

Agenda Item	<b>7.1</b>
Report No	<b>PLN/028/18</b>

## THE HIGHLAND COUNCIL

**Committee:** North Planning Applications Committee

**Date:** 17 April 2018

**Report Title:** 16/04966/S36: E.ON

Golticlay Wind Farm – Land 2040 metres NE of Bulreanrob, Lybster

**Report By:** Area Planning Manager – North

### 1. **Purpose/Executive Summary**

1.1 **Description:** Wind farm development (Golticlay Wind Farm), up to 19 turbines up to 3.4 MW with a maximum tip height of 130 m and associated infrastructure including borrow pit, tracks, cabling and ancillary buildings.

**Ward:** 03 – Wick and East Caithness

**Development category:** Major

**Reason referred to Committee:** Manager's discretion

This is an update report further to the report on this application considered by Committee on 12 September 2017.

### 2. **Recommendation**

2.2 Members are asked to confirm their decision to object but to agree the recommendation to amend the Committee's reasons for objecting to the application as set out in section 5 of the report.

## **1. PROPOSED DEVELOPMENT**

- 1.1 The Applicant proposes the erection of 19 wind turbines up to 3.4 MW with a maximum tip height of 130 m and associated infrastructure including borrow pit, tracks, cabling and ancillary buildings at Land 2040 metres NE of Bulreanrob, Lybster. The North Planning Applications Committee objected to the application under section 36 of the Electricity Act 1989 (as amended) at its meeting held on 12 September 2017.
- 1.2 The reasons for objecting given by the Committee were:
1. The proposal is contrary to Policy 67 (Renewable energy) and Policy 28 (Sustainable Design) of the Highland-wide Local Development Plan and the Onshore Wind Energy Supplementary Guidance as the development would have a significantly detrimental visual impact on the Caithness landscape for local residents and visitors, particularly as viewed from the village of Lybster, as evidenced in Viewpoint 6 at the Bayview Hotel and Viewpoint 4 at Upper Lybster.
  2. The application is contrary to Policy 67 (Renewable Energy) and Policy 57 (Natural, Built and Cultural Heritage) of the Highland-wide Local Development Plan and Scottish Planning Policy 2014 as the impacts of the development would be detrimental to the local wildcat and osprey population and are not able to be satisfactorily mitigated by siting, or other mitigation.

## **2. PUBLIC LOCAL INQUIRY**

- 2.1 A public inquiry has been triggered by the Committee's objection to the application. The Council's Scheme of Delegation, confers delegated authority to the Head of Corporate Governance, and practising solicitors authorised by him, the power/duty to defend or appear or to instruct a defence or appearance in legal or other proceedings brought against the Council. That power is broad enough to encompass all matters concerned in a public inquiry, including adding or removing grounds of objection. Further, under that part of the Scheme concerning Appeals, Reviews, Inquiries, the power is delegated to the Head of Planning and Building Standards, Development Management Team Leaders and Planning Officers to act on behalf of and represent the views of the Council in any appeal proceedings, hearings, inquiries or following the call-in of an application by Scottish Ministers. That power is also broad enough to encompass all matters concerned in a public inquiry, including adding or removing grounds of objection.
- 2.2 In considering Committee's reasons for objecting it was considered by Senior Counsel appointed to represent the Council at the Inquiry, officers and those Elected Members that will be involved in the Inquiry that upon further consideration of the available evidence and taking into account material arising since the Council's objection including RSPB's most recent statement (which appears to suggest conditions may satisfy its concerns in respect of the ospreys) and the Applicant's response in terms of both osprey and wildcat and the proposed conditions, it was no longer appropriate to sustain the second reason for objecting to the application.

2.3 The Council has engaged the services of a landscape consultant who, having considered the case and carried out a site visit has agreed to represent the Council at the forthcoming Inquiry. Reason for objection 1 is sufficient basis upon which to maintain an objection to the Inquiry and the Council's actions do not prevent others raising such issues as they wish to before the Reporter. Further, the Council's witness for the Energy and Planning Policy Hearing session at the Inquiry will set out in their evidence, the policies the Reporter and the Minister will need to take into consideration in relation to protected species relative to the Development Plan and national policy.

### 3. NEXT STEPS

3.1 The Council's defence of its reasons to object to the application will be heard at Inquiry and Hearing Sessions to be held in Lybster on 8-12 and 29-30 October 2018 by a Reporter appointed by the Scottish Ministers.

3.2 Notwithstanding that the Scheme of Delegation confers the delegated authority referred to above, it is considered appropriate to ask Committee to formally confirm its decision to object but to adopt the views of Counsel, officers and relevant Elected Members to amend the Committee's reasons for objection by deletion of reason 2.

### 4. IMPLICATIONS

4.1 Resource: Not applicable

4.2 Legal: Not applicable

4.3 Community (Equality, Poverty and Rural): Not applicable

4.4 Climate Change/Carbon Clever: Not applicable

4.5 Risk: Not applicable

4.6 Gaelic: Not applicable

### 5. RECOMMENDATION

**Action required before decision issued** N

Notification to Scottish Ministers N

Conclusion of Section 75 Obligation N

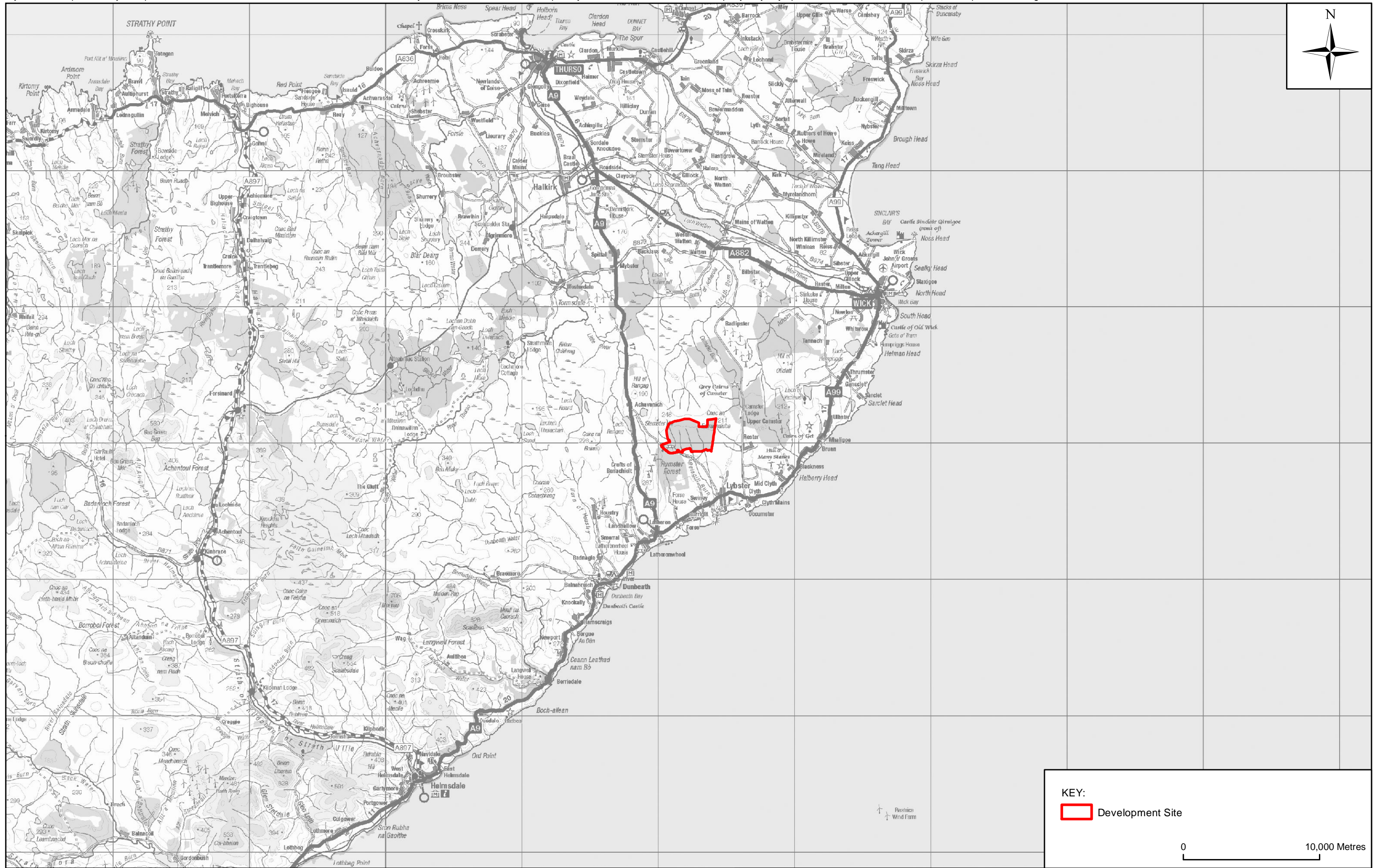
Revocation of previous permission N

**Subject to the above,** it is recommended that the Committee's reasons for **OBJECTING** to the application be amended as follows:

## Reason for Objecting

1. The proposal is contrary to Policy 67 (Renewable energy) and Policy 28 (Sustainable Design) of the Highland-wide Local Development Plan and the Onshore Wind Energy Supplementary Guidance as the development would have a significantly detrimental visual impact on the Caithness landscape for local residents and visitors, particularly as viewed from the village of Lybster, as evidenced in Viewpoint 6 at the Bayview Hotel and Viewpoint 4 at Upper Lybster.

Signature: Dafydd Jones  
Designation: Area Planning Manager – North  
Author: Simon Hindson (01463-785047)/Karen Lyons (01463-702194)  
Background Papers: Documents referred to in report and in case file.  
Relevant Plans: Plan 1 - G\_160628\_ES1.1\_v1 Development Location Plan  
Plan 2 - G\_160726\_ES1.2\_v1 Site Boundary Plan  
Plan 3 - G\_160726\_ES1.3\_v1 Proposed Access Route  
Plan 4 - G\_160721\_ES4.1\_v2 Final Layout



**KEY:**  
 Development Site

0 10,000 Metres

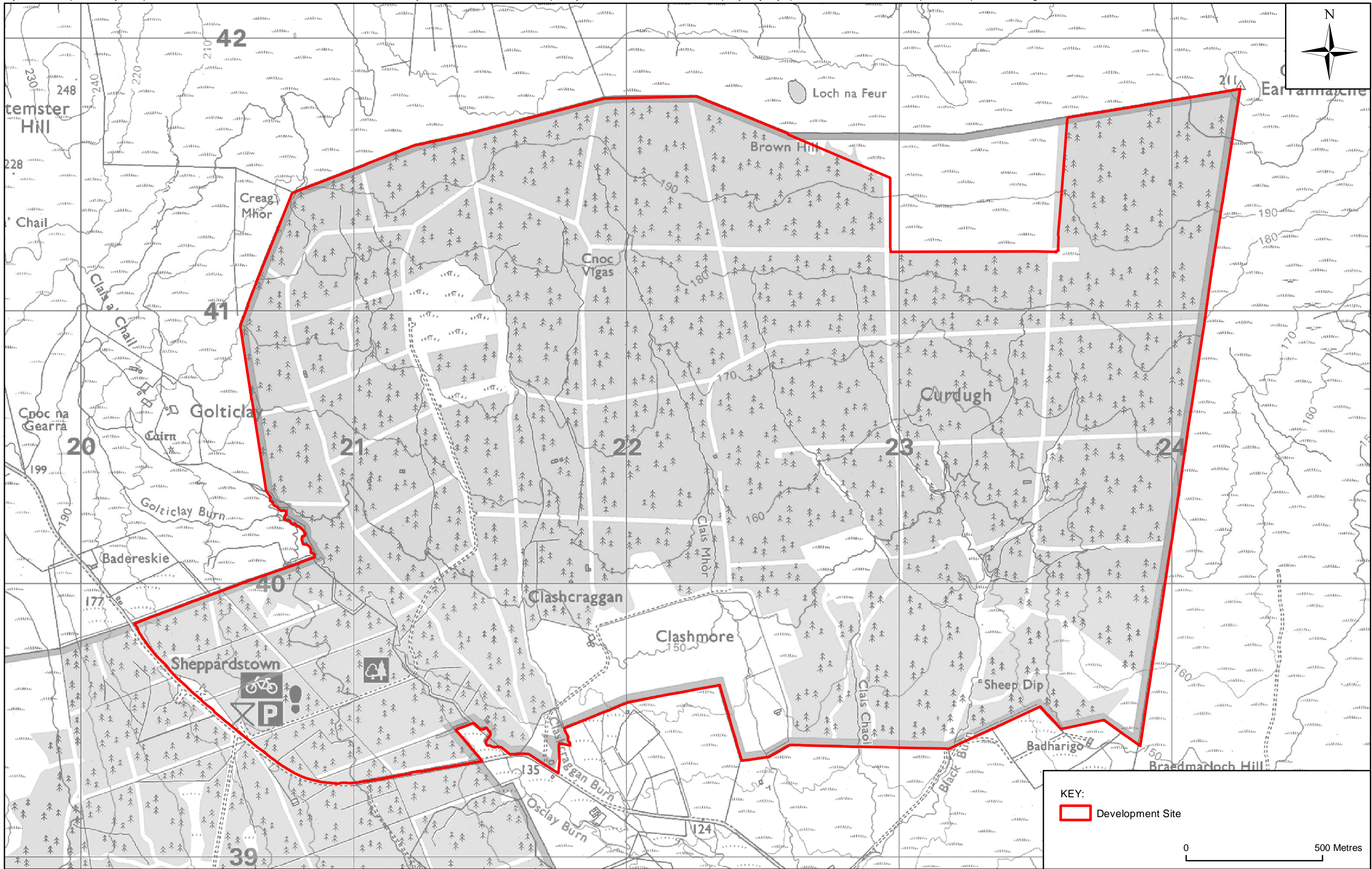
Client: **e-on**

Project: **GOLTICLAY WIND FARM ENVIRONMENTAL IMPACT ASSESSMENT**

Title: **FIGURE 1.1 DEVELOPMENT LOCATION PLAN**

**AECOM**  
 One Trinity Gardens  
 Quayside  
 Newcastle, NE1 2HF  
 Tel +44 (0) 191 224 6500  
 Fax +44 (0) 191 224 6599  
 www.aecom.com

Drawn: LC	Checked: LC
Verified: CS	Approved: NT
Date: JUNE 2016	Scale at A3: 1:250,000
Drawing Number: G_160628_ES1.1_v1	A3



**KEY:**  
 Development Site

0 500 Metres

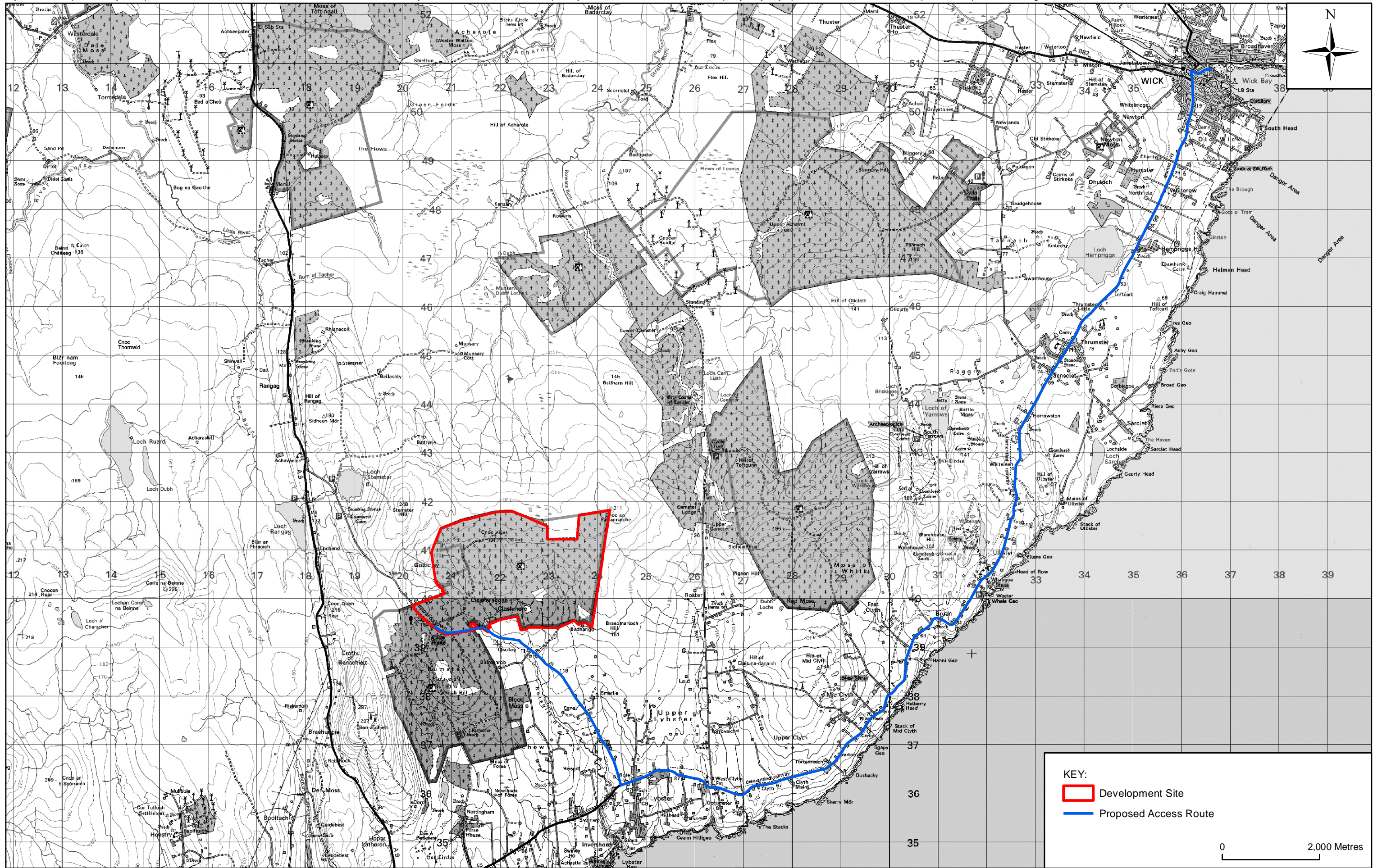
Client: **e-on**

Project: **GOLTICLAY WIND FARM ENVIRONMENTAL IMPACT ASSESSMENT**

Title: **FIGURE 1.2 SITE BOUNDARY PLAN**

**AECOM**  
 One Trinity Gardens  
 Quayside  
 Newcastle, NE1 2HF  
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 Fax +44 (0) 191 224 6599  
 www.aecom.com

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Date: JULY 2016	Scale at A3: 1:12,500
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**KEY:**

- Development Site
- Proposed Access Route

0 2,000 Metres

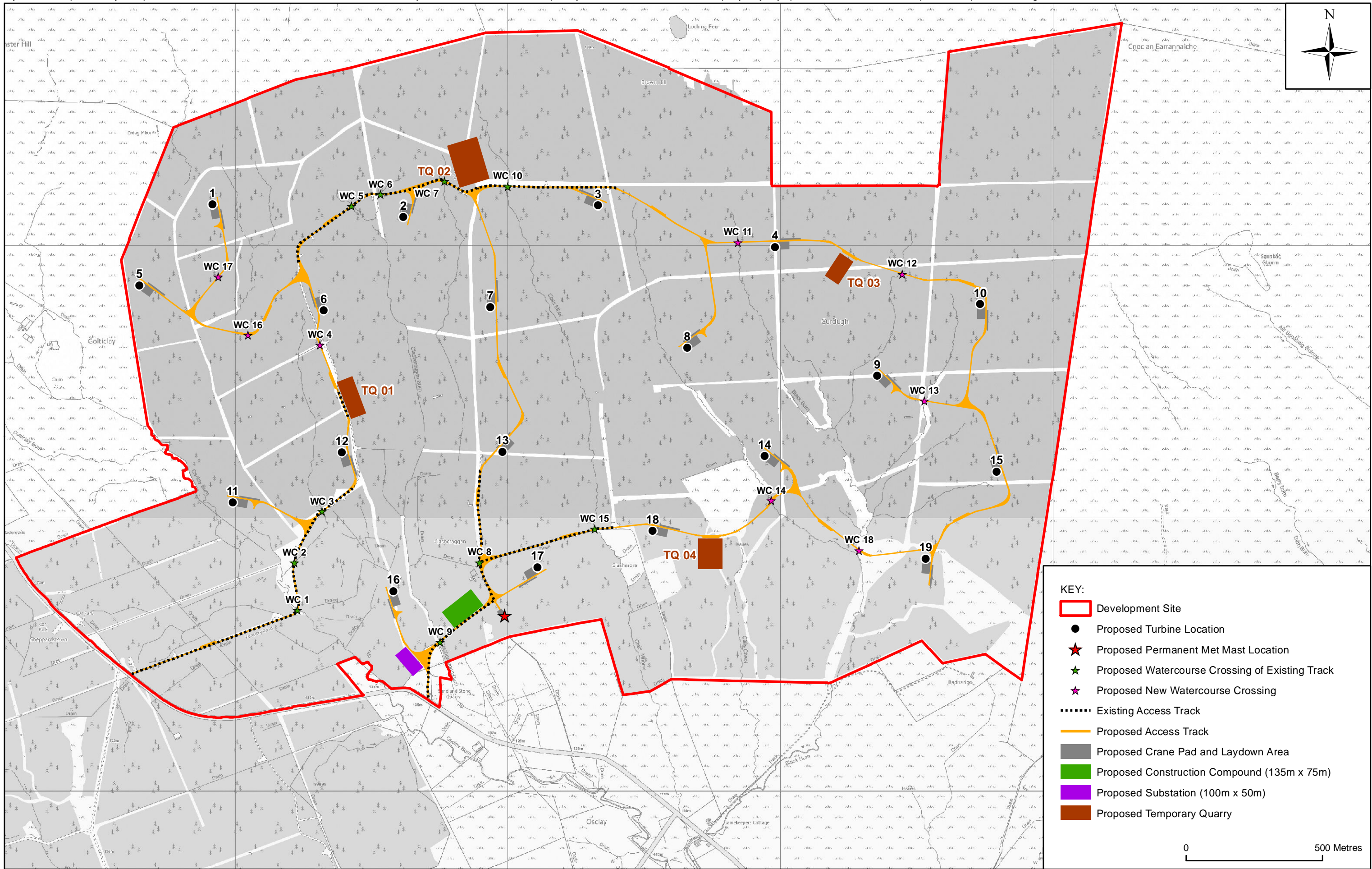
Client: **e-on**

Project: **GOLTIKLY WIND FARM ENVIRONMENTAL IMPACT ASSESSMENT**

Title: **FIGURE 1.3 PROPOSED ACCESS ROUTE**

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 Tel +44 (0) 191 224 6500  
 Fax +44 (0) 191 224 6599  
 www.aecom.com

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Date: JULY 2016	Scale at A3: 1:70,000
Drawing Number: G_160726_ES1.3_v1	A3



**KEY:**

- Development Site
- Proposed Turbine Location
- ★ Proposed Permanent Met Mast Location
- ★ Proposed Watercourse Crossing of Existing Track
- ★ Proposed New Watercourse Crossing
- Existing Access Track
- Proposed Access Track
- Proposed Crane Pad and Laydown Area
- Proposed Construction Compound (135m x 75m)
- Proposed Substation (100m x 50m)
- Proposed Temporary Quarry

0 500 Metres

Client: **e-on**

Project: **GOLTICLAY WIND FARM ENVIRONMENTAL IMPACT ASSESSMENT**

Title: **FIGURE 4.1 FINAL LAYOUT**

**AECOM**

One Trinity Gardens  
Quayside  
Newcastle, NE1 2HF

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Fax +44 (0) 191 224 6599  
www.aecom.com

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Date: JULY 2016	Scale at A3: 1:12,500
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