contained within Chapter 4 of the Bad a' Cheò Wind Farm ES.*

**Reason:** *In order to clarify the terms of permission.*

- 1.3 In this case, the applicant seeks to increase the overall height of turbine specified within the Environmental Statement as 105m to 112m. No height of mast or length of blade has been identified within the current proposal.

## 2.0 PLANNING HISTORY

- 2.1 **20.09.2013** - Planning Permission for construction of a 13 turbine wind farm refused (12/02868/FUL).
- 2.2 **06.05.2014** - Planning Permission for construction of a 13 turbine wind farm granted on Appeal (PPA-270-2098).
- 2.3 **20.08.2014** - Planning permission granted for construction of a 13 turbine wind farm not in accordance with Condition 23 (relocation of WWII memorial) of permission granted on Appeal (14/02480/S42). A copy of this decision, which is the most up to date permission, is contained within **Appendix 2**.

## 3.0 PUBLIC PARTICIPATION

- 3.1 Advertised: Schedule 3

Representation deadline: 30 January 2015

Timeous representations: 6

Late representations: 0

- 3.2 Material issues raised can be summarised as:

- The increase in tip height by 7m will have an unacceptable visual impact on the landscape when considered both on its own and cumulatively with other wind farms within the area

- 3.3 Non-material issues raised can be summarised as:

- Abuse of the planning system
- Should be an entirely new application
- Detrimental health effects brought on by infra-sound
- Unacceptable visual impact on the A9 corridor

## 4.0 CONSULTATIONS

- 4.1 Halkirk and District CC: No response received.

- 4.2 Watten Community Council: No response received.

- 4.3 Latheron and Clyth Community Council: No response received.

- 4.4 Historic Environment Team has raised no issues with regard to the impact on the historic environment.
- 4.5 Transport Planning has no objection to the increased turbine dimensions proposed. From a local roads perspective, the abnormal load route - from port of entry to site - will need to be reviewed to determine any additional impact on Council maintained assets as a result of larger turbine components. As normal, any accommodation/mitigation measures needed to enable the movement of abnormal loads on the local road network will require to be agreed in advance by the Roads Authority and thereafter implemented.
- 4.6 Environmental Health advice is that the amendment does not appear to significantly affect the noise assessment and the existing conditions will still apply. Accordingly there is no objection to the application.
- 4.7 Scottish Environment Protection Agency (SEPA) has no objection.
- 4.8 Scottish Natural Heritage (SNH) advise that the same planning conditions and associated management plans required for the consented Bad a' Cheò wind farm should also be applied to the amended proposal. Provided this is done SNH consider that, for this site and natural heritage interests, there will not be significant additional impacts on the natural heritage interests caused by the increase in turbine height.
- 4.9 Civil Aviation Authority (CAA) request, that if consent is granted, the Defence Geographic Centre (mail to [dvof@mod.uk](mailto:dvof@mod.uk)) are informed of the expected date of removal of the turbine and that they will be informed of the revised height together with the location and lighting status of the turbine and any meteorological masts, the estimated and actual dates of construction and the maximum height of any construction equipment to be used, prior to the start of construction, to allow for the appropriate inclusion on Aviation Charts, for safety purposes.
- 4.10 Highlands and Island Airports Ltd (HIAL) confirms that its calculations show that, at the given position and height, the development would not infringe the safeguarding surfaces for Wick Airport. Accordingly HIAL has no objection.
- 4.11 Ministry of Defence (MOD) request, In the interests of air safety, that the development is fitted with 25 candela omni-directional red lighting or infrared lighting with an optimised flash pattern of 60 flashes per minute of 200ms to 500ms duration at the highest practicable point and that prior to construction it be advised of the date construction starts and ends, the maximum height of construction equipment and the latitude and longitude of every turbine.
- 4.12 Ofcom: No comment received.

## **5.0 DEVELOPMENT PLAN POLICY**

- 5.1 The development plan comprises of the Highland Wide Local Development Plan (2012), the Caithness Local Plan (2006) (as continued in force) and Statutory Supplementary Guidance.

5.2 The following policies are relevant to the assessment of the application:

### **Highland Wide Local Development Plan 2012**

5.3	Policy 28	Sustainable Design
	Policy 29	Design Quality and Place Making
	Policy 57	Natural, Built and Cultural Heritage
	Policy 58	Protected Species
	Policy 59	Other Important Species
	Policy 61	Landscape
	Policy 67	Renewable Energy

### **Caithness and Sutherland Local Development Plan 2014**

5.4 No relevant policies apply.

### **Statutory Supplementary Guidance**

5.5 Highland Statutorily Protected Species: Supplementary Guidance (March 2014).

## **6.0 OTHER MATERIAL POLICY CONSIDERATIONS**

### **Scottish Government Planning Policy and Guidance**

6.1 Scottish Planning Policy (2014) requires Planning Authorities to progress, as part of the Development Plan process, a spatial framework identifying areas most likely to be appropriate for onshore wind farms. It lists the main considerations likely to be taken into account in assessing proposals. These can be summarised as:

- Net economic impact;
- Contribution to renewable energy targets;
- Effect on greenhouse gas emissions;
- Cumulative impacts;
- Impacts on communities and individual dwellings;
- Landscape and visual impacts, including wild land;
- Natural heritage;
- Carbon rich soils;
- Public access;
- Historic environment;
- Tourism and recreation;
- Aviation and defence interests;
- Telecommunications
- Road traffic;
- Trunk roads;
- Hydrology and flood risk;
- Decommissioning;
- Energy storage;
- Planning obligations for site restoration.

6.2 In addition to the above, the Scottish Government sets out further advice on Renewable Energy in a number of documents and web based information regularly updated including: -

- National Planning Framework for Scotland 3
- PAN 56 – Planning and Noise
- PAN 58 – Environmental Impact Assessment
- PAN 60 – Planning for Natural Heritage
- 2020 Routemap for Renewable Energy
- Onshore Wind Turbines
- Wind Farm developments on Peat Lands

### **Onshore Wind Energy: Interim Supplementary Guidance (March 2012)**

6.3 The document provides a spatial framework to guide the location of large wind farms, development guidelines for all locations and additional guidance on the policies and principles set out in Policy 67 – Renewable Energy Developments of the Highland-wide Local Development Plan.

### **Highland Renewable Energy Strategy (HRES) (May 2006)**

6.4 While superseded, in part, by the above Interim Supplementary Guidance, HRES is still relevant as a strategic document for renewable energy. Relevant policies include:

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

## **7.0 PLANNING APPRAISAL**

7.1 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. The Development Plan in this case comprises the Highland wide Local Development Plan (approved April 2012).

### Determining Issues

7.2 The determining issues are:

- do the proposals accord with the development plan?
- if they do accord, are there any compelling reasons for not approving them?
- if they do not accord, are there any compelling reasons for approving them?

### Planning Considerations

7.3 The principle of the development has been established. This is an application to remove the applicant's obligations on a condition of the existing permission; in this case compliance with the terms set out within an Environmental Statement that

formed part of the original application and subsequent approval. In order to address the determining issues therefore, Committee must consider the extent to which the proposal, as amended, continues to comply with development plan policy and take into consideration any other material considerations.

- 7.4 It is worth highlighting that an application submitted under S42 of the Planning Act provides a planning authority with an opportunity, in considering the proposed application, to amend any, or all, of the conditions on a planning permission that it considers necessary to regulate the development proposed.

#### Development Plan

- 7.5 While the decision made by the Reporter was against the decision of this Committee, the principle of the development is now clearly established and should not be open to re-examination. Development Plan Policy has not changed substantially since the time of the Reporter's decision or the Committee's most recent decision on the amendment to delete the requirement for relocation of the memorial. The key issue therefore is whether the amendment sought, the increase in turbine tip height from 105m to 112m, would make the development incompatible with the Development Plan.
- 7.6 This application has been submitted for two key reasons; firstly, the availability of turbines at 105m height and, secondly the requirement to make the development as efficient as possible within its current envelope.
- 7.7 The applicant states: *"The tip height of 105m proposed in the ES and planning submitted in July 2012 provided consistency with the operational Causeymire Wind Farm (with turbines of 102 m) and the (then) submitted Halsary Wind Farm (with proposed turbines of 100 m). The Causeymire turbines were erected in 2004 when c.100 m turbines were common place. However since that time, the turbine market has evolved to meet international demand, such that smaller turbines are gradually being phased out and the availability of turbines on the market up to 105m in tip height is now significantly reduced."*
- 7.8 The UK incentive mechanism for renewable electricity generation is also changing. Renewable Obligation Certificates (ROCs) are being replaced by a new mechanism, Contracts for Difference (CfD), which will come into effect for those developments constructed and connected from 2017 on. CfD is focussed on delivering renewable energy generation by the most cost effective means for consumers. This is a driver for developers to look at the most efficient turbines. The proposed increase in tip height for Bad a' Cheò will widen the choice of turbines available and increase the efficiency and output of the wind farm without having to significantly amend the proposed development in scale.
- 7.9 Maximising the potential of a renewable energy development is supported in principle by Policy 67 of the Highland wide Local Development Plan. Having said that, the Development Plan also supports the protection and preservation of landscape designations and landscape character, visual amenity, individual and community amenity more generally, air safety, telecommunications and features of

historic and cultural importance. Were the proposal to increase the tip height likely to have an adverse effect on any of these features then the proposal would be judged not to comply with the Development Plan.

### Material Considerations

- 7.10 In support of the application, the applicant has submitted a statement that contains information on a number of topics including, amongst other matters, noise, ornithology, cultural heritage and landscape and visual considerations; the latter of which includes reference to the visual effects associated with increased tip height from a number of key viewpoints around the area as demonstrated within photomontages.
- 7.11 It is clear from the responses from consultees that the increase in tip height proposed will have no significant impact on habitats and species, cultural heritage, noise or air safety that would result in a development that would be incompatible with the development plan. The acceptability of the impact on visual amenity of the increase in tip height is however more of a matter of individual judgement.
- 7.12 In 2013, permission was granted for the Achlachan wind farm, adjacent to Causeymire which is anticipated to have turbines up to 110m in height. The Service has also been in discussions with Scottish Power Renewables (the developers of Halsary Wind Farm) regarding a potential increase in tip height there to 112m in height. If that scheme was to be acceptable then the requested increase in tip height for Bad a' Cheò would be consistent with Halsary and reinforce the similarities between the Bad a' Cheò, Halsary and Achlachan schemes. If not, the current proposal would be more or less consistent with Achlachan which sits on the opposite side of Causeymire to Bad a' Cheò.
- 7.13 The visualisations submitted support the conclusion that the visual impact of the increased height of the Bad a' Cheò turbines would not be significant. The key consideration in mitigating the cumulative visual impact of this wind farm cluster will be to ensure that the dimensions of turbines selected relate well to one another i.e. that the proportion of blade to mast remains consistent with the existing Causeymire scheme.
- 7.14 It is considered that Condition 6 of planning permission 14/02480/S42 that requires the specification for the final turbine model to be approved by the Planning Authority prior to installation would adequately secure the mitigation sought.
- 7.15 There are no other material considerations. A number of comments have been received from individuals relating to the principle of development, including the visual and health impacts associated with development. However, the principle is already established and therefore these factors do not warrant further consideration as part of this application which relates solely to an increase on overall height by 7m.

## 8.0 CONCLUSION

- 8.1 All relevant matters have been taken into account when appraising this application. The representations received indicate a general disapproval of development in this location. However, this is not relevant to this application since the principle of wind farm development on this site is established. The proposal is designed to maximise choice and efficiency without further adverse impact brought about by potentially more significant changes to design and layout. The increase in turbine tip height is not considered to result in a significant additional adverse visual impact. The visual relationship between the various schemes within the area, which is considered to be the most important factor in developing a visually cohesive 'cluster' of wind energy development in this area, could be harmonised by careful consideration of the proportions of blade length to tower height.
- 8.2 While the application provides an opportunity to amend or add conditions other than those applied for, it is not considered necessary to add any additional conditions in this instance.
- 8.3 The application to amend Condition 1 of this extant planning permission accords with the development plan and is acceptable in terms of all other applicable material considerations.

## 9.0 RECOMMENDATION

**Action required before decision issued** N

**Subject to the above**, it is recommended that the application be **granted** planning permission subject to:

- A.** Amendment to Condition 1 to read:

*For the avoidance of doubt the development shall be constructed and operated in accordance with the provisions of the application, the submitted plans, and the Environmental Statement (ES) of June 2012, including Supplementary Environmental Information of March 2013. This permission shall be for a maximum of 13 turbines **up to 112m** in height from ground level and 1 anemometer mast, to be sited as shown on the site layout drawing (Figure 4.1a) contained within Chapter 4 of the Bad a' Cheò wind farm ES.*

- B.** All other conditions pertaining to planning permission 14/02480/S42.

Signature: Malcolm MacLeod

Designation: Head of Planning and Building Standards

Author: David Mudie (01463) 702255

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



## APPENDIX 2



### SECTION 42 PERMISSION

ReferenceNo:14/02480/S42

To: RWE Innogy UK Ltd  
Per: Mrs Karen Fox  
Earn House  
Broxden Business Park  
Lamberkine Drive  
Perth  
PH1 1RA

Per:

Town and Country Planning (Scotland) Act 1997 (as amended)

### DECISION NOTICE

**Application under Section 42 to develop land without compliance with Condition 23 previously attached to appeal PPA-270-2098 (12/02868/FUL) for a wind farm comprising 13 wind turbines (2.5MW), crane hardstandings, external transformers, access bell mouth from the A9, access tracks, 60m anemometry mast, control building and substation compound (Bad a Cheo Wind Farm) at Bad A Cheo, Achkeepster, Spittal**

The Highland Council in exercise of its powers under the above Act **grants planning permission** for the **wind farm comprising 13 wind turbines (2.5MW), crane hardstandings, external transformers, access bell mouth from the A9, access tracks, 60m anemometry mast, control building and substation compound (Bad a Cheo Wind Farm) at Bad A Cheo Achkeepster Spittal** in accordance with application appeal ref. PPA-270-2098 (12/02868/FUL) dated 20 September 2013, **without compliance with Condition 23 previously imposed**, but subject to the following condition(s):

- (1.) For the avoidance of doubt the development shall be constructed and operated in accordance with the provisions of the application, the submitted plans, and the Environmental Statement. This permission shall be for a maximum of 13 turbines and 1 anemometer mast, to be sited as shown on the site layout drawing (Figure 4.1a) contained within Chapter 4 of the Bad a Cheo Wind Farm ES, June 2012.

**Reason:** In order to clarify the terms of permission.

- (2.) 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 3 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

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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.

- (3.) 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:
- i. 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
  - ii. 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 aboveground 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 DRP 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.) No development shall commence until the following have been submitted to, and approved in writing by, the Planning Authority:
- i. 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 3 of this permission; and
  - ii. 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; and
  - iii. documentary evidence that the bond or other financial provision approved under parts (i) and (ii) above is in place. .

Thereafter, the Wind Farm Operator shall:

- i. ensure that the bond or other financial provision is maintained throughout the duration of this permission; and
- ii. 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.

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Each review shall be:

- a. conducted by a suitably qualified independent professional; and
- b. 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
- c. 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 approved under part (c) above 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.

- (5.) 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:

- i. 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
- ii. 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 (DRP), or, should the detailed DRP 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 wind turbine is removed from site, in the interests of safety, amenity and environmental protection.

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- (6.) No development shall commence until full details of the proposed wind turbines have been submitted to, and approved in writing by, the Planning Authority.

These details shall include:

- i. the make, model, design, power rating and sound power levels of the turbines to be used; and
- ii. the external colour and/or finish of the turbines to be used (incl. towers, nacelles and blades) which should be non-reflective pale grey semi-matt. Thereafter, development shall progress in accordance with these approved details and, with reference to part ii above, the turbines shall be maintained in the approved colour, free from external rust, staining or discolouration, until such time as the wind farm is decommissioned. All wind turbine blades shall match as far as possible and rotate in the same direction as those at the adjoining Causeymire wind farm.

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

- (7.) No development shall commence until full details of the location, layout, external appearance, dimensions and surface materials of all control and/or substation buildings, welfare facilities, compounds and parking areas, as well as any fencing, walls, paths and any other ancillary elements of the development, have been submitted to, and approved in writing by, the Planning Authority (in consultation with SEPA and SNH, as necessary). Thereafter, development shall progress in accordance with these approved details. For the avoidance of doubt, details relating to the control, substation and welfare buildings shall include additional architectural design, LVIA and other relevant assessment work, carried out by suitably qualified and experienced people, to ensure that they are sensitively scaled, sited and designed.

**Reason:** To ensure that all ancillary elements of the development are acceptable in terms of visual, landscape noise and environmental impact considerations.

- (8.) No development shall start on site until a Construction Environmental Management Document (CEMD) is submitted to and agreed in writing by the Planning Authority in consultation with SNH and SEPA. The Document shall include:

- An updated Schedule of Mitigation (SM) including all mitigation proposed in support of the planning application, other relevant agreed mitigation (e.g. as required by agencies) and set out in the relevant planning conditions
- Processes to control / action changes from the agreed Schedule of Mitigation.
- The following specific Construction and Environmental Management Plans (CEMP):
  - i. peat management plan - to include details of all peat stripping, excavation, storage and reuse of material
  - ii. peat management plan
  - iii. pollution prevention plan
  - iv. drainage and surface water management plan - to address both construction and post construction with specific regard to protection of the River Thurso SAC.
  - v. chemical pollution plan
  - vi. species protection plan

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- vii. fisheries protection plan
- viii. site waste management plan
- ix. noise and vibration mitigation plan
- x. traffic management plan - providing details on the proposed route for any abnormal loads, any accommodation measures required and any additional signing or temporary traffic control measures deemed necessary
- Details of the appointment of an appropriately qualified Environmental Clerk of Works with roles and responsibilities which shall include but not necessarily be limited to:
  - i. providing training to the developer and contractors on their responsibilities to ensure that work is carried out in strict accordance with environmental protection requirements;
  - ii. monitoring compliance with all environmental and nature conservation mitigation works and working practices approved under this consent;
  - iii. advising the developer on adequate protection for environmental and nature conservation interests within, and adjacent to, the application site;
  - iv. directing the placement of the development (including any micro-siting, if permitted by the terms of this consent) and the avoidance of sensitive features; and
  - v. the power to call a halt to development on site where environmental considerations warrant such action.
- Details of any other methods of monitoring, auditing, reporting and communication of environmental management on site and with the client, Planning Authority and other relevant parties.
- Statement of any additional persons responsible for 'stop the job / activity' if in potential breach of a mitigation or legislation occurs. Unless otherwise agreed in writing by the Planning Authority the development shall proceed in accordance with the agreed document.

**Reason:** To protect the environment from the construction and operation of the development.

- (9.) No development shall commence, including tree felling operations, until a Habitat Management Plan (HMP) has been submitted to, and approved in writing, by the Planning Authority in consultation with SNH and SEPA, providing for measures to protect and manage habitat and species within the site. The HMP, which shall be implemented in full and in accordance with any timescales outlined therein unless otherwise agreed in writing, shall include the following elements:
- Measures to minimise any impact of the development on statutorily protected species and other species of nature conservation interest (including hen harrier, otters, bats, water vole and wild cat) and their respective habitats.
  - The enhancement, restoration and future management of the site to its blanket bog/heath habitat.

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**Reason:** To protect and enhance the nature conservation interests of the area, including the management of vegetation and peatland within the site, mitigate any effects on statutorily protected species and their habitat and avoid adverse effects on other species of nature conservation interest.

- (10.) No development shall commence, including tree felling works, until pre-commencement surveys to locate the presence or absence of water vole, otter and wild cat is undertaken and a report of survey has been submitted to, and approved in writing by, the Planning Authority. The survey shall be carried out in the year preceding the commencement of development and the report of survey shall inform any mitigation measures identified in the Species Protection Plan required as part of the Construction Environmental Management Document/Plan(s) approved under Condition 9.

**Reason:** To protect and enhance nature conservation from construction activities.

- (11.) No development shall commence until the applicant has provided the Ministry of Defence (Defence Estates - Safeguarding) with the following information; a copy of which shall be submitted to the Planning Authority:

- proposed date of commencement of the construction;
- estimated date of completion of the construction;
- height above ground level of the tallest structure;
- maximum extension height of any construction equipment;
- position of the turbines in latitude and longitude plus eastings and northings;

**Reason:** In order to ensure the safety of low flying military aircraft.

- (12.) 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:

- i. 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 the IOA Good Practice Guide to the application of ETSU-R-97 for the assessment and rating of wind turbine noise.
- ii. 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 noise impact of the built turbines can be assessed, if necessary following a complaint, in order to demonstrate that they do/do not exceed the predicted noise levels set out within the supporting Environmental Statement, and where excessive noise is recorded, suitable mitigation measures can be undertaken.

- (13.) No development shall commence until the baseline water quality within the site has been assessed and a scheme for monitoring quality both during construction and post-construction has been submitted to and agreed in writing by the Planning Authority, in consultation by SEPA. The agreed scheme shall be implemented for the period specified therein unless

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otherwise agreed in writing by the Planning Authority in consultation with SEPA.

**Reason:** To provide a baseline on water quality against which to monitor construction methods.

- (14.) No development shall commence until a detailed Access Management and Recreation Plan of public access across the site (as existing, during construction and following completion) has been submitted to, and approved in writing by, the Planning Authority.

The plan shall include details showing:

- i. All existing access points, paths, core paths, tracks, rights of way and other routes (whether on land or inland water), and any areas currently outwith or excluded from statutory access rights under Part One of the Land Reform (Scotland) Act 2003, within and adjacent to the application site;
- ii. Any areas proposed for exclusion from statutory access rights, for reasons of privacy, disturbance or effect on curtilage related to proposed buildings or structures;
- iii. All proposed paths, tracks and other routes for use by walkers, riders, cyclists and any other relevant outdoor access enhancement i.e. car park (including construction specifications, signage, information leaflets, proposals for on-going maintenance etc.);
- iv. Any diversion of paths, tracks or other routes (whether on land or inland water), temporary or permanent, proposed as part of the development (including details of mitigation measures, diversion works, duration and signage). The approved Access Management and Recreation Plan, and any associated works, shall be implemented in full prior to the first occupation of the development or as otherwise may be agreed within the approved plan.

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

- (15.) No development shall commence until a TV and radio reception mitigation plan has been submitted to, and approved in writing by, the Planning Authority. The plan shall provide for a baseline TV reception survey to be carried out prior to the commencement of turbine installation, the results of which shall be submitted to the Planning Authority. Within 12 months of the Final 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 appointed by the developer and the results shall be submitted to the Planning Authority. Should any impairment to the TV signal be attributable to the development, 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 local TV and Radio Services are sustained during the construction and operation of this development.

- (16.) Where ground conditions specifically require it, wind turbines, masts, areas of hardstanding and tracks may be micro-sited within the application site boundary. However, unless otherwise approved in writing by the Planning Authority (in consultation with SEPA and SNH), micro-siting is subject to the following restrictions:

- i. That no turbine rotor shall fall with 50m of any trees on or adjacent to the site.

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## SECTION 42 PERMISSION

Reference No: 14/02480/S42

- ii. No wind turbine, mast, hardstanding or track shall be moved more than 50m from the position shown on the original approved plans; and in any case to a position within 50m of any watercourse.

All micro-siting permissible under this condition without requiring the approval of the Planning Authority must be approved by the development's Environmental Clerk of Works (ECoW) identified under Condition 9. A written record must be kept of any such ECoW approval and shall be maintained for a period extending to no less than four years following the First Export Date.

Within one month of the wind farm being commissioned, the developer must submit an updated site plan to the Planning Authority showing the final position of all wind turbines, masts, areas of hardstanding, tracks and associated infrastructure within the site. The plan should also highlight areas where micrositing has taken place and, for each instance, be accompanied by copies of the ECoW or Planning Authority's approval, as applicable.

**Reason:** To minimise the effect of the development on the landscape and species and habitat of conservation importance.

- (17.) Bird flight deflectors should be fitted, at 5 metre intervals, to all anemometer mast guy wires. Stops or clamps should be fitted to the guy wires to prevent the deflectors sliding down the wires. The mast should be inspected and maintained annually to ensure the deflectors remain in place.

**Reason:** To minimise bird collision risk.

- (18.) Unless otherwise agreed in writing by the Planning Authority, in consultation with MoD, the cardinal turbines shall be fitted with 25cd red lighting at the highest practical point.

**Reason:** In order to ensure the safety of low flying military aircraft.

- (19.) Access to the site by heavy goods vehicles and any noisy construction activity (e.g. piling, blasting, rock-breaking) shall be restricted to 07.00 to 19.00 on Mondays to Fridays and from 07.00 to 13.00 on Saturdays with no such access on Sundays unless otherwise agreed in advance in writing by the Planning Authority.

**Reason:** In order to control noise in the interest of amenity.

- (20.) The Wind Turbine Noise Levels, including the application of any tonal penalty specified in ETSU-R-97 at pages 99-109, shall not exceed the values specified for the locations listed in Tables 1 and 2 below.

For Noise-Sensitive Premises not listed in Tables 1 and 2, but on the date of this planning permission lawfully exist or are yet to exist but benefit from extant planning permission, noise limits shall be taken from the listed location that is closest matching in terms of background noise.

This condition shall apply at wind speeds not exceeding 12m/s, as calculated at a height of 10m above ground level in accordance with the methods described in the IOA Good Practice Guide to the application of ETSU-R-97.

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