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| Agenda Item | 6.4 |
| Report No | PLS 006/19 |

HIGHLAND COUNCIL

Committee: South Planning Applications Committee

Date: 29 January 2019

Report Title: 18/05083/S42: Innogy Renewables UK Ltd
Land 6000m West of Findhorn Bridge at Glen Kyllachy Tomatin

Report By: Area Planning Manager – South

Purpose/Executive Summary

Description: Construct and erect windfarm without compliance with Condition 1 attached to Glen Kyllachy wind farm (13/02441/FUL) as approved on appeal (Appeal Ref PPA-270 -2115) to allow operation of the turbines for 30 years.

Ward: 19 Inverness South.

Development category: Major.

Reason referred to Committee: Major Development.

All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

Recommendation

Members are asked to agree the recommendation to **Grant** planning permission as set out in section 11 of the report.

1. PROPOSED DEVELOPMENT

- 1.1 This application has been submitted under Section 42 of the Planning Etc. (Scotland) Act 2006 and relates to Condition 1 as attached to planning permission for Glen Kyllachy wind farm 13/02441/FUL as approved on appeal (Appeal Ref PPA-270 -2115). The application seeks to extend the operation of the Glen Kyllachy wind farm (currently under construction) from 25 years to 30 years.
- 1.2 Glen Kyllachy wind farm offers a potential generating output of 50MW. It comprises the following main elements: -
- 20 wind turbines (each 2.5MW and 110m maximum tip height);
 - 80m permanent anemometer mast;
 - A temporary power-performance mast for 3 - 6 months during construction;
 - Access from the A9 for construction traffic (the Northern Access);
 - Western, eastern and southern access points for operational traffic;
 - Approximately 12.3km of new access tracks, 4km of upgraded access tracks and the use of 16.7km of existing private access tracks;
 - A substation compound and control building;
 - Communications and other associated infrastructure;
 - A temporary construction compound;
 - Use of existing hardstanding as a laydown area during construction; and
 - Three temporary borrow pits (to be temporarily restored after construction).
- 1.3 Pre Application Consultation: None.
- 1.4 Supporting Information: None
- 1.5 Variations: None

2. SITE DESCRIPTION

- 2.1 The site is located approximately 16km south of Inverness, 4.5km west of the A9 trunk road / National Cycle Route 7 and the village of Tomatin and 4.5km south-east of the B851 and village of Farr. There are no residential properties within 2.6km of the proposed turbines. There are a few scattered residential properties in Strathdearn located within 1km of from the site boundary at its “eastern” access.
- 2.2 The site extends to approximately 574.5 hectares, although the footprint of the development is significantly less. The land is generally upland in nature and is open moorland. It is dominated by modified blanket bog, with areas of dry, wet and sub-alpine heaths, flushes and acid grassland heavily modified by active land management. The site is currently used for rough grazing and shooting. The site typically ranges from approximately 460m (Above Ordnance Datum) AOD to 550m AOD with a generally south-westerly aspect. The lowest point is at the eastern access point to the Coignafearn Road (330m AOD).
- 2.8 When assessing a wind farm proposal consideration of similar developments around the site is required. The list below presents the projects around this development site that are Operational or Approved.

Operational: Farr Wind Farm; Millennium (I, II and III); Fairburn; Novar (I & II); Beinn Tharsuinn; Beinn Oighrean; Lochluichart; Corrimony; Corriegarth; Dunmaglass; Corriemollie; Moy; Coire na Cloiche; Bhlaraidh; Hill of Glaskyle; Stronelaig; Berry Burn; Paul's Hill; Cairn Uish; and Findhorn.

Approved or Under Construction: Tom Nan Clach; Cairn Duihe; and Millennium (IV).

3. PLANNING HISTORY

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| 3.1 | 20.12.2018 | 2 storage containers housing batteries, associated equipment & fencing (Glen Kyllachy Wind Farm Battery Storage Unit). | Granted |
| 3.2 | 05.01.2011 | Erection of two temporary anemometer masts (temporary) (10/04773/FUL). | Granted |
| 3.3 | 09.04 2015 | Glen Kyllachy Wind Farm (max 50MW capacity) (13/02441/FUL). | Appeal allowed. |
| 3.4 | 06.11.2018 | EIA Screening of current application (18/05083/S42) to extend operational life of wind farm. | EIA Report Not required. |

4. PUBLIC PARTICIPATION

- 4.1 Advertised: Unknown Neighbour.
Date Advertised: 16.11.2018
Representation deadline: 30.11.2018
Timeous representations: None
Late representations: None

5. CONSULTATIONS

- 5.1 None

6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

6.1 Highland Wide Local Development Plan 2012

- 28 - Sustainable Design
- 29 - Design Quality & Place-making
- 30 - Physical Constraints
- 31 - Developer Contributions
- 51 - Trees and Development
- 55 - Peat and Soils
- 57 - Natural, Built & Cultural Heritage

- 58 - Protected Species
- 59 - Other important Species
- 60 - Other Importance Habitats
- 61 - Landscape
- 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
- 72 - Pollution
- 77 - Public Access

6.2 Inverness Local Plan 2012 (as continued in force)

None

6.3 Inner Moray Firth Local Development Plan 2015

None

6.4 Highland Council Supplementary Planning Policy Guidance

- Flood Risk & Drainage Impact Assessment (Jan 2013)
- Highland Historic Environment Strategy (Jan 2013)
- Highland's Statutorily Protected Species (March 2013)
- Onshore Wind Energy (Nov 2016)
- Special Landscape Area Citations (June 2011)
- Standards for Archaeological Work (March 2012)
- Sustainable Design Guide (Jan 2013)
- Trees, Woodlands and Development (Jan 2013)

7. OTHER MATERIAL POLICY CONSIDERATIONS

7.1 SPP sets out its continued support for onshore wind and requires Planning Authorities to develop a spatial framework to identifying areas that are most likely to be most appropriate for onshore wind farms as a guide for developers and communities. It list likely considerations to be taken into account, including: -

- Net economic impact;
- Contribution to renewable energy targets;
- Effect on greenhouse gas emissions;
- Cumulative impacts;
- Impacts on communities and individual dwellings;
- Landscape and visual impacts, including wild land;

- Natural heritage;
- Carbon rich soils;
- Public access;
- Historic environment;
- Tourism and recreation;
- Aviation and defence interests;
- Telecommunications
- Road traffic;
- Trunk roads;
- Hydrology and flood risk;
- Decommissioning;
- Energy storage;
- Planning obligations for site restoration.

7.2 Other Scottish Government advice is provided via its web site or via Scottish Government Agencies such as SNH. This includes for example: -

- National Planning Framework for Scotland 3 (June 2014).
- Scottish Energy Strategy (Dec 2017).
- Onshore Wind Energy (Statement) (Dec 2017).
- PAN 1 / 2011- Planning and Noise.
- Plan 60 - Planning for Natural Heritage.
- 2020 Routemap for Renewable Energy.
- Onshore Wind Turbines.
- Wind Farm developments on Peat Lands.
- Siting and Designing wind farms in the landscape.
- Description of Wild Land Areas – 2017.

8. PLANNING APPRAISAL

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

Determining Issues

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

Planning Considerations

8.3 The principle of the development has been established through the previous permission. This is an application to modify Condition 1. The key considerations in this case are:

- a) Compliance with the development plan and other planning policy.
- b) Modification to Condition 1.
- c) Other material consideration including

- d) National Policy.
- e) Planning History / Conditions.

Development Plan & other planning policy

- 8.4 The Development Plan comprises the adopted Highland-wide Local Development Plan (HwLDP) and the Inner Moray Firth Local Development Plan (IMFLDP). There are no site specific allocations for this site within the IMFLDP.
- 8.5 The principal HwLDP policy on which the application needs to be determined is Policy 67 - Renewable Energy. This also includes adopted Supplementary Guidance (SG) including in particular the Council's Onshore Wind Energy SG. The other HwLDP policies listed at 6.2 of this report are also relevant and the application must be assessed against all these matters and considered in the round. That said this application relates to a project which is already consented.
- 8.6 The key issue therefore is whether the amendment of the condition applied for would result in the development being incompatible with the Development Plan. If the Council is satisfied that there will be no significant adverse impact from the proposals as tabled within this amending submission then the application can be supported. This report focuses upon the proposed modification and assesses its compatibility with the Development Plan.

Modification to Condition 1

- 8.7 The application seeks an extended operational period for the wind farm. This does not raise particular material planning considerations other than the history of such applications is one where temporary planning permissions for wind farm developments are made in line with turbine warranty. Even then such decisions also allow for the decommissioning and restoration of sites earlier should turbines suffer serious sustained technical failures within the initial 25 years of operation.
- 8.8 There is no reason to suppose that turbines could not have a useful extended life after a manufacturer's warranty expires. The key thing would be to ensure that any approval for an extended period of planning permission proper regard is had to ensure that: -
 - the turbines continue to operate effectively;
 - that all mitigation is sustained for the full operational life of the wind farm; and
 - that the provisions for turbine failures and final removal are continued.
- 8.9 It is worth highlighting that an application submitted under S42 of the Planning Act provides the Planning Authority with an opportunity, as part of the process in considering the proposed variation, to amend any, or each of the original conditions previously applied which it considers necessary to regulate the development proposed. This can ensure the wording is in line with current good practice and to ensure the conditions are suitable to regulate the proposed development.

Other material considerations

- 8.10 The Scottish Government has set out its support for renewable energy within its Scottish Planning Policy. It continued and enhanced support for renewable energy has also be set out in guidance published in Dec 2017 with higher targets to be met from renewable energy projects. While SPP sets out that areas identified for wind farms should be suitable for use in perpetuity, it also allows for consents to be time limited. This is done to reflect the expected operational lifespan of the turbine equipment i.e. in line with a manufacturer's guarantee (25 years). Consideration of any increase in the length of any permission that may be granted should be on the bases that the turbines continue to operate efficiently and effectively for the duration of the permission and that any turbines which become redundant within the permission period will be appropriately decommissioned.
- 8.11 Glen Kyllachy wind farm was approved following an appeal to the Department for Planning and Environmental Appeals (DPEA) against the refusal of a planning application (major-scale) by the Council. The applicant has satisfied the suspensive planning conditions set out in the grant of planning permission and commenced development of the project during 2018, albeit in a limited way only. The expectation is that the principal elements of the proposals will emerge on site during 2019 and 2020. The wind farm project also has permission for a "battery storage unit" (18/05208/FUL) within a partly restored borrow pit, close to the wind farm substation control building.
- 8.12 The Glen Kyllachy wind farm consent has planning permission but subject to a number of planning conditions. These are all relevant to the consideration of any extended operation period being consider under this application, including in particular the first four conditions: -
- Condition 1 - provides the basis of the project life span and is the subject of the current application.
 - Condition 2 - provides for "project end" particularly decommissioning and site restoration.
 - Condition 3 - provides a financial guarantee for decommissioning and site restoration.
 - Condition 4 - provides for the removal of any turbine failures and potentially a failed wind farm if more that 50% of turbines fail to effectively operate.
- 8.13 The above four conditions are particularly relevant should a longer operational period be supported. Any consent in support of the current application would require a continuance of the existing planning conditions as set out in the current planning permission, amended to take account of the longer operational period. It is noteworthy that with the commencement of development all suspensive planning conditions as previously applied have been satisfied.
- 8.14 The project is also supported by an Environmental Statement which continues with the current application. In this regard, given that the existing development is supported by an Environmental Statement, a new decision being issued following an approval of the S42 will require any schedule of mitigation to be highlighted within the Decision Notice in compliance with EIA Regulations 2017.

- 8.14 In addition to the wind farm project, elements of the project principally the access tracks from the A9(T) road have been utilised by a number of other projects including the Knocknagael – Tomatin Substation 275kv grid enhancement project and the Tomatin Substation project. The delivery of these electrical projects has significantly opened up access to the site, into the site and beyond the site of the Glen Kyllachy wind farm. Development in this upland area thereby has been supported through a number of applications in recent years, without significant concerns.
- 8.15 There are no other material considerations.

Non-material planning considerations

- 8.16 The development was supported with community benefit provision in line with corporate policies of the Council and Scottish Planning Policy. This currently applies for the 25 years of wind farm operation / electricity generation. Should this application be supported then there should be a continuance of community benefit payments for the extended years of operation. This will require relevant agreements to be updated to reflect any grant of this Section 42 application.

Matters to be secured by Section 75 Agreement

- 8.17 The existing development is supported by a Section 75 Agreement. This requires the posting of a financial bond to cover decommissioning and site restoration. The provisions of the bond are also reviewed every five years allowing indexation of the bond in line with inflation. Should the application be supported then the legal agreement will need to be updated to reflect the longer period of operation. The applicant has already indicated its willingness to amend the agreement in line with any positive decision on the application.
- 8.18 The applicant will be given four months from the date that the Council's solicitor writes to the Applicant/Applicant's solicitor indicating the terms of the legal agreement, to deliver to the Council a signed legal agreement. Should an agreement not be delivered within four months, the application shall be refused under delegated powers.

9. CONCLUSION

- 9.1 The Council is supportive of renewable energy projects as is the Scottish Government which in particular has challenging targets for the country to meet in terms of electricity supply from renewable resources. Support is given on the basis of developments being in the right place and with appropriate protection for the environment. The impact of the wind farm has already been deemed to be acceptable in this location and development of the project has commenced. There have been no objections raised in respect of this amending application from third parties or concerns with other development projects in this location.
- 9.2 There will be some risk to any approval of this application which extends the life of the wind farm beyond manufacturer warranty. However there is also risk that turbines could fail before reaching 25 year of use and that planning conditions are in place for such eventualities. There is no reason to suppose that the same

conditions cannot also address the risk of turbine failure which operate out of warranty. It is not considered necessary to amend any other conditions.

- 9.3 All relevant matters have been taken into account when appraising this application. It is considered that the application continues accords with the principles and policies contained within the Development Plan and is acceptable in terms of other applicable material considerations.

10. IMPLICATIONS

- 10.1 Resource: Not applicable
- 10.2 Legal: Not applicable
- 10.3 Community (Equality, Poverty and Rural): Not applicable
- 10.4 Climate Change/Carbon Clever: Not applicable
- 10.5 Risk: Not applicable
- 10.6 Gaelic: Not applicable

11. RECOMMENDATION

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| Action required before decision issued | Y |
| Notification to Scottish Ministers | N |
| Conclusion of Section 75 Obligation | Y |
| Revocation of previous permission | N |

Subject to the above, it is recommended that planning permission be **GRANTED**, subject to the following:

Conditions and Reasons.

1. This planning permission shall expire and cease to have effect after a period of 35 years from the date when electricity is first exported to the electricity grid network (the 'First Export Date'). Upon the expiration of a period of 30 years from the First Export Date, the wind turbines shall be decommissioned and removed from the site, with decommissioning and restoration works undertaken in accordance with the terms of condition 2 of this permission. Written confirmation of the First Export Date shall be submitted in writing to the planning authority within one month of the First Export Date.

Reason: Wind turbines have a limited lifespan, 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, re-assessment to be made of the environmental impacts of the development and the success, or otherwise, of noise impact, species protection, habitat management and mitigation measures. The 35 year

cessation date allows for a 5 year period to complete commissioning and site restoration work.

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 Scottish Natural Heritage (SNH) and Scottish Environment Protection Agency (SEPA). Thereafter and 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, all new (as opposed to existing at the time of the grant of planning permission) access tracks required for the development including any new access tracks retained from the Farr Wind Farm not decommissioned by that project, 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 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 financial guarantee using an Agreement under Section 69 of the Local Government (Scotland) Act 1973 (or equivalent legal agreement mechanism) is in place with the Highland Council 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 to guarantee final 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:

1. 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

2. 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 shall 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 are removed from site, in the interests of public safety, amenity and environmental protection.

5. The development shall be undertaken in accordance with the application, approved layout drawing number 000003 dated 28 May 2013, the mitigation cited within the supporting Environmental Statement (ES) and in compliance with the planning conditions attached to this planning permission. For the avoidance of doubt the turbines, access tracks and crane hard-standing areas may be micro-sited but no more than 50 metres from the positions shown in the approved plans unless otherwise agreed in writing with the planning authority in consultation with SEPA and SNH. Micro-siting will also be constrained to ensure 50 metre buffers are retained from all watercourses, areas valued for ground water dependent terrestrial ecology and montane heath.

Reason: To ensure the development is carried out in accordance with the approved plans with some flexibility to take account of local site conditions uncovered at the final design and construction stage.

6. The application hereby approved includes development options with regard to the siting of the proposed sub-station within the application site. For the avoidance of any doubt, prior to the commencement of any development on site the developer shall supply finalised details for approval of the planning authority on which options for the sub-station is to be pursued, thereby confirming the area of ground for the alternative option to be left undisturbed. The final design for each element must demonstrate an element of micro-siting to minimise impact on groundwater dependent terrestrial ecosystems as already advised by SEPA.

Reason: To ensure the development is undertaken with the least environmental impact and with minimal disturbance on valued groundwater ecosystems.

7. 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 shall 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 discoloration, until such time as the wind farm is decommissioned. For the avoidance of doubt, all wind turbine blade 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.

8. 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 transformers shall only be given if the developer 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 make clear that ancillary elements of the development, such as external transformers, are only permissible if, following additional design and L VIA work, they are demonstrated to be acceptable in terms of visual, landscape, noise and other environmental impact considerations.

9. Notwithstanding the provisions of the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984 (as amended), and 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 full details of the final location, layout, external appearance, dimensions and surface materials of all control buildings, welfare facilities, compounds and parking areas, as well as any fencing, walls, paths and any other ancillary elements of the development, have been submitted to, and approved in writing by, the planning authority (in consultation with SEPA and SNH, as necessary). Thereafter, development shall progress in accordance with these approved details. For the avoidance of doubt, details relating to the control, substation and welfare buildings shall include additional architectural design, L VIA and other relevant assessment work, carried out by

suitably qualified and experienced people, to ensure that they are sensitively scaled, sited and designed.

For the avoidance of doubt the deployment of peat bunds for screening of such 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.

11. 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 (MOD) and the Defence Geographic Centre (AIS Information Centre) with a statement, copied to the planning authority and Highlands and Islands Airports Limited, containing the following information:
 - a. The date construction starts and ends;
 - b. The exact position of the wind turbine towers in latitude and longitude;
 - c. A description of all structures over 300 feet high;
 - d. The maximum extension height of all construction equipment;
 - e. The height above ground level of the tallest structure; and
 - f. Details of an infra-red aviation lighting scheme as agreed with the MOD, other aviation interests and the planning authority.

Reason: To ensure that the erected turbines present no air safety risk and in the interest of visual amenity.

12. No development shall commence until a community liaison group is established by the developer, 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 are taken 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 potential hazards to road users, including pedestrians, travelling on the road networks.

13. Prior to commencement of deliveries to site, a Route Access Report including swept path analysis shall be undertaken to ensure that exceptional loads can be safely transported through the trunk road network. The complete report shall detail any accommodation measures required including the temporary removal of street furniture, junction widening, traffic management etc. and

show that the transportation will not have any detrimental effect on structures within the route path.

Reason: To minimise interference and maintain safety and free flow of traffic on the trunk road as a result of the traffic moving to and from the development.

14. During the delivery period of the wind turbine construction materials, any additional signing or temporary traffic control measures as identified and deemed necessary by a recognised QA traffic management consultant due to the size or length of any loads being delivered or removed shall be approved by Transport Scotland before delivery commences.

Reason: To ensure that the transportation will not have any detrimental effect on the road and structures along the route.

15. During construction, vehicle wheel washing facilities shall be provided within the site at a suitable location prior to vehicle departure onto the A9 trunk road.

Reason: To ensure that material from the site is not deposited on the trunk road to the detriment of road safety.

16. Prior to the commencement of development, an updated traffic impact statement shall 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 shall be supported with an agreed pre-construction survey assessment and appropriate mitigation to safeguard the integrity of the local road network including if necessary the prior provision of a 'wear and tear' agreement and associated financial bond.

Reason: To ensure that all construction traffic will not have detrimental effect on the road and structures to be used in the construction of the development and provisions are in place to ensure repairs can be implemented.

17. No development shall commence until an Access Management Plan is submitted for the approval of the planning authority to detail:-

- how construction traffic will be managed to ensure general access to the countryside will be sustained/improved during the construction period.
- permanent site signage and access control (gates) etc. to facilitate public access provision including walkers, cyclists and by horse during the operation of the development when the wind farm tracks are available for public access.

The approved plan shall then be implemented on an agreed timetable.

Reason: To ensure public access to the countryside is not unnecessarily impeded as a result of this development, including during its construction.

18. No development shall commence until a finalised Construction Environmental Management Document (CEMD) is submitted to and agreed in writing by the planning authority in consultation with SNH and SEPA. The document shall

include:

- an updated Schedule of Mitigation (SM).
- processes to control/action changes from the agreed Schedule of Mitigation.
- the following specific Construction and Environmental Management Plans (CEMP):
 - i. Peat Management Plan - to include details of all peat stripping, excavation, storage and reuse of material in accordance with best practice advice published by SEPA and SNH. This shall for example highlight how sensitive peat areas are to be marked out on site to prevent any vehicle causing inadvertent damage.
 - ii. Management of Geo-technical Risks including provision of a completed Peat Landslide Risk Assessment.
 - iii. Water Management Plan - highlighting drainage provisions including monitoring/maintenance regimes, deployment of water-crossings using bottomless culverts, surface water drainage management (SUDs) and development buffers (50 metres minimum) from watercourses, local springs and identified groundwater dependent terrestrial ecosystems.
 - iv. Pollution Prevention Plan.
 - v. Site Waste Management Plan.
 - vi. Construction Noise Mitigation Plan.
 - vii. Species Protection Plan for otter, wildcat, bats, pine martin, water vole, breeding birds (merlin, black grouse, curlew) and groundwater dependent terrestrial ecosystems including details of pre-commencement surveys and development of buffer areas to prevent encroachment on protected species and valued habitat.
 - viii. Site Landscaping and Restoration Plan highlighting measures to ensure grazing animals including deer do not damage restored and reinstated ground.
 - ix. A Habitat Management Plan to mitigate the loss of priority habitat including avoidance of development upon montane heath and minimisation of impact on blanket bog and upland dry heath highlighting works including peatland management to compensate for losses within and beyond the development site including effective monitoring and reporting post construction.
 - x. A Deer Management Plan addressing deer numbers on site, construction displacement, the potential for the wind farm to create new sources of food and/or shelter, the impacts this may have and how this will be monitored and managed over time. It should also take into account any

other potentially competing objectives for the site (e.g. habitat restoration), and seek the optimum outcome for both.

- xi. Woodland Management Plan highlighting the extent of works, albeit limited, to be undertaken within the application site and confirming the volume/area of compensatory planting to be provided.
- Details of the appointment of an appropriately qualified Environmental Clerk of Works with roles and responsibilities which shall include but necessarily limited to:
 - I. providing training to the developer and contractors on their responsibilities to ensure that work is carried out in strict accordance with environmental protection requirements;
 - II. monitoring compliance with all environmental and nature conservation mitigation works and working practices approved under this consent;
 - III. advising the developer on adequate protection for environmental and nature conservation interests within, and adjacent to, the application site;
 - IV. directing the placement of the development (including any micro-siting, 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.
 - Details of any other methods of monitoring, auditing, reporting and communication of environmental management on site and with the client, planning authority and other relevant parties.
 - Statement of any additional persons responsible for 'stopping the job/activity' if in potential breach of a mitigation or legislation occurs.

Unless otherwise agreed in writing by the planning authority the development shall proceed in accordance with the agreed CEMD.

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.

19. No development or work (including site clearance) shall commence until a programme of work for the evaluation, preservation and recording of any archaeological and historic features affected by the proposed development/work, including a timetable of investigation has been submitted to, and approved in writing by, the planning authority. The approved programme shall be implemented in accordance with the agreed timetable for investigation.

Reason: In order to protect the historic interest of the site.

20. The rating level of noise immissions from the combined effects of the wind turbines comprising the Glen Kyllachy wind farm (including the application of any tonal penalty) hereby permitted together with the noise immissions of the wind turbines comprising the Farr wind farm (including the application of any tonal penalty) when determined in accordance with the attached Guidance Notes (to this condition), shall not exceed the values for the relevant integer wind speed set out in, or derived from, the tables attached to these conditions at any dwelling which is lawfully existing or has planning permission at the date of this permission and:

The rating level of noise immissions from the combined effects of the wind turbines (including the application of any tonal penalty) of Glen Kyllachy wind farm when determined in accordance with the attached Guidance Notes (to this condition), shall not exceed 35dB LA90 at the consented dwelling site at grid reference 824550 275303 and:

- a) The wind farm operator shall continuously log power production, wind speed and wind direction, all in accordance with Guidance Note 1 (d). These data shall be retained for a period of not less than 24 months. The wind farm operator shall provide this information in the format set out in Guidance Note 1(e) to the planning authority on its request, within 14 days of receipt in writing of such a request.
- b) No electricity shall be exported until the wind farm operator has submitted to the planning authority for written approval a list of proposed independent consultants who may undertake compliance measurements in accordance with this condition. Amendments to the list of approved consultants shall be made only with the prior written approval of the planning authority.
- c) Within 21 days from receipt of a written request from the planning authority following a complaint to it from an occupant of a dwelling alleging noise disturbance at that dwelling, the wind farm operator shall, at its expense, employ a consultant approved by the planning authority to assess the level of noise immissions from the wind farm at the complainant's property in accordance with the procedures described in the attached Guidance Notes. The written request from the planning authority shall set out at least the date, time and location that the complaint relates to and any identified atmospheric conditions, including wind direction, and include a statement as to whether, in the opinion of the planning authority, the noise giving rise to the complaint contains or is likely to contain a tonal component.
- (d) Prior to the commencement of any measurements by the independent consultant to be undertaken in accordance with these conditions, the wind farm operator shall submit to the planning authority for written approval the proposed measurement location identified in accordance with the Guidance Notes where measurements for compliance checking purposes shall be undertaken. Measurements to assess compliance with the noise limits set out in the Tables attached to these conditions or approved by the planning authority pursuant to paragraph (f) of this condition shall be

undertaken at the measurement location approved in writing by the planning authority.

- (e) Prior to the submission of the independent consultant's assessment of the rating level of noise immissions pursuant to paragraph (g) of this condition, the wind farm operator shall submit to the planning authority for written approval a proposed assessment protocol setting out the following:
 - (i) The range of meteorological and operational conditions (the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise immissions.
 - (ii) A reasoned assessment as to whether the noise giving rise to the complaint contains or is likely to contain a tonal component.

The proposed range of conditions shall be those which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the information provided in the written request from the planning authority under paragraph (c), and such others as the independent consultant considers necessary to fully assess the noise at the complainant's property. The assessment of the rating level of noise immissions shall be undertaken in accordance with the assessment protocol approved in writing by the planning authority and the attached Guidance Notes.

Where a dwelling to which a complaint is related is not listed in the tables attached to these conditions, the wind farm operator shall submit to the planning authority for written approval proposed noise limits selected from those listed in the Tables to be adopted at the complainant's dwelling for compliance checking purposes. The proposed noise limits are to be those limits selected from the Tables specified for a listed location which the independent consultant considers as being likely to experience the most similar background noise environment to that experienced at the complainant's dwelling. The rating level of noise immissions resulting from the combined effects of the wind turbines when determined in accordance with the attached Guidance Notes shall not exceed the noise limits approved in writing by the planning authority for the complainant's dwelling.

The wind farm operator shall provide to the planning authority the independent consultant's assessment of the rating level of noise immissions undertaken in accordance with the Guidance Notes within 2 months of the date of the written request of the planning authority made under paragraph (c) of this condition 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. The instrumentation used to undertake the measurements shall be calibrated in accordance with Guidance Note 1(a) and certificates of calibration shall be submitted to the planning authority with the independent consultant's assessment of the rating level of noise immissions.

Where a further assessment of the rating level of noise immissions from the wind farm is required pursuant to Guidance Note 4(c), the wind farm operator shall submit a copy of the further assessment within 21 days of submission of the

independent consultant's assessment pursuant to paragraph (d) above unless the time limit has been extended in writing by the planning authority.

Table 1 – Between 07:00 and 23:00 – Noise limits expressed in dB LA90,10 minute as a function of the standardised wind speed (m/s) at 10 metre height as determined within the site averaged over 10 minute periods.

| Location | Standardised wind speed at 10 metre height (m/s) within the site averaged over 10-minute periods | | | | | | | | | | | |
|----------------------------|--|------|------|------|------|------|------|------|------|------|------|------|
| | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 |
| Ardachy Consented Property | 35.0 | 35.0 | 35.0 | 35.0 | 35.0 | 35.0 | 37.4 | 39.7 | 41.6 | 42.6 | 42.8 | 42.8 |
| Asgard | 36.4 | 36.4 | 36.4 | 36.4 | 36.4 | 36.8 | 37.5 | 38.5 | 39.8 | 41.2 | 41.9 | 41.9 |
| Corrievorrie | 35.0 | 35.0 | 35.0 | 35.0 | 35.0 | 35.0 | 37.4 | 39.7 | 41.6 | 42.6 | 42.8 | 42.8 |
| Dalmagarry | 46.9 | 46.9 | 46.9 | 46.9 | 48.4 | 49.9 | 51.3 | 52.8 | 54.3 | 55.8 | 56.5 | 56.5 |
| Easter Woodend | 35.0 | 35.0 | 35.0 | 35.0 | 35.0 | 35.0 | 37.4 | 39.7 | 41.6 | 42.6 | 42.8 | 42.8 |
| Gaich | 35.0 | 35.0 | 35.0 | 35.0 | 35.0 | 35.4 | 37.9 | 39.9 | 40.6 | 40.6 | 40.6 | 40.6 |
| Garbole | 36.4 | 36.4 | 36.4 | 36.4 | 36.4 | 36.8 | 37.5 | 38.5 | 39.8 | 41.2 | 41.9 | 41.9 |
| Kennels House | 35.0 | 35.0 | 35.0 | 35.0 | 35.0 | 35.0 | 35.4 | 38.3 | 40.9 | 43.1 | 44.0 | 44.0 |
| Kyllachy House | 35.0 | 35.0 | 35.0 | 35.0 | 35.0 | 35.0 | 37.4 | 39.7 | 41.6 | 42.6 | 42.8 | 42.8 |
| Moy More House | 35.0 | 35.0 | 35.0 | 35.0 | 36.1 | 38.3 | 40.8 | 43.3 | 45.7 | 47.8 | 48.7 | 48.7 |
| Tomatin Consented Property | 35.0 | 35.0 | 35.0 | 35.0 | 35.0 | 36.9 | 39.4 | 42.4 | 45.7 | 49.6 | 51.6 | 51.6 |
| Tomatin Distillery | 35.0 | 35.0 | 35.0 | 35.0 | 35.0 | 36.9 | 39.4 | 42.4 | 45.7 | 49.6 | 51.6 | 51.6 |
| Wester Auchintoul Lodge | 35.0 | 35.0 | 35.0 | 35.0 | 35.0 | 35.0 | 37.4 | 39.7 | 41.6 | 42.6 | 42.8 | 42.8 |
| Wester Lairgs | 35.0 | 35.0 | 35.0 | 35.0 | 35.0 | 35.0 | 35.3 | 37.0 | 38.9 | 41.1 | 42.3 | 42.3 |
| Woodend | 35.0 | 35.0 | 35.0 | 35.0 | 35.0 | 35.0 | 37.4 | 39.7 | 41.6 | 42.6 | 42.8 | 42.8 |

Table 2 - Between 23:00 and 07:00 - Noise limits expressed in dB LA90, 1 O-minute as a function of the standardised wind speed (m/s) at 10 metre height as determined within the site averaged over 10 minute periods.

| Location | Standardised wind speed at 10 metre height (m/s) within the site averaged over 10-minute periods | | | | | | | | | | | |
|----------------------------|--|------|------|------|------|------|------|------|------|------|------|------|
| | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 |
| Ardachy Consented Property | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 40.2 | 41.6 | 41.6 | 41.6 |
| Asgard | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 38.4 | 39.4 | 39.4 | 39.4 |
| Corrievorrie | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 40.2 | 41.6 | 41.6 | 41.6 |
| Dalmagarry | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 38.8 | 39.7 | 39.7 | 39.7 |
| Easter Woodend | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 40.2 | 41.6 | 41.6 | 41.6 |
| Gaich | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 38.4 | 38.4 | 38.4 |
| Garbole | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 38.4 | 39.4 | 39.4 | 39.4 |
| Kennels House | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 38.9 | 38.9 | 38.9 |
| Kyllachy House | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 40.2 | 41.6 | 41.6 | 41.6 |
| Moy More House | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 38.2 | 41.2 | 44.8 | 44.8 | 44.8 |
| Tomatin Consented Property | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 42.0 | 46.9 | 46.9 | 46.9 |
| Tomatin Distillery | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 42.0 | 46.9 | 46.9 | 46.9 |
| Wester Auchintoul | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 40.2 | 41.6 | 41.6 | 41.6 |
| Wester Lairgs | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 |
| Woodend | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 38.0 | 40.2 | 41.6 | 41.6 | 41.6 |

Table 3: Coordinate locations of the properties listed in Tables 1 and 2.

| Property | Easting | Northing |
|----------------------------|---------|----------|
| Asgard | 275666 | 824218 |
| Dalmagarry | 278793 | 832298 |
| Easter Woodend | 279388 | 826364 |
| Gaich | 268940 | 831224 |
| Kennels House | 267617 | 829078 |
| Moy More House | 276649 | 835444 |
| Tomatin Distillery | | |
| Wester Lairgs | 270408 | 834885 |
| Corrievorrie | 277304 | 824768 |
| Garbole | 275623 | 824224 |
| Kyllachy House | 278624 | 825925 |
| Wester Auchintoul | 278196 | 824492 |
| Woodend | 279124 | 826217 |
| Ardachy Consented Property | 277821 | 825138 |
| Tomatin Consented Property | 278287 | 829146 |

Note to Table 3: The geographical coordinate references are provided for the purpose of identifying the general location of dwellings to which a given set of noise limits applies.

Guidance Notes for Wind Farm Noise Conditions

These notes are to be read with and form part of the noise condition. They further explain the condition and specify the methods to be employed in the assessment of complaints about noise immissions from the wind farm. The rating level at each integer wind speed is the arithmetic sum of the wind farm noise level as determined from the best-fit curve described in Guidance Note 2 of these Guidance Notes and any tonal penalty applied in accordance with Guidance Note 3. Reference to ETSU-R-97 refers to the publication entitled "The Assessment and Rating of Noise from Wind Farms" (1997) published by the Energy Technology Support Unit (ETSU) for the Department of Trade and Industry (DTI).

Guidance Note 1

- (a) Values of the LA90, 1 0 minute noise statistic should be measured at the complainant's property, using a sound level meter of EN 60651/BS EN 60804 Type 1, or BS EN 61672 Class 1 quality (or the equivalent UK adopted standard in force at the time of the measurements) set to measure using the fast time weighted response as specified in BS EN 60651/BS EN 60804 or BS EN 61672-1 (or the equivalent UK adopted standard in force at the time of the measurements). This should be calibrated in accordance with the procedure specified in BS 4142: 1997 (or the equivalent UK adopted standard in force at the time of the measurements). Measurements shall be undertaken in such a manner to enable a tonal penalty to be applied in accordance with Guidance Note 3.
- (b) The microphone should be mounted at 1.2 - 1.5 metres above ground level, fitted with a two-layer windshield or suitable equivalent approved in writing by

the planning authority, and placed outside the complainant's dwelling. Measurements should be made in "free field" conditions. To achieve this, the microphone should be placed at least 3.5 metres away from the building facade or any reflecting surface except the ground at the approved measurement location. In the event that the consent of the complainant for access to his or her property to undertake compliance measurements is withheld, the wind farm operator shall submit for the written approval of the planning authority details of the proposed alternative representative measurement location prior to the commencement of measurements and the measurements shall be undertaken at the approved alternative representative measurement location.

- (c) The LA90, 10 minute measurements should be synchronised with measurements of the 10-minute arithmetic mean wind and operational data logged in accordance with Guidance Note 1 (d), including the power generation data from the turbine control systems of the wind farm.
- (d) To enable compliance with the conditions to be evaluated, the wind farm operator shall continuously log arithmetic mean wind speed in metres per second and wind direction in degrees from north at hub height for each turbine and arithmetic mean power generated by each turbine, all in successive 10-minute periods. Unless an alternative procedure is previously agreed in writing with the planning authority, this hub height wind speed, averaged across all operating wind turbines, shall be used as the basis for the analysis. All 10 minute arithmetic average mean wind speed data measured at hub height shall be 'standardised' to a reference height of 10 metres as described in ETSU-R-97 at page 120 using a reference roughness length of 0.05 metres. It is this standardised 10 metre height wind speed data, which is correlated with the noise measurements determined as valid in accordance with Guidance Note 2, such correlation to be undertaken in the manner described in Guidance Note 2. All 10-minute periods shall commence on the hour and in 10-minute increments thereafter.
- (e) Data provided to the planning authority in accordance with the noise condition shall be provided in comma separated values in electronic format.
- (f) A data logging rain gauge shall be installed in the course of the assessment of the levels of noise immissions. The gauge shall record over successive 10-minute periods synchronised with the periods of data recorded in accordance with Note 1 (d).

Guidance Note 2

- (a) The noise measurements shall be made so as to provide not less than 20 valid data points as defined in Guidance Note 2 (b).
- (b) Valid data points are those measured in the conditions specified in the agreed written protocol under paragraph (d) of the noise condition, but excluding any periods of rainfall measured in the vicinity of the sound level meter. Rainfall shall be assessed by use of a rain gauge that shall log the occurrence of rainfall in each 10 minute period concurrent with the measurement periods set

out in Guidance Note 1. In specifying such conditions the planning authority shall have regard to those conditions which prevailed during times when the complainant alleges there was disturbance due to noise or which are considered likely to result in a breach of the limits.

- (c) For those data points considered valid in accordance with Guidance Note 2(b), values of the LA90, 10 minute noise measurements and corresponding values of the 10- minute wind speed, as derived from the standardised ten metre height wind speed averaged across all operating wind turbines using the procedure specified in Guidance Note 1(d), shall be plotted on an XY chart with noise level on the Y-axis and the standardised mean wind speed on the X-axis. A least squares, "best fit" curve of an order deemed appropriate by the independent consultant (but which may not be higher than a fourth order) should be fitted to the data points and define the wind farm noise level at each integer speed.

Guidance Note 3

- (a) Where, in accordance with the approved assessment protocol under paragraph (d) of the noise condition, noise immissions at the location or locations where compliance measurements are being undertaken contain or are likely to contain a tonal component, a tonal penalty is to be calculated and applied using the following rating procedure.
- (b) For each 10 minute interval for which LA90, 1 0 minute data have been determined as valid in accordance with Guidance Note 2 a tonal assessment shall be performed on noise immissions during 2 minutes of each 10 minute period. The 2 minute periods should be spaced at 10 minute intervals provided that uninterrupted uncorrupted data are available ("the standard procedure"). Where uncorrupted data are not available, the first available uninterrupted clean 2 minute period out of the affected overall 10 minute period shall be selected.

Any such deviations from the standard procedure, as described in Section 2.1 on pages 104-109 of ETSU-R- 97, shall be reported.

- (c) For each of the 2 minute samples the tone level above or below audibility shall be calculated by comparison with the audibility criterion given in Section 2.1 on pages 104-109 of ETSU-R-97.
- (d) The tone level above audibility shall be plotted against wind speed for each of the 2 minute samples. Samples for which the tones were below the audibility criterion or no tone was identified, a value of zero audibility shall be used.
- (e) A least squares "best fit" linear regression line shall then be performed to establish the average tone level above audibility for each integer wind speed derived from the value of the "best fit" line at each integer wind speed. If there is no apparent trend with wind speed then a simple arithmetic mean shall be used. This process shall be repeated for each integer wind speed for which there is an assessment of overall levels in Guidance Note 2.

- (f) The tonal penalty is derived from the margin above audibility of the tone according to the figure below.

Guidance Note 4

- (a) If a tonal penalty is to be applied in accordance with Guidance Note 3 the rating level of the turbine noise at each wind speed is the arithmetic sum of the measured noise level as determined from the best fit curve described in Guidance Note 2 and the penalty for tonal noise as derived in accordance with Guidance Note 3 at each integer wind speed within the range specified by the planning authority in its written protocol under paragraph (d) of the noise condition.
- (b) If no tonal penalty is to be applied then the rating level of the turbine noise at each wind speed is equal to the measured noise level as determined from the best fit curve described in Guidance Note 2.
- (c) In the event that the rating level is above the limit(s) set out in the Tables attached to the noise conditions or the noise limits for a complainant's dwelling approved in accordance with paragraph (e) of the noise condition, the independent consultant shall undertake a further assessment of the rating level to correct for background noise so that the rating level relates to wind turbine noise immission only.
- (d) The wind farm operator shall ensure that all the wind turbines in the development are turned off for such period as the independent consultant requires to undertake the further assessment. The further assessment shall be undertaken in accordance with the following steps:
- (e) Repeating the steps in Guidance Note 2, with the wind farm switched off, and determining the background noise (L3) at each integer wind speed within the range requested by the planning authority in its written request under paragraph (c) and the approved protocol under paragraph (d) of the noise condition.
- (f) The wind farm noise (L 1) at this speed shall then be calculated as follows where L2 is the measured level with turbines running but without the addition of any tonal penalty: $L 1 = 10 \log_{10} [10^{L2/10} - 10^{L3/10}]$
- (g) The rating level shall be re-calculated by adding arithmetically the tonal penalty (if any is applied in accordance with Note 3) to the derived wind farm noise L 1 at that integer wind speed.
- (h) If the rating level after adjustment for background noise contribution and adjustment for tonal penalty (if required in accordance with note 3 above) at any integer wind speed lies at or below the values set out in the Tables attached to the conditions or at or below the noise limits approved by the planning authority for a complainant's dwelling in accordance with paragraph (e) of the noise condition then no further action is necessary. If the rating level at any integer wind speed exceeds the values set out in the Tables attached to the conditions or the noise limits approved by the planning authority for a

complainant's dwelling in accordance with paragraph (e) of the noise condition then the development fails to comply with the conditions.

REASON FOR DECISION

It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

TIME LIMIT FOR THE IMPLEMENTATION OF THIS PLANNING PERMISSION

In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended), the development to which this planning permission relates must commence within THREE YEARS of the date of this decision notice. If development has not commenced within this period, then this planning permission shall lapse.

FOOTNOTE TO APPLICANT

Initiation and Completion Notices

The Town and Country Planning (Scotland) Act 1997 (as amended) requires all developers to submit notices to the Planning Authority prior to, and upon completion of, development. These are in addition to any other similar requirements (such as Building Warrant completion notices) and failure to comply represents a breach of planning control and may result in formal enforcement action.

1. The developer must submit a Notice of Initiation of Development in accordance with Section 27A of the Act to the Planning Authority prior to work commencing on site.
2. On completion of the development, the developer must submit a Notice of Completion in accordance with Section 27B of the Act to the Planning Authority.

Copies of the notices referred to are attached to this decision notice for your convenience.

Accordance with Approved Plans & Conditions

You are advised that development must progress in accordance with the plans approved under, and any conditions attached to, this permission. You must not deviate from this permission without consent from the Planning Authority (irrespective of any changes that may separately be requested at the Building Warrant stage or by any other Statutory Authority). Any pre-conditions (those requiring certain works, submissions etc. prior to commencement of development) must be fulfilled prior to work starting on site. Failure to adhere to this permission and meet the requirements of all conditions may invalidate your permission or result in formal enforcement action

Flood Risk

It is important to note that the granting of planning permission does not imply there is an unconditional absence of flood risk relating to (or emanating from) the application site. As per Scottish Planning Policy (paragraph 259), planning permission does not remove the liability position of developers or owners in relation to flood risk.

Local Roads Authority Consent

In addition to planning permission, you may require one or more separate consents (such as road construction consent, dropped kerb consent, a road openings permit, occupation of the road permit etc.) from the Area Roads Team prior to work commencing. These consents may require additional work and/or introduce additional specifications and you are therefore advised to contact your local Area Roads office for further guidance at the earliest opportunity.

Failure to comply with access, parking and drainage infrastructure requirements may endanger road users, affect the safety and free-flow of traffic and is likely to result in enforcement action being taken against you under both the Town and Country Planning (Scotland) Act 1997 and the Roads (Scotland) Act 1984.

Further information on the Council's roads standards can be found at: <http://www.highland.gov.uk/yourenvironment/roadsandtransport>

Application forms and guidance notes for access-related consents can be downloaded from:

http://www.highland.gov.uk/info/20005/roads_and_pavements/101/permits_for_working_on_public_roads/2

Mud & Debris on Road

Please note that it is an offence under Section 95 of the Roads (Scotland) Act 1984 to allow mud or any other material to be deposited, and thereafter remain, on a public road from any vehicle or development site. You must, therefore, put in place a strategy for dealing with any material deposited on the public road network and maintain this until development is complete.

Construction Hours and Noise-Generating Activities: You are advised that construction work associated with the approved development (incl. the loading/unloading of delivery vehicles, plant or other machinery), for which noise is audible at the boundary of the application site, should not normally take place outwith the hours of 08:00 and 19:00 Monday to Friday, 08:00 and 13:00 on Saturdays or at any time on a Sunday or Bank Holiday in Scotland, as prescribed in Schedule 1 of the Banking and Financial Dealings Act 1971 (as amended).

Work falling outwith these hours which gives rise to amenity concerns, or noise at any time which exceeds acceptable levels, may result in the service of a notice under Section 60 of the Control of Pollution Act 1974 (as amended). Breaching a Section 60 notice constitutes an offence and is likely to result in court action.

If you wish formal consent to work at specific times or on specific days, you may apply to the Council's Environmental Health Officer under Section 61 of the 1974 Act. Any such application should be submitted after you have obtained your

Building Warrant, if required, and will be considered on its merits. Any decision taken will reflect the nature of the development, the site's location and the proximity of noise sensitive premises. Please contact env.health@highland.gov.uk for more information.

Protected Species – Halting of Work

You are advised that work on site must stop immediately, and Scottish Natural Heritage must be contacted, if evidence of any protected species or nesting/breeding sites, not previously detected during the course of the application and provided for in this permission, are found on site. For the avoidance of doubt, it is an offence to deliberately or recklessly kill, injure or disturb protected species or to damage or destroy the breeding site of a protected species. These sites are protected even if the animal is not there at the time of discovery. Further information regarding protected species and developer responsibilities is available from SNH: www.snh.gov.uk/protecting-scotlands-nature/protected-species

Signature:

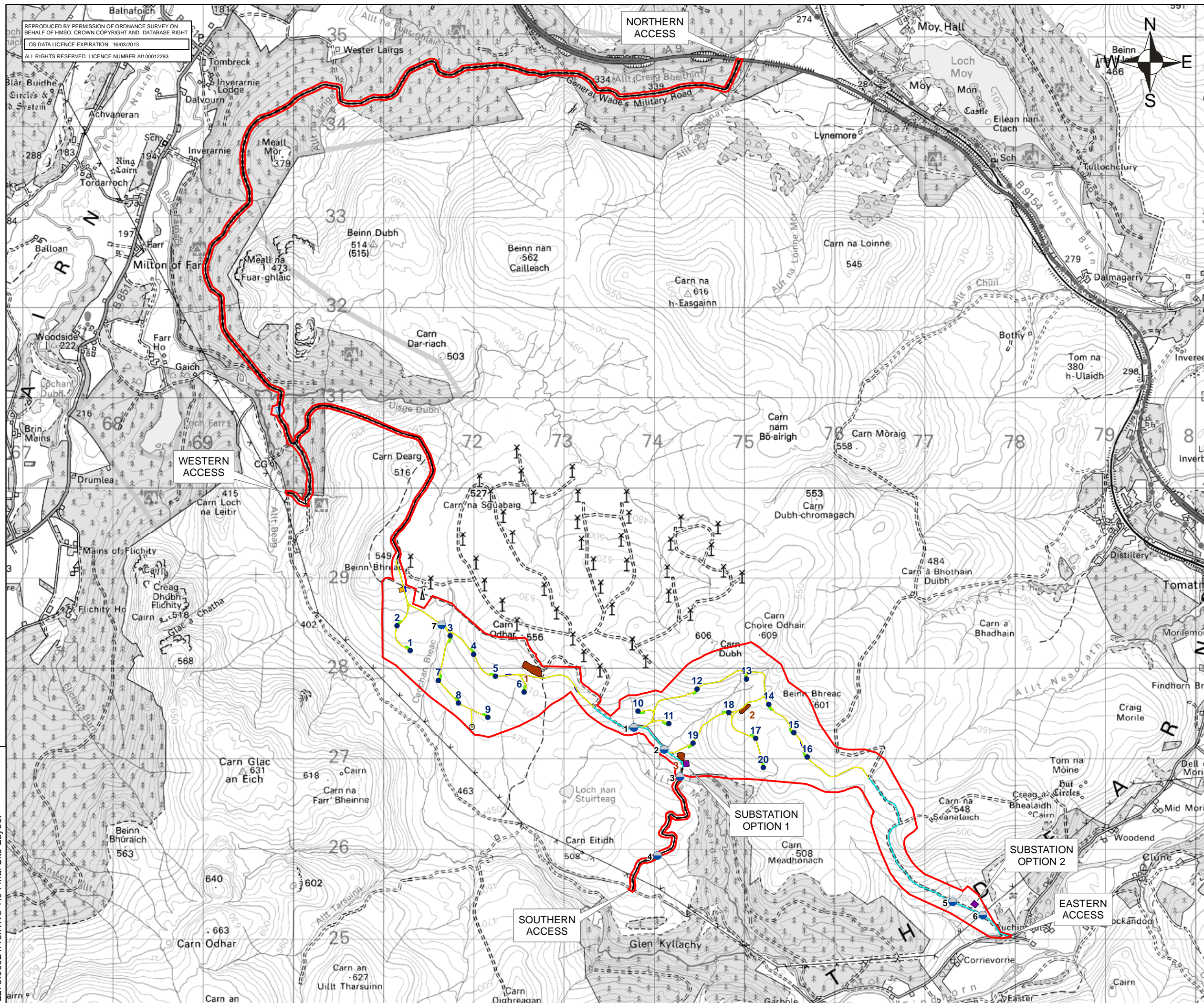
Designation: Area Planning Manager – South

Author: Ken McCorquodale (Principal Planner)

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


Relevant Plans: Site Plan / Layout - KW3-1 – Dated May 2013.


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LEGEND

- APPLICATION SITE
- PROPOSED KYLLACHY TURBINES
- ⊙ MET MAST
- WATERCOURSE CROSSINGS
- BORROW PIT
- TEMPORARY CONSTRUCTION COMPOUND
- CRANE PAD
- PASSING PLACE
- RECEPTION AND LAYDOWN AREA
- SUBSTATION COMPOUND OPTIONS
- EXISTING TRACK
- NEW TRACK
- TRACK REQUIRING UPGRADE





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KYLLACHY WIND FARM

ENVIRONMENTAL STATEMENT

FINAL INFRASTRUCTURE LAYOUT

KW3-1

Scale
1:40,000 @ A3

Date
MAY 2013

2273.00024.18.KW3-1.0 Final Site Layout