

The Highland Council

South Planning Applications Committee
14 December 2015

Agenda Item	6.2
Report No	PLS 088/15

15/04002/S42: Beinneun Wind Farm Ltd

Beinneun Wind Farm Extension, 8 Km NW of Invergarry, Glenmoriston

Report by Head of Planning and Building Standards

SUMMARY

Description: Application under S42 to develop land without compliance with Condition 25 of deemed planning permission 14/03983/S36 - Beinneun Extension Wind Farm

Recommendation: GRANT

Wards: 13 - Aird and Loch Ness

Development category: Major

Pre-determination hearing: None

Reason referred to Committee: Major Application

1.0 Proposed Development

1.1 This application has been submitted under Section 42 of the Act and relates to Condition 25 attached to the deemed planning permission 14/03983/S36 which was granted consent under Section 36 of The Electricity Act 1989 (as Amended) in respect of Beinneun Extension Wind Farm.

1.2 The application seeks to **remove** the following condition:

Condition 25

No development shall commence until written confirmation has been issued by the Planning Authority that a legally binding agreement has been reached between the operators of the Beinneun Wind Farm, Beinneun Wind Farm Extension and Millennium South Wind Farm on a protocol for cumulative Noise Measurement and Mitigation as required by Condition 24 of this deemed planning permission. This legal agreement shall be submitted to, and approved in writing by, the Planning Authority.

Reason: *To ensure that, following a complaint, cumulative noise levels can be measured to assess whether or not the predicted noise levels set out within the supporting noise assessment have been breached both alone and in combination and where excessive noise is recorded, suitable mitigation is undertaken either alone or in combination with other parties.*

- 1.3 A copy of the original deemed planning permission for the Beinneun Extension Wind Farm is contained within Appendix 2. This permission was superseded by an application for non-compliance with conditions granted on 30 June 2015. A copy of the decision notice for the previous application for non-compliance with conditions is contained within Appendix 3.

2.0 Planning History / Background

- 2.1 **11 June 2015** Consent given for 7 wind turbines and associated infrastructure with a maximum capacity of up to 23.8MW by Scottish Ministers (14/03983/S36)
- 2.2 **20 April 2015** Consent given for variation to consented wind farm (Ref: 11/04152/S36) including, increase in blade tip height by 1.5 metres to 133.5 metres and revised dimensions to the sub-station and control building by Scottish Ministers . The Highland Council raised no objection. Awaiting decision from Scottish Ministers. (14/03482/S36)
- 2.3 **05 November 2012** Consent given for 25 wind turbines and associated infrastructure with a maximum capacity of up to 85 MW by Scottish Ministers (11/04152/S36)

3.0 Public Participation

- 3.1 Advertised: 06 November 2015 in the Inverness Courier.

Representation deadline: 20 November 2015

Timeous representations against:	0
Comments:	0
Representations in support:	0
Non-timeous representations against:	0

4.0 Consultations

- 4.1 THC Environmental Health Officer has not objected to the application.

5.0 Development Plan Policy

- 5.1 The development plan comprises of the Highland-wide Local Development Plan (2012), the Inner Moray Firth Local Development Plan (2015), the Inverness Local

Plan (2006, As Continued in Force 2012) and statutorily adopted Supplementary Guidance.

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

Highland-wide Local Development Plan (April 2012)

- 5.3 Policy 28 Sustainable Development
Policy 67 Renewable Energy
Policy 72 Pollution

Inner Moray Firth Local Development Plan (July 2015)

5.4 No policies or allocations relevant to the proposal are contained in the Inner Moray Firth Local Development Plan.

Inverness Local Plan (2006, As Continued in Force 2012)

5.5 The general policies of the Local Plan pertinent to this application have been superseded by the policies of the Highland-wide Local Development Plan and the Inner Moray Firth Local Development Plan.

6.0 Other Relevant Planning Policy

On-shore Wind Energy Draft Supplementary Guidance (September 2015)

6.1 The document provides additional guidance on the principles set out in Policy 67 - Renewable Energy Developments of the Highland-wide Local Development Plan and reflects the updated position on these matters as set out in Scottish Planning Policy. This draft document is a material consideration in the determination of planning applications. It is anticipated that the document will move to adoption in summer 2016.

6.2 At Planning, Development and Infrastructure Committee on 19 August 2015 it was agreed that the new Draft Supplementary Guidance be a material consideration in the determination of planning applications. As the new Draft SG sets out the Council's most up to date position on the matters related to on-shore wind, including the latest spatial framework, the Draft SG is considered to superseded the Interim Supplementary Guidance which had been adopted for use by the Council in March 2012.

Scottish Government Planning Policy and Guidance

- 6.3
- National Planning Framework 3
 - Scottish Planning Policy
 - PAN 1/2011 – Planning and Noise

7.0 Planning Appraisal

- 7.1 The original development was granted consent by Scottish Ministers under Section 36 of the Electricity Act 1989 (as amended). In doing so the development also carries deemed planning permission under Section 57(2) of the Town and Country Planning (Scotland) Act 1997 (as amended).
- 7.2 This application, is an application to develop land not in accordance with conditions attached to a deemed planning permission. Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that planning applications are 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 (Adopted April 2012), the Inner Moray Firth Local Development Plan (Adopted July 2015), Inverness Local Plan 2006 (as continued in force), and all associated statutorily adopted Supplementary Guidance.

Determining Issues

- 7.3 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

- 7.4 The principle of the development has been established. This is an application to remove a condition. In order to address the determining issues therefore, Committee must consider the extent to which the proposal continue to comply with development plan policy and take into consideration any other material considerations.

Development Plan

- 7.5 Development Plan Policy has not changed since the time of the determination of the original application. The key issue therefore is whether the amendment or removal of the conditions applied for would make the development incompatible with the Development Plan.
- 7.6 At the time of the consideration of the original application by The Highland Council, an application was also being progressed for another wind farm, Millennium South, near by. It was considered that due to the proximity of the schemes to each other there was potential for cumulative noise impacts to arise at sensitive receptors to the south of the proposed developments. As such it was proposed by the Planning Authority that conditions to secure legally binding agreements between the operators of the Beinneun Extension Wind Farm and the Millennium South Wind Farm to secure a protocol for implementation of cumulative noise mitigation between the parties. This condition was set out in the report to South Planning Applications Committee (01 April 2015) and included in The Highland Council's response to the application which was submitted to the Scottish Government's

Energy Consents and Deployment Unit in which The Highland Council raised no objection to the development. Subsequently, Scottish Ministers granted consent for the development. This consent included the deemed planning permission conditions as recommended by The Highland Council.

- 7.7 At the same meeting of the Committee, the application for Millennium South Wind Farm was considered. A similar condition was recommended to secure a protocol for implementation of cumulative noise mitigation. Following consideration of this application Members of the South Planning Applications Committee raised an objection to the application for the Millennium South Wind Farm. The objection was related to matters of visual impact and cumulative visual impact only. In doing so this has triggered a Public Local Inquiry. As such the application has not yet been determined.
- 7.8 There is not a fixed timescale for the determination of the application for Millennium South. As such no agreement has been reached between the developers / operators of the Millennium South and Beinneun Extension Wind Farms relating to a protocol for cumulative noise mitigation. The Environmental Health Officer has not objected to the application. In relation to the issue of cumulative noise, the last development to be consented will be required to address any further cumulative matters arising from development consented. As such the consultants working on behalf of The Highland Council in relation to the public local inquiry have been made aware of the issue and the requirement for cumulative noise mitigation to be secured by condition if the proposed Millennium South development is consented by Scottish Ministers.
- 7.9 In assessing the original application it was demonstrated that cumulative noise levels from all the existing and proposed wind farms in this area can meet the Council's composite limits of 35dB LA90 10min day time; 38dB LA90 10min night time or up to 5dB above background levels. With that said a condition was also attached to secure a cumulative noise mitigation scheme, in case a noise issue would arise. By taking this approach, the Planning Authority retain effective control over the potential noise impacts and have a suitable avenue for investigation should any noise complaints arise from the development both individually, cumulatively with the consented Beinneun Wind Farm and cumulatively with the Millennium cluster of wind turbines. It is proposed that this condition is also amended as per paragraph 7.12 of this report.

Other Material Considerations

- 7.10 There are no other material considerations.
- 7.11 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 deemed planning permission that it considers necessary to regulate the development proposed.

7.12 It is considered that two other conditions should be amended:

- Condition 21, related to the management of borrow pits can be removed. This condition is not required as there are no borrow pits proposed as part of the Beinneun Wind Farm Extension. The site is utilising material from borrow pits consented through the permissions associated with the Beinneun Wind Farm.
- Condition 24, related to a scheme for noise mitigation for Beinneun Extension Wind Farm both alone and in combination with Beinneun Wind Farm and Millennium South Wind Farm requires to be amended. This proposed amendment would remove reference to Millennium South Wind Farm. The reasons for this is the same as the reason for the removal of Condition 25 in paragraph 7.6 - 7.9 of this report. A scheme for noise monitoring and mitigation is still required for Beinneun Extension Wind Farm alone, and in combination with Beinneun Wind Farm.

7.13 There are no other conditions, other than those outlined above, that require amendment, variation or deletion at this time.

8.0 Conclusion

8.1 All relevant matters have been taken into account when appraising this application. The removal of Condition 25 would not result in the development being incompatible with the Development Plan. Neither would the removal of Condition 21 or the amendment of Condition 24, as proposed in paragraph 7.12 of this report.

8.2 It is considered that the application for non-compliance with conditions on this extant planning permission accords with the development plan and is acceptable in terms of all other applicable material considerations.

9.0 Recommendation

9.1 It is recommended that this application for non-compliance with conditions is **GRANTED** subject to:

1. The following amendment to Condition 24 attached to 14/03983/S36:

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

- a) a framework for the measurement and calculation of noise levels to be undertaken in accordance with ETSU-R-97 and its associated Good Practice Guide and supplementary guidance notes to be undertaken in the event of a complaint
- b) Noise limits, agreed with the Planning Authority, for the cumulative noise levels from any or all of Beinnuen Wind Farm and Beinnuen Wind Farm Extension.

- c) Details of the mitigation measures to be enacted, along with a timetable(s) for implementation in the event that the agreed noise limits are exceeded. A range of measures may need to be established to cover the different possible scenarios due to the number of wind turbine developments.

Within 21 days from receipt of a written request of the Planning Authority, following a complaint to it alleging noise disturbance at a dwelling, the approved noise measurement and mitigation scheme must be implemented. Any noise measurements and calculations must be undertaken in accordance with the scheme.

The wind farm operator shall provide to the Planning Authority the independent consultant's assessment of the rating level of noise immissions within 2 months of the date of the written request of the Planning Authority, unless the time limit is extended in writing by the Planning Authority. All data collected for the purposes of undertaking the compliance measurements shall be made available to the Planning Authority on the request of the Planning Authority.

Where a further assessment of the rating level of noise immissions from the wind farm is required to assess the complaint, the wind farm operator shall submit a copy of the further assessment within 21 days of submission of the independent consultant's assessment to the Planning Authority unless the time limit for the submission of the further assessment has been extended in writing by the Planning Authority.

The wind farm operator shall continuously log power production, wind speed and wind direction. This data shall be retained for a period of not less than 24 months. The wind farm operator shall provide this information in writing to the Planning Authority within 14 days of such a request.

Reason: To ensure that, following a complaint, noise levels can be measured to assess whether or not the predicted noise levels set out within the supporting noise assessment have been breached both alone and in combination and where excessive noise is recorded, suitable mitigation is undertaken.

2. All other conditions pertaining to deemed planning permission 14/03983/S36, except conditions 21 and 25 which shall be deleted.

Designation: Head of Planning and Building Standards
Author: Simon Hindson - Acting Principal Planner
Background Papers: Documents referred to in report and in case file.
Relevant Plans: PL02 Location Plan

Appendix 1 – Letters of Representation

Objectors

None.

Supporters

None.

General comments

None.

Appendix 2 - Decision Letter from Scottish Ministers 14/03983/S36

Energy and Climate Change Directorate
Electricity Division

T: 0300 244 1224
E: Sue.Kearns@scotland.gsi.gov.uk



Iain Simms
Arcus Consultancy Services
7th Floor
145 St Vincent Street
Glasgow
G2 5JF

11 June 2015

Dear Mr Simms,

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 EXTENSION TO THE BEINNEUN WIND FARM IN THE COUNCIL AREA OF HIGHLAND.

Application

I refer to the Application for consent under section 36 of the Electricity Act 1989 ("the Electricity Act") made by Beinneun Windfarm Extension Ltd ("the Company") dated 14 October 2014 for the construction and operation of an extension to the Beinneun Wind Farm of seven wind turbines, with a generating capacity of up to **23.8MW**. The extension would increase the total capacity of Beinneun Wind Farm to over 108.8MW. This letter contains the Scottish Ministers' decision on the application.

Planning Permission

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

Consultation– Summary of Application History

The application was lodged 14 October 2014. In accordance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000 (“the EIA Regulations”) the Company submitted an Environmental Statement (“the ES”) in support of the application describing the development and giving an analysis of its environmental effects. In accordance with requirements of the Electricity (Applications for Consent) Regulations 1990 and the EIA Regulations, advertisement of the Application and the ES was made in the local and national press, copies were placed in the public domain, and the opportunity given for those wishing to make representations to do so.

Under Schedule 8 to the Electricity Act, the relevant Planning Authority is required to be notified in respect of a section 36 consent application. Notifications were sent to Highland Council as the relevant Planning Authority, as well as to SNH and SEPA.

The Scottish Ministers’ Considerations

The Highland Council (a statutory consultee and the relevant “Planning Authority”) did not object to the Development, subject to a detailed scheme of conditions being put in place, therefore a Public Local Inquiry (PLI) is not a requirement.

The Scottish Ministers have considered fully and carefully the Application and accompanying documents and all relevant responses from consultees and third party representations received. The John Muir Trust were the only consultees who maintained an objection. No representations were received by the public.

Environmental matters

Ministers are satisfied that an Environmental Statement has been produced in accordance with the EIA Regulations and that the applicable procedures regarding publicity and consultation laid down in the EIA Regulations have been followed.

Ministers have assessed the environmental impacts of the proposed development and have taken into consideration the environmental information, including the Environmental Statement and representations from consultative bodies, including SNH, SEPA and Highland Council.

Main determining issues

Ministers, having considered the application, Environmental Statement, and the responses from consultees, consider that the main determining issues are:

- the extent to which the proposed Development accords with and is supported by Scottish Government policy and the terms of the local development plan;
- environmental impacts of the proposed Development, in particular the landscape and visual impact of the proposed Development;
- the estimated economic benefits which the proposed Development is likely to bring; and

- the renewable energy benefits of the proposed Development.

Scottish Government Policy

The Climate Change (Scotland) Act 2009, passed by the Scottish Parliament in 2009, sets out the targets for reducing greenhouse gas emissions as an interim 42% reduction target for 2020 and an 80% reduction target for 2050. The Scottish Government Renewables Action Plan then set out short term actions towards the delivery of 2020 targets for renewable energy. This Plan has been updated and extended by the 2020 Routemap for Renewable Energy in Scotland published in June 2011. This Routemap reflects the challenge of the Scottish Government's new target to meet an equivalent of 100% demand for electricity from renewable energy by 2020. A new interim target that renewable generation should account for the equivalent of 50% of Scottish demand by 2015 was set in November 2012 when the Routemap was updated. The Scottish Government is committed to the continued expansion of onshore wind farms to help meet renewables targets.

The Government's ambition is that by 2020, onshore wind developments, ranging from small and community-scale to large power utility scale, maximise engagement with communities, contribute electricity to renewables targets and, through displacement of fossil fuel generation, help to reduce fossil fuel consumption. Onshore wind also presents a prime opportunity for communities and the rural sector to generate local revenue and sustain local economies, and could be a key contributor to the target for 500 MW of renewables in community or local ownership by 2020.

The Scottish Government supports onshore wind energy development in appropriate locations. The Scottish Planning Policy 2014 (SPP) introduces a presumption in favour of development that contributes to sustainable development.

It sets out that policies and decisions should be guided by certain principles, including: giving due weight to net economic benefit; supporting delivery of infrastructure, including energy, and; protecting natural heritage, including landscape and the wider environment. SPP also states that the planning system should support the development of a diverse range of electricity generation from renewable energy technologies – including the expansion of renewable energy generation capacity.

The SPP also introduces a new spatial framework for onshore wind projects. The Beinneun Extension development has been identified as falling into Group 3 of Table 1. These are areas with potential for wind farm development, where wind farms are likely to be acceptable, subject to detailed consideration against identified policy criteria.

The National Planning Framework 3 (NPF3) further sets out the Scottish Government's commitment to establishing Scotland as a leading location for the development of renewable energy technology.

Scottish Ministers consider that this development is broadly supported by policy, primarily in that it represents sustainable development and makes a small but

significant contribution towards meeting greenhouse gas emission and renewable electricity targets. The extension to Beinneun Wind Farm would provide power equivalent to the needs of approximately 11,234 homes. This increase in the amount of renewable energy produced in Scotland is entirely consistent with the Scottish Government's policy on the promotion of renewable energy and its target for the equivalent of 100% of Scotland's electricity demand to be met from renewable sources by 2020.

Compatibility with the Local Development Plan

The proposal requires to be assessed against the Highland-wide Local Development Plan (**April 2012**). The key determining policies have been identified as the following:

Policy 28: Sustainable Development

Policy 29: Design, Quality and Place Making

Policy 31: Developer Contributions

Policy 51: Trees and Development

Policy 55: Peat and Soils

Policy 56: Travel

Policy 57: Natural, Built and Cultural Heritage

Policy 58: Protected Species

Policy 59: Other Important Species

Policy 60: Other Important Habitats

Policy 61: Landscape

Policy 63: Water Environment

Policy 67: Renewable Energy Developments

- Natural, Built and Cultural Heritage
- Other Species and Habitat Interests
- Landscape and Visual Impact
- Amenity at Sensitive Locations
- Safety and Amenity of Individuals and Individual Properties
- The Water Environment
- Safety of Airport, Defence and Emergency Service Operations
- The Operational Efficiency of Other Communications
- The Quantity and Quality of Public Access
- Other Tourism and Recreation Interests
- Traffic and Transport Interests

Policy 72: Pollution

Policy 77: Public Access

The application, when read alongside the schedule of mitigation proposed by the applicant and the further mitigation suggested by consultees that can be secured by conditions, is one which is seen to accord with the policies of the Council's Development Plan.

Landscape, visual and cumulative impacts

Scottish Natural Heritage have not objected to the application, but advises that an Appropriate Assessment is necessary prior to the determination of the application as the site has potential connectivity to the West Inverness-shire Lochs Special Protection Area. SNH consider that the development will slightly increase the spread of turbines and as such increase the visibility off turbines from the A87. SNH do not consider that additional landscape and visual effects arising from this proposal significant. Conditions are sought to secure protected species mitigation, employment of an Ecological Clerk of Works, pre-construction surveys, enhancement to the current habitat management plan and marking of working corridors.

Highland Council as the relevant Planning Authority noted the development will not be viewed in isolation and will be viewed predominantly as an integral part of the Beinneun Wind Farm. The consented Millennium Wind Farm and associated extensions sit to the east. In addition the Millennium South Wind Farm is awaiting a decision from Scottish Ministers. It is considered that the proposed wind farm will sit comfortably with the consented Beinneun Wind Farm and those others in close proximity including Millennium 1, 2, 3 and Millennium South. However it is considered that this development would then take much of the remaining landscape capacity for wind energy development on this elevated landscape

Habitats Regulations

SNH advised the proposal has potential connectivity to the West Inverness-shire Lochs Special Protection Area (SPA) and recommended mitigation to clearly mark the working corridors in the vicinity of this habitat to ensure there is no encroachment into these areas. They support the development of a Habitat Management Plan and recommend that the current plan needs to be enhanced prior to construction. An appropriate assessment (Annex D - Appropriate Assessment) was carried out which concluded that if the proposal is undertaken in strict accordance with the mitigating condition on common scoter then the proposal will not adversely affect the integrity of the SPA.

Economic and Renewable Energy Benefits

The seven turbine extension would provide energy to power up to 11,234 households per year. The extension would increase the total generating capacity of Beinneun Wind Farm to over 108.8MW, sufficient to power approximately 51,354 average households per year. Overall, including the extension, the development in its entirety offers a significant contribution towards Renewable Energy targets.

Scottish Ministers recognise this increase in the amount of renewable energy produced is entirely consistent with the Scottish Government's policy on the promotion of renewable energy and its target for renewable sources to generate the equivalent of 100% of Scotland's annual electricity demand by 2020. It is also consistent with climate change objectives.

Significant economic benefits to Scotland will arise through investment in construction and employment, and there will also be clear economic benefits to the country arising from the production of electricity - through its export, which is an important economic aspiration for Scotland, and through the fact that it will support security of supply which is essential to the countries' economic wellbeing.

During the construction phase there could be around 30 short-term jobs during construction. There would be indirect local benefits arising from the construction phase including the use of local accommodation, shops and restaurants, and opportunities for local and regional contractors for construction and throughout the supply chain.

Public Representations

The Scottish Government have received no representations in objection or in support of Beinneun Wind Farm Extension.

Environmental Benefits and Carbon Payback

The total annual CO₂ saving from the wind farm over the 25 year operational life of the wind farm is estimated by the Company to be:

- 49,544 tonnes of CO₂ per year saved using the coal CO₂ emission factor; or
- 24,799 tonnes of CO₂ per year saved using the UK grid supply mix CO₂ emission factor

The Company's calculation of the time required for the Development to generate enough carbon-free electricity to offset its own carbon footprint (known as the "CO₂ payback period"), was calculated as 1.6 years. Ministers have noted the SEPA assessment on behalf of the Scottish Government of the Company's calculation of the CO₂ payback period, and, although the figures above have been prepared by the Company and can therefore be questioned, are content that they still serve to demonstrate that the wind farm will make a significant positive contribution to reducing CO₂ emissions.

Summary of Scottish Ministers' Considerations

Scottish Ministers have considered fully and carefully matters raised in statutory and non-statutory consultee responses as well as the Environmental Statement and have weighed the impacts of the development, and the degree to which these can be mitigated, against the renewable energy and economic benefits which would be realised. Ministers have undertaken that exercise in the context of national and local policies.

Ministers consider that the balance is in favour this development and that, subject to conditions, **consent under section 36 of the Electricity Act 1989 should be**

granted and a direction be made under section 57(2) of the Town and Country Planning (Scotland) Act 1997 that planning permission be deemed to be granted.

Non-material Considerations

The Company will be paying £5,000 per MW per year for community benefit for the extension, which would be £119,000 per year. In addition, as part of the consented scheme, they have committed to giving all properties within 6 miles of the wind farm £250 towards electricity bills each year. The extension will increase the number of properties that fall within this 6 mile boundary by 15. The Scottish Ministers, while supportive of community benefit, have not taken these payments or the community benefit arising into account when reaching their decision on the application.

Duration of planning permission

Section 58(1) of the Town and Country Planning (Scotland) Act 1997 provides that planning permission lapses if development has not begun within a period of 3 years. Section 58(2) of that Act enables Ministers to direct that a longer period is allowed before planning permission lapses. Scottish Government policy is that due to the constraints, scale and complexity of constructing such developments, and the variables around wind farm connections feeding into the distribution and transmission network, a 5 year time scale for the commencement of the development can be appropriate. In this case there are number of conditions in place, relating to minimising the impact of the development on the environment, for monitoring works to be carried out up to a year in advance of commencing development. A direction by Scottish Ministers under section 58(2) of the Town and Country Planning (Scotland) Act 1997 has therefore been made as part of the determination for this consent.

The Scottish Ministers' Determination

Subject to the conditions set out in Part 1 of Annex 2, Scottish Ministers **grant consent** under section 36 of the Electricity Act 1989 for construction and operation of the extension to the Beinneun Wind Farm Extension in the Highland Council area (as described in Annex 1);

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

The Scottish Ministers direct that section 58(1) of the Town and Country Planning (Scotland) Act 1997 is not to apply with regard to that planning permission and that planning permission is to lapse on the expiry of a period of 5 years from the date of this direction unless the Development is begun within that period.

In accordance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000, the Company must publicise this determination for two

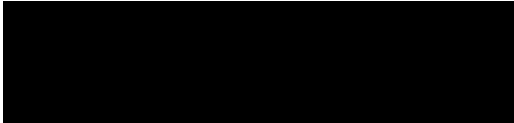
successive weeks in the Edinburgh Gazette and one or more newspapers circulating in the locality in which the land to which the Application relates is situated.

Copies of this letter and the consent have been sent to the Planning Authority. This letter has also been published on the Scottish Government Energy Consents website.

The Scottish Ministers' decision is final, subject to the right of any aggrieved person to apply to the Court of Session for judicial review. Judicial review is the mechanism by which the Court of Session supervises the exercise of administrative functions, including how the Scottish Ministers exercise their statutory function to determine applications for consent. The rules relating to the judicial review process can be found on the website of the Scottish Courts –

<http://www.scotcourts.gov.uk/session/rules/print/rules/CHAP58.pdf>. Your local Citizens' Advice Bureau or your solicitor will be able to advise you about the applicable procedures.

Yours sincerely

A large black rectangular redaction box covering the signature of SUE KEARNS.

SUE KEARNS

Head of Local Energy and Consents

For and on behalf of the Scottish Ministers

A member of the staff of the Scottish Government

ANNEX 1

Description of the Development

The Development is the Beinneun Wind Farm Extension electricity generating station with a generating capacity of 23.8MW and comprising a 7 turbine extension to the previously consented Beinneun Wind Farm, located 8 kilometres north-west of Invergarry, in the Highland Council planning area as described in the Application (including the approved drawings listed at Annex D to this decision) and Environmental Statement (submitted on 14 October 2014).

The principal components of the extension to the wind farm and related ancillary developments of the wind farm, comprise:

- Seven wind turbines with a blade tip height of up to 136m, generating capacity of up to 3.4MW per turbine and associated infrastructure including foundations, hardstandings, transformers and crane-hard standings;
- 3.2km of new access tracks and associated turning areas; and
- transformers, electrical equipment and underground cabling to the already consented electrical sub-station.

ANNEX 2

CONDITIONS

Part 1 - Conditions attached to Section 36 Consent

1. The consent is for a period of 25 years from the date of Final Commissioning.

Written confirmation of the date of First Commissioning shall be provided to the Planning Authority and Scottish Ministers no later than one calendar month after that date.

Reason: *To define the duration of the consent.*

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

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

3. In the event that any wind turbine installed and commissioned fails to produce electricity on a commercial basis to the public network for a continuous period of 6 months, then, unless otherwise agreed in writing with the Scottish Ministers in consultation with the Planning Authority, it shall be deemed to have ceased to be required. If it is deemed to have ceased to be required the wind turbine and its ancillary equipment shall be dismantled and removed from the site by the Company by no later than the date occurring 6 months after the end of the said continuous 6 months period, and the ground fully reinstated to the specification and satisfaction of the Scottish Ministers in consultation with the Planning Authority.

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

4. The Company shall not be permitted to assign this consent without the prior written authorisation of the Scottish Ministers. The Scottish Ministers may assign the consent (with or without conditions) or refuse assignation as they may, in their own discretion, see fit. The consent shall not be capable of being assigned, alienated or transferred otherwise than in accordance with the foregoing procedure.

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

5. In the event of any breach of health and safety or environmental obligations relating to the Development during the period of this consent, the Company will provide written notification of the nature and timing of the incident to the Scottish

Ministers, including confirmation of remedial measures taken and/ or to be taken to rectify the breach, within 24 hours of the incident occurring.

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

Part 2 - Conditions attached to the deemed Planning Permission

The deemed planning permission is subject to the following planning conditions:-

1. Upon the expiration of a period of 25 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"), 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 the permission below. Written confirmation of the First Export Date shall be submitted in writing to the Planning Authority within one month of the First Export Date.

Reason: *Wind turbines have a projected lifespan of 25 years, after which their condition is likely to be such that they require to be replaced, both in terms of technical and environmental considerations. This limited consent period also enables a review and, if required, reassessment to be made of the environmental impacts of the development and the success, or otherwise, of noise impact, species protection, habitat management and mitigation measures.*

2. No development shall commence until a draft Decommissioning and Restoration Plan (DRP) for the site has been submitted to, and approved in writing by, the Planning Authority in consultation with SNH and SEPA. Thereafter:

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

Reason: *To ensure that all wind turbines and associated development are removed from site should the wind farm become largely redundant; in the interests of safety, amenity and environmental protection.*

3. No development shall commence until a binding agreement is in place to provide a financial guarantee with the Planning Authority to secure the proper decommissioning of the wind farm and site reinstatement as set out within the approved draft Decommissioning and Restoration Plan required under Condition 2 above.

Reason: *To ensure the necessary finances are secured to guarantee site restoration.*

4. The Wind Farm Operator shall, at all times after the First Export Date, record information regarding the monthly supply of electricity to the national grid from each turbine within the development and retain the information for a period of at least 24 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, or, should the detailed Decommissioning and Reinstatement Plan not have been approved at that stage, other decommissioning and reinstatement measures, based upon the principles of the approved draft DRP, as may be specified in writing by the Planning Authority.

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

5. No development shall commence until written confirmation has been issued by the Planning Authority that a legal agreement has been reached between the Planning Authority and the Company for the provision of a Planning Monitoring Officer (PMO) to monitor compliance with the conditions attached to this planning

permission. The role of the PMO, amongst other things, shall include the monitoring of, and enforcement of compliance with, all conditions, agreements and obligations related to this permission (or any superseding or related permissions) and shall include the provision of a quarterly compliance report to the Planning Authority.

Reason: *To help, given the scale and complexity of the development, ensure compliance with the conditions of this permission.*

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. For the avoidance of doubt, all wind turbine blades shall rotate in the same direction.

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

7. Unless otherwise agreed in writing by the Planning Authority, all of the wind turbine transformers shall be located within the tower of the wind turbine to which they relate. Agreement for external transforms will only be given if the Company can, through detailed design work and additional landscape and visual impact assessment, demonstrate, to the satisfaction of the Planning Authority, that they would not adversely affect the character, integrity or general amenity of the application site and its setting.

Reason: *To ensure ancillary elements of the development, such as external transformers, are only permissible if, following additional design and LVIA work, are demonstrated to be acceptable in terms of visual, landscape and other environmental impact considerations.*

8. No development shall commence until full details of the final location, layout, external appearance, dimensions and surface materials of all control buildings, substations, 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 the deployment of peat bunds for screening of buildings / equipment is not permitted.

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

9. Unless there is a demonstrable health and safety or operational reason, none of the wind turbines, anemometers, power performance masts, switching stations or transformer buildings/enclosures, ancillary buildings or above ground fixed plant shall display any name, logo, sign or other advertisement without express advertisement consent having been granted on application to the Planning Authority.

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

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

i. the date of commencement of the Development;
ii. the exact position of the wind turbine towers in latitude and longitude;
iii. a description of all structures over 300 feet high;
iv. the maximum extension height of all construction equipment;
v. the height above ground level of the tallest structure; and
vi. detail of an infra-red aviation lighting scheme as agreed with aviation interests and the Planning Authority to include: -

- turbines at the cardinal points should be fitted with 25 candela omnidirectional red lighting or infra-red lighting with an optimised flash pattern of 60 flashes per minute of 200ms to 500ms duration at the highest practicable point.
- remaining perimeter turbines should be fitted with infra-red lighting with an optimised flash pattern of 60 flashes per minute of 200ms to 500ms duration at the highest practicable point.

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

11. No development shall commence until a Construction Traffic Management Plan (CTMP) has been submitted to, and approved by, the Planning Authority in consultation with the relevant Roads Authority(s). The CTMP, which shall be implemented as approved, must include:

- i. A description of all measures to be implemented by the Company in order to manage traffic during the construction phase (incl. routing strategies), with any additional or temporary signage and traffic control undertaken by a recognised SQ traffic management consultant;
- ii. The identification and delivery of all upgrades to the public road network to ensure that it is to a standard capable of accommodating construction-related traffic (including the formation or improvement of any junctions leading from the site to the public road) to the satisfaction of The Highland Council and, where appropriate, Transport Scotland, including;
 - a. A route assessment report for abnormal loads and construction traffic, including swept path analysis and details of the movement of any street furniture, any traffic management measures and any upgrades and mitigations measures as necessary;
 - b. An assessment of the capacity of existing bridges and other structures along the construction access routes to cater for all construction traffic, with upgrades and mitigation measures proposed and implemented as necessary;
 - c. A videoed trial run to confirm the ability of the local road network to cater for turbine delivery. Three weeks' notice of this trial run must be made to the local Roads Authority who must be in attendance;
- iii. Drainage and wheel washing measures to ensure water and debris are prevented from discharging from the site onto the public road;
- iv. A risk assessment for the transportation of abnormal loads to site during daylight hours and hours of darkness;
- v. A contingency plan prepared by the abnormal load haulier. The plan shall be adopted only after consultation and agreement with the Police and the respective roads authorities. It shall include measures to deal with any haulage incidents that may result in public roads becoming temporarily closed or restricted.
- vi. A procedure for the regular monitoring of road conditions and the implementation of any remedial works required during the construction period.
- vii. A detailed protocol for the delivery of abnormal loads/vehicles, prepared in consultation and agreement with interested parties. The protocol shall identify any requirement for convoy working and/or escorting of vehicles and include arrangements to provide advance notice of abnormal load movements in the local media. Temporary signage, in the form of demountable signs or similar approved, shall be established, when required, to alert road users and local residents of expected abnormal load movements. All such movements on Council maintained roads shall take place outwith peak times on the network, including school travel times, and shall avoid local community events.
- viii. A detailed delivery programme for abnormal load movements, which shall be made available to Highland Council and community representatives.
- ix. Details of any upgrading works required at the junction of the site access and the public road. Such works may include suitable drainage measures, improved

geometry and construction, measures to protect the public road and the provision and maintenance of appropriate visibility splays.

x. Details of appropriate traffic management which shall be established and maintained at the site access for the duration of the construction period. Full details shall be submitted for the prior approval of Highland Council, as roads authority.

xi. A concluded agreement in accordance with Section 96 of the Roads (Scotland) Act 1984 under which the Company is responsible for the repair of any damage to the public road network that can reasonably be attributed to construction related traffic. As part of this agreement, pre-start and post-construction road condition surveys must be carried out by the Company, to the satisfaction of the Roads Authority(s).

xii. Measures to ensure that construction traffic adheres to agreed routes.

xiii. Appropriate reinstatement works shall be carried out, as required by Highland Council, at the end of the turbine delivery and erection period.

Reason: *To maintain safety for road traffic and the traffic moving to and from the development, and to ensure that the transportation of abnormal loads will not have any detrimental effect on the road network.*

12. During the delivery period of the wind turbine construction materials any additional signing or temporary traffic control measures deemed necessary due to the size or length of any loads being delivered or removed must be undertaken by a recognised Quality Assured traffic management consultant, to be approved by Transport Scotland / The Highland Council before delivery commences.

Reason: *To minimise interference with the safety and free flow of traffic on the road network.*

13. Prior to the commencement of development, an updated traffic impact statement, including the impact of maintenance vehicles during the operational phase of the development, must be submitted to the Planning Authority for final approval in consultation with the Roads Authority. Where departures are proposed from the initial traffic impact assessment, these must be supported with an agreed pre construction survey assessment and appropriate mitigation to safeguard the integrity of the local road network including as necessary the prior provision of “wear and tear” agreement / financial bond.

Reason: *To ensure that all construction traffic will not have any detrimental effect on the road and structures to be used within the construction of the development.*

14. No development shall commence until a community liaison group is established by the Company, in collaboration with The Highland Council and local

Community Councils. The group shall act as a vehicle for the community to be kept informed of project progress and, in particular, should allow advanced dialogue on the provision of all transport-related mitigation measures and to keep under review the timing of the delivery of turbine components. This should also ensure that local events and tourist seasons are considered and appropriate measures to co-ordinate deliveries and work with these and any other major projects in the area to ensure no conflict between construction traffic and the increased traffic generated by such events / seasons / developments. The liaison group, or element of any combined liaison group relating to this development, shall be maintained until the wind farm has been completed and is fully operational.

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

15. No development shall commence until a detailed Outdoor Access 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, canoeists, all-abilities users, etc. and any other relevant outdoor access enhancement (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 Outdoor Access 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: *In order to safeguard public access during the construction phase of the development.*

16. No development shall commence until a Construction Environmental Management Document (CEMD), in accordance with The Highland Council's Guidance Note on Construction Environmental Management Process for Large Scale Projects (August 2010) (as amended, revoked or re-enacted; with or without

modification), has been submitted to, and approved in writing by, the Planning Authority (in consultation with SEPA, SNH and TECS). The CEMD shall be submitted at least two months prior to the intended start date on site and shall include the following:

- i. An updated Schedule of Mitigation (SM) drawing together all approved mitigation proposed in support of the application and other agreed mitigation (including that required by agencies and relevant planning conditions attached to this permission);
- ii. Change control procedures to manage/action changes from the approved SM, CEMD and Construction Environmental Management Plans;
- iii. Construction Environmental Management Plans (CEMPs) for the construction phase, covering:
 - a. Habitat and Species Protection;
 - b. Pollution Prevention and Control;
 - c. Dust Management;
 - d. Noise and Vibration Mitigation;
 - e. Site Waste Management, including measures to address spoil heap storage and the re-use and removal of spoil;
 - f. Surface and Ground Water Management;
 - i. Drainage and sediment management measures from all construction areas including access track improvements; and
 - ii. Mechanisms to ensure that construction will not take place during periods of high flow or high rainfall
 - g. Water Course Management;
 - i. Detailed designs of all new and / or improved water course crossings
 - ii. Development buffers from watercourses
 - h. Peat Management Plan – to include details of all peat stripping, excavation, storage and reuse of material in accordance with best practice advice published by SEPA and SNH. This should for example highlight how sensitive peat areas are to be marked out on-site to prevent any vehicle causing inadvertent damage.
 - i. Management of Geo-technical Risks including provision of a completed Peat Landslide Risk Assessment;
 - j. Water Quality Monitoring Plan, including information on monitoring programmes pre, during and post construction in relation to water quality chemistry, visual observations, surveys of aquatic macro-invertebrates assemblages, fish and habitat surveys, sampling and analysis and the actions which will be taken if monitoring indicates a deterioration in water quality which may affect aquatic life;
 - k. Public and Private Water Supply Protection Measures;
 - l. Construction Noise Mitigation Plans
 - m. Emergency Response Plans;
 - n. Habitat Management Plan to highlight positive enhancement of priority habitat and peatland including the effective monitoring and reporting post construction. This plan should address construction displacement, the potential for the wind farm to create new sources of food, the impacts this may have and how this will be monitored and managed over time. It should also take into account the potentially competing objectives of any other objectives for the site (e.g. habitat restoration), and seek the optimum outcome for both; and

o. Other relevant environmental management as may be relevant to the development.

p. Special Study Area plans for:

i. Groundwater-dependant Terrestrial Ecosystems;

ii. Species habitat identified within the Environmental Statement and/or raised by consultees. This should be informed by pre-commencement surveys for all protected species identified in the Environmental Statement and set out buffer areas to prevent encroachment on protected species and valued habitats; and

q. Any other specific issue identified within the Environmental Statement, Schedule of Mitigation and/or conditions attached to this permission;

r. Post-construction restoration and reinstatement of temporary working areas, compounds and borrow pits;

s 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 Company 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 Company 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, as 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.

vii. A statement of responsibility to 'stop the job/activity' if a breach or potential breach of mitigation or legislation occurs; and

viii. Methods for monitoring, auditing, reporting and the communication of environmental management on site and with client, Planning Authority, Community Liaison Group (as required under Condition 14 of this consent), and other relevant parties.

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

Reason: *To protect the environment from the construction and operation of the development and secure final detailed information on the delivery of all on-site mitigation projects.*

17(a). 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. No wind turbine foundation shall be positioned higher, when measured in metres Above Ordnance Datum (Newlyn), than the position shown on the original approved plans;

ii. No wind turbine, mast, hardstanding or track shall be moved:

- More than 50m from the position shown on the original approved plans;
- “So as to be located in closer proximity to highly groundwater dependant terrestrial ecosystem habitats than the position shown on the approved plans.”;
- To a position within 50m of any watercourse or, where it outlines a lesser distance, to a position within a watercourse buffer zone identified within the approved Environmental Statement and/or plans;
- To a position within an area identified within the approved Environmental Statement and/or plans as having a gradient constraint, being deep peat (that is peat with a depth of 1.5m or greater) or having a peat landslide hazard risk of significant or greater;

iii. No wind turbine, mast, hardstanding or track shall be moved where a change to its position, location or route has been proscribed under a condition of this permission.

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). 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. Any micro-siting beyond 50m will require the specific written approval of the Planning Authority.

Reason: *To enable appropriate micro-siting within the site to enable the Company to respond to site-specific ground conditions, while enabling the Planning Authority to retain effective control over any changes to layout that may have ramifications for the environment and/or landscape and visual impact.*

17(b). Unless otherwise approved in writing by the Planning Authority (in consultation with SEPA and SNH), micro-siting is subject to the following restrictions:

i. A plan showing the location of the micro-sited turbine(s) relative to the originally approved location;

ii. Detailed reasoning for the micro-siting of the turbine(s);

iii. An assessment of the visual impact of the micro-siting; and

iv. Compliance with conditions set out under condition 17(a).

Within one month of the wind farm being commissioned, the Company 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 micro-siting has taken place and, for each instance, be accompanied by copies of the ECoW or Planning Authority's approval, as applicable.

Reason: *To enable appropriate micro-siting within the site to enable the Company to respond to site-specific ground conditions, while enabling the Planning Authority to retain effective control over any changes to layout that may have ramifications for the environment and/or landscape and visual impact.*

18. 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 Company shall be required to put in place a financial guarantee with The Highland Council to ensure that the plan can be implemented if so required. 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 Company and the results shall be submitted to the Planning Authority. Should any impairment to the TV signal be attributable to the development, the Company shall remedy such impairment so that the standard of reception at the affected property is equivalent to the baseline TV reception.

Reason: *To ensure local TV and Radio Services are sustained during the construction and operation of this development.*

19. All wires and cables between the wind turbines, control buildings, sub-stations and welfare buildings shall be located underground within the verge of the access tracks or within 3m of the access tracks, unless otherwise agreed in writing by the Planning Authority. Thereafter, and within three months of the completion of cable laying, the ground shall be reinstated to a condition comparable with that of the adjoining land, to the satisfaction of the Planning Authority.

Reason: *To ensure that the construction of the wind farm is carried out appropriately and does not have an adverse effect on the environment.*

20. No development shall commence until a Habitat Management Plan (HMP) has been submitted to, and approved in writing by, the Planning Authority, in consultation with SNH, SEPA and RSPB, providing for measures to protect and manage habitat and species within and adjoining the application site. The approved HMP, which shall be implemented in full unless otherwise agreed in writing, shall include:

i. the identification of management methods and opportunities to mitigate for any adverse impacts on sensitive habitats as identified in any Environmental Statement or other documentation approved under this permission. For the avoidance of doubt this should focus on:

- a. areas of montane heath and other habitats listed within Annex 1 of the Habitats Directive;
 - b. measures for the enhancement of the black grouse habitat;
 - c. management of deer impacts.
- ii. Methodology for the ongoing monitoring of the HMP over the lifetime of the development.

The approved HMP shall be revised every 5 years and submitted to the Planning Authority for approval, in consultation with SEPA, SNH and RSPB, within 6 months of the review date. The revised HMP, and any associated mitigation, shall be implemented in full or as otherwise may be agreed within the approved plan.

Reason: *To protect and enhance the nature conservation interests of the area, including the management of habitats on the site, mitigate any effects on Black Grouse and their habitat and avoid adverse effects on other species of nature conservation interest.*

21. No development shall commence until a scheme for the working of each borrow pit within the site has been submitted to, and approved in writing by, the Planning Authority, in consultation with SEPA and SNH. Thereafter, the scheme shall be implemented as approved. The scheme shall make provision for:

- i. Methods of working (including the timing of works and the use of explosives and/or rock-breaking equipment);
- ii. A description of the volume and type of minerals, aggregates and/or fines to be extracted from each borrow pit;
- iii. A site plan and section drawings showing the location and extent of each extraction area;
- iv. Overburden (peat, soil and rock) handling and management;
- v. Drainage infrastructure, including measures to prevent the drying out of surrounding peatland; and
- vi. A programme for the re-instatement, restoration and aftercare of each borrow pit once working has ceased.

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

22. No development shall commence until a Peat Management Plan, developed in consultation with SEPA and SNH, has been submitted to, and approved in writing to, the Planning Authority. The Peat Management Plan shall draw upon the findings of any approved Environmental Statement, Peat Slide Risk Assessment, consider the findings of any additional ground investigations carried out prior to development commencing and include a management/reinstatement scheme for all peat areas within the application site, including:

- i. Details and plans for all peat and soil stripping and excavation and the storage and proposed use and replacement of peat, topsoil and subsoil; and
- ii. A method statement setting out the measures to protect peat during excavation, storage, handling and reuse.

The Peat Management Plan shall take due consideration of the mineral and slope stability of the site identified in the peat landslide risk assessment and shall have regard to the drainage implications of soil movement and storage. The Plan shall be implemented as approved.

Reason: *To ensure that a plan is in place to deal with the storage and reuse of peat within the application site, including peat stability and slide risks.*

23. No development shall commence until the access to the site from the A87 and A887 is constructed to a layout and type as submitted to and agreed by the Planning Authority in consultation with Transport Scotland.

Reason: *To ensure the access is built to a standard commensurate with the anticipated use both during construction and operation of the development.*

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

- a) a framework for the measurement and calculation of noise levels to be undertaken in accordance with ETSU-R-97 and its associated Good Practice Guide and supplementary guidance notes to be undertaken in the event of a complaint
- b) Noise limits, agreed with the Planning Authority, for the cumulative noise levels from any or all of Beinneun Wind Farm, Beinneun Wind Farm Extension and Millennium South Wind Farm.
- c) Details of the mitigation measures to be enacted, along with a timetable(s) for implementation in the event that the agreed noise limits are exceeded. A range of measures may need to be established to cover the different possible scenarios due to the number of wind turbine developments.

Within 21 days from receipt of a written request of the Planning Authority, following a complaint to it alleging noise disturbance at a dwelling, the approved noise measurement and mitigation scheme must be implemented. Any noise measurements and calculations must be undertaken in accordance with the scheme. The wind farm operator shall provide to the Planning Authority the independent consultant's assessment of the rating level of noise immissions within 2 months of the date of the written request of the Planning Authority, unless the time limit is extended in writing by the Planning Authority. All data collected for the purposes of undertaking the compliance measurements shall be made available to the Planning Authority on the request of the Planning Authority.

Where a further assessment of the rating level of noise immissions from the wind farm is required to assess the complaint, the wind farm operator shall submit a copy

of the further assessment within 21 days of submission of the independent consultant's assessment to the Planning Authority unless the time limit for the submission of the further assessment has been extended in writing by the Planning Authority.

The wind farm operator shall continuously log power production, wind speed and wind direction. This data shall be retained for a period of not less than 24 months. The wind farm operator shall provide this information in writing to the Planning Authority within 14 days of such a request.

Reason: *To ensure that, following a complaint, noise levels can be measured to assess whether or not the predicted noise levels set out within the supporting noise assessment have been breached both alone and in combination and where excessive noise is recorded, suitable mitigation is undertaken.*

25. No development shall commence until written confirmation has been issued by the Planning Authority that a legally binding agreement has been reached between the operators of the Beinneun Wind Farm, Beinneun Wind Farm Extension and Millennium South Wind Farm on a protocol for cumulative Noise Measurement and Mitigation as required by Condition 24 of this deemed planning permission. This legal agreement shall be submitted to, and approved in writing by, the Planning Authority.

Reason: *To ensure that, following a complaint, cumulative noise levels can be measured to assess whether or not the predicted noise levels set out within the supporting noise assessment have been breached both alone and in combination and where excessive noise is recorded, suitable mitigation is undertaken either alone or in combination with other parties.*

26. No development shall commence until a conservation plan for Common Scoter is submitted to and approved in writing by the Planning Authority in consultation with SNH and RSPB. The conservation plan shall include:

- i. Monitoring of impacts arising from the development on Common Scoter in the West Inverness-shire Lochs SPA;
- ii. Development of a research programme into Common Scoter breeding ecology in the West Inverness-shire Lochs SPA. This shall include scoter and mammal surveys, fish studies and investigation of the loch profile.

Development and work shall progress in accordance with any mitigation measures contained within the approved conservation plan and the timescales contain therein.

Reason: *To ensure that the site and its environs are surveyed and the development does not have an adverse impact on Common Scoter and the integrity of the West Inverness-shire Lochs SPA.*

Definitions

In this consent and deemed planning permission:-

“the Application” means the Application and Environmental Statement submitted by the Company on 14 October 2014.

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

“the Company” means Beinneun Windfarm Extension Ltd (company registration 09184388), United Kingdom or such other person as from time to time has the benefit of the consent granted under section 36 of the Electricity Act.

“Construction Period” means the period from commencement of the Development until the date 6 months after the Site compounds have been reinstated in accordance with the conditions of this consent;

“the Development” means the development described in Annex 1;

“Environmental Statement” or “ES” means the Environmental Statement submitted by the Company on 14 October 2014 together with the Application authorised by this consent and deemed planning permission;

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

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

“Planning Authority” means the Highland Council;

“SEPA” means the Scottish Environment Protection Agency;

“SNH” means Scottish Natural Heritage;

“Site” means the area of land outlined in red on the Map attached to this consent;

ANNEX 3

Summary of Consultation Responses

Statutory Consultees

Highland Council as the Planning Authority did not object, subject to a detailed suite of conditions being implemented at **Annex 2**.

SEPA initially objected to the application. Conditions were sought to secure a Construction Environmental Management Plan (including information on Ground Water Dependent Terrestrial Ecosystems mitigation) and 50m buffers to watercourses. Following clarification from the applicant, SEPA removed their objection on 13 November 2014.

SNH had no objection, subject to conditions. SNH advises that the Energy Consents and Deployment Unit require to undertake an Appropriate Assessment prior to the determination of the application as the site has potential connectivity to the West Inverness-shire Lochs Special Protection Area. SNH consider that the development will slightly increase the spread of turbines and as such increase the visibility off turbines from the A87. SNH do not consider that additional landscape and visual effects arising from this proposal significant. Conditions are sought to secure protected species mitigation, employment of an Ecological Clerk of Works, pre-construction surveys, enhancement to the current habitat management plan and marking of working corridors in the vicinity of the montane habitat.

Non-statutory Consultees

Association of Salmon Fishery Boards (ASFB) did not object to the application. They advised that the ASFB guidance on terrestrial wind farms should be followed in the construction and operation of the wind farm.

BT did not object to the application and advised that the development should not interfere with the current or planned BT radio networks.

The Crown Estate did not object to the application.

Defence Infrastructure Organisation did not object, subject to a condition ensuring the development is fitted with aviation safety lighting.

Forestry Commission Scotland did not object to the application.

Fort Augustus and Glenmoriston Community Council objected to the application. Concerns have been raised in relation to the cumulative environmental impact of the development and the cumulative visual impact of the development. However, Highland Council considered that the proposed development fits within the available landscape capacity of the area, sits well with the consented Beinneun Wind Farm and the additional visual impact of wind energy development as a result of this extension is limited.

Halcrow did not object to the application on grounds of the Peat Landslide and Hazard Risk Assessment. They have recommended a series of conditions related to peat slide risk and construction of peat.

Highland Badger Network did not object to the application. They have suggested that badgers are sometimes present in upland areas and that a full scale badger survey should be undertaken and appropriate mitigation is undertaken.

Historic Scotland did not object to the application and agreed with the assessment of the impact on the Fort Augustus - Bernera Military Road Scheduled Monument.

John Muir Trust to the application due to the cumulative impact this development may have alongside other wind farms in the area.

The Joint Radio Company did not object to the application and did not envisage that the application will interfere with radio / telecommunication signals.

Marine Scotland did not object to the application. Conditions were recommended to secure ongoing water quality monitoring and site specific mitigation plans for fish populations within and downstream of the proposed development.

NATS did not object to the application.

Ness and District Salmon Fisheries Board did not object to the application subject to conditions to secure site specific water quality monitoring and monitoring of aquatic macro-invertebrate assemblages, fish populations and habitats.

RSPB Scotland did not object to the application.

Scottish Mountaineering Council did not object to the application but raised concerns over the visual and cumulative visual impact of the development, impacts on mountain landscapes and impacts on wild land. Conditions were sought related to access and decommissioning.

Scottish Water did not object to the application. They advised that the development is in a Drinking Water Protected Area and they list a series of precautions associated with developments in these areas.

Scottish Wildlife Trust did not object to the application.

Scotways did not object to the application. They advise that there are no rights of way directly affected by the proposed development and that any development should ensure that any access diversions / restrictions should not be in place for a significant period of time or significantly extend the route. They raised concerns that the Corbett Meall Dubh was not considered in the assessment of effects on visual resource.

Transport Scotland did not object to the application as the development would not have a significant impact on the trunk road network. Conditions were recommended

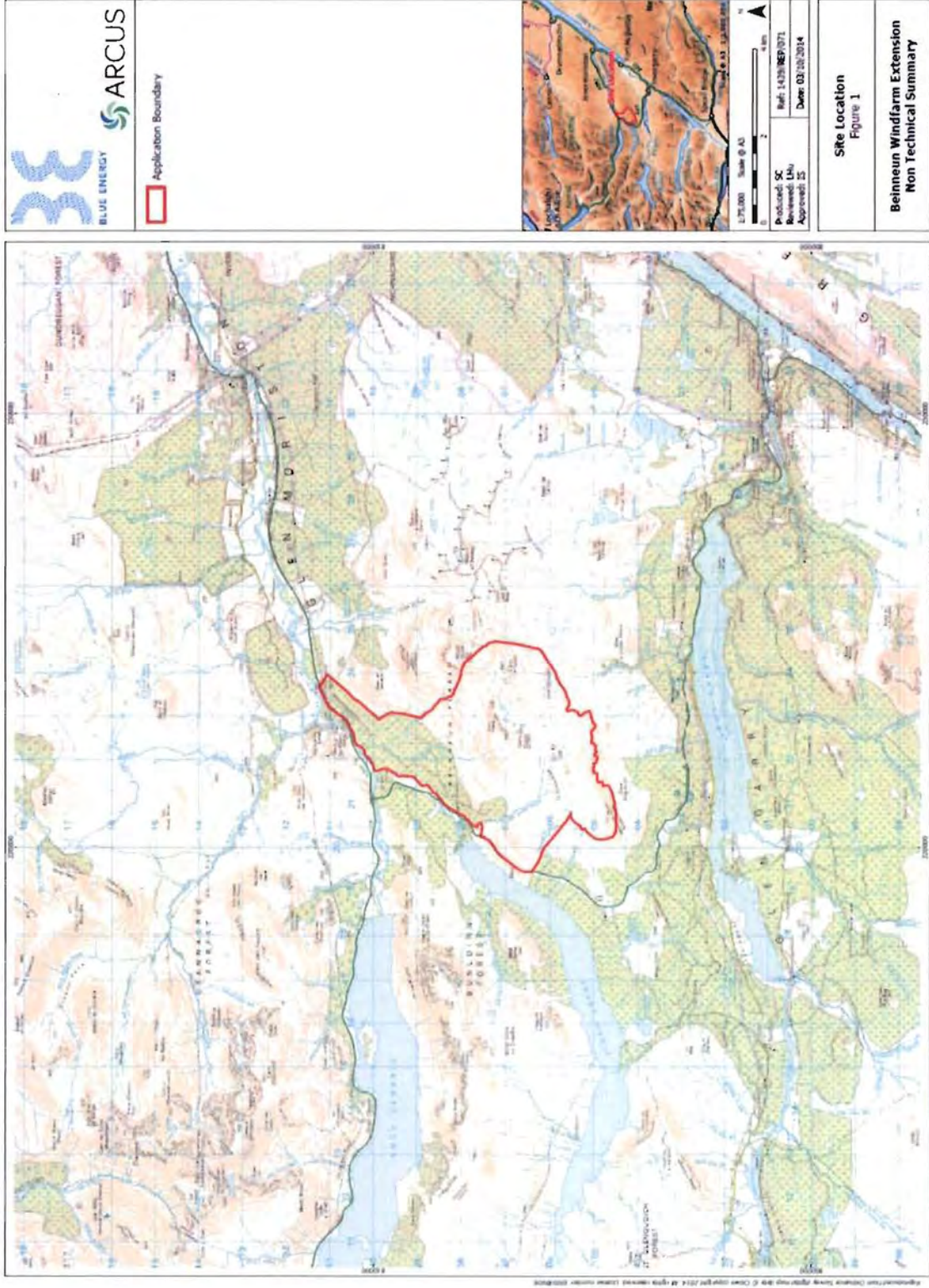
to secure details of the route of abnormal loads and any mitigation measures required, provision of quality assured signage, and provision of wheel washing facilities within the site.

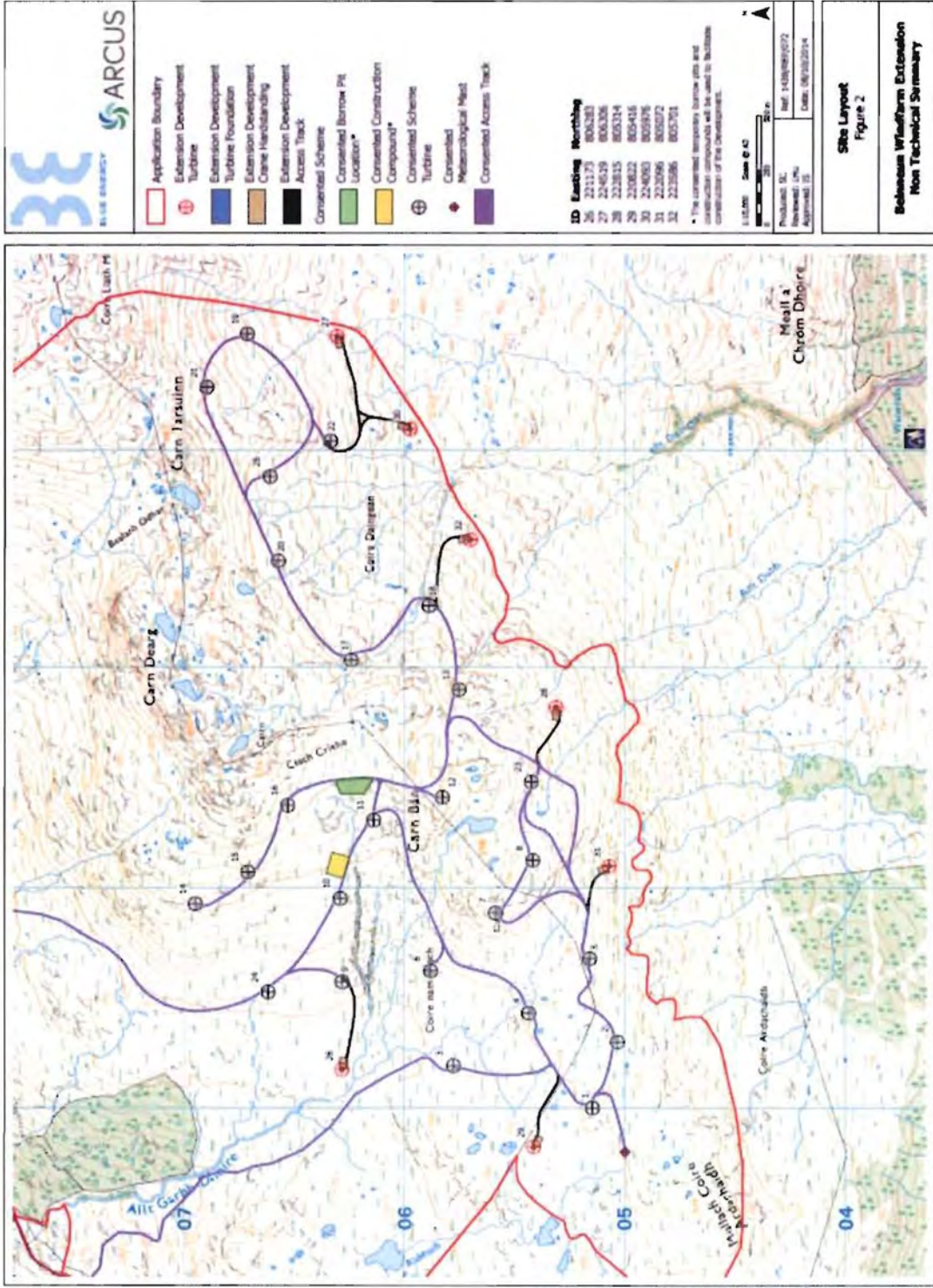
Visit Scotland did not object to the application. In their response they advised on the importance of scenery to tourism.

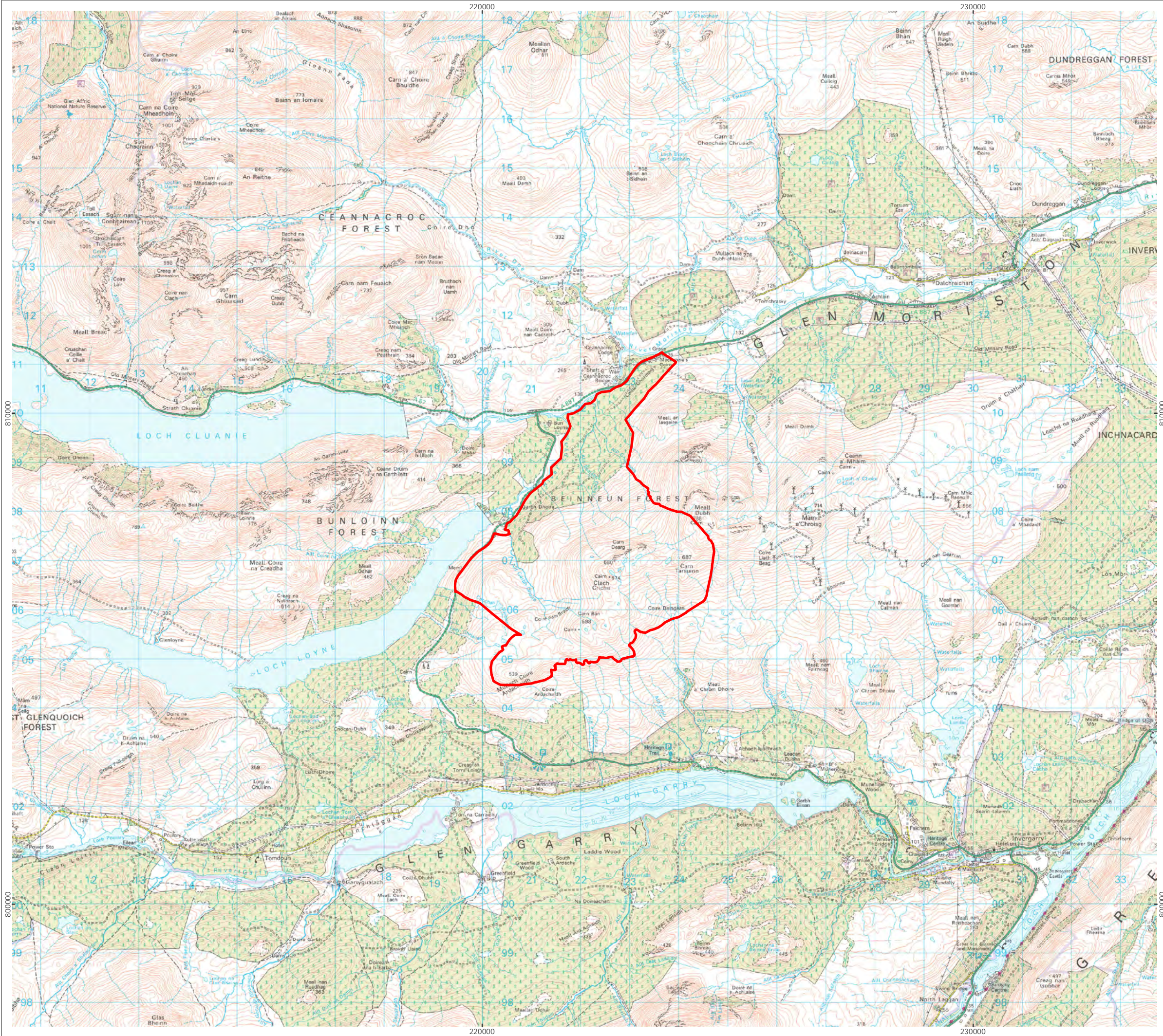
The following bodies had no comments:

Nuclear Safety Directorate, Association of Protection for Rural Scotland, Garden History Society in Scotland, Atkins Global, BAA, Highlands and Islands Airport, Highland Badger Network, National Trust for Scotland, Ramblers Association (Scotland), Glengarry Community Council, North Highland Bat Network, Sustrans.

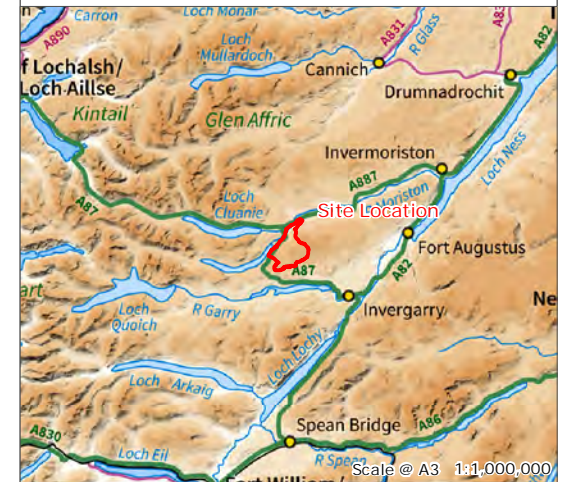
ANNEX D – SITE MAPS







Application Boundary



1:75,000 Scale @ A3
 0 2 4 km

Produced: SC	Ref: 1439/REP/012
Reviewed: LHU	Date: 15/09/2014
Approved: IS	

Site Location
Figure 1.1

Beinneun Windfarm Extension
Environmental Statement

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