

Agenda Item	<b>5.8</b>
Report No	<b>PLN/019/21</b>

## HIGHLAND COUNCIL

**Committee:** North Planning Applications Committee

**Date:** 2 March 2020

**Report Title:** 20/04370/S42 : Ben Aketil Wind Energy Ltd:  
Ben Aketil Wind Farm, Land At Monadh Choishleader, Edinbane

**Report By:** Acting Head of Development Management – Highland

### 1. Purpose/Executive Summary

- 1.1 **Description:** Ben Aketil Wind Farm - Application to carry out development otherwise than in accordance with conditions 1, 4, 13, 19 and 20 attached to planning permission reference 02/00275/FULSL
- 1.2 **Ward:** 10 – Eilean A’Cheò

**Development category:** Electricity Generation 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.

### 2. Recommendations

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

### 3. PROPOSED DEVELOPMENT

3.1 The application has been submitted under Section 42 of the Planning Act and is seeking approval for non-compliance with Conditions 1, 4, 13, 19 and 20 of Planning Permission ref. 02/00275/FULSL granted on 7<sup>th</sup> September 2006. The development has been operational since 18<sup>th</sup> October 2007. The existing planning permission is due to expire on 18<sup>th</sup> October 2033 and this application seeks to extend the operational life of the wind farm for further 7 years. The applicant is therefore seeking to vary the following conditions:

Condition 1 of the existing planning permission (02/00275/FULSL) states:

*The permission hereby granted shall endure for a period of twenty-six years from the date that electricity is first sold to the grid network, such date to be notified in writing to the Planning Authority within three months of this time. At the end of this period, unless with the express approval in writing of the Planning Authority, all wind turbines, buildings and ancillary equipment, shall be dismantled and removed from the site, and the ground fully reinstated to the satisfaction of the Planning Authority in accordance with the relevant conditions listed below.*

**Reason:** *In order to clarify the terms of permission and to ensure restoration of the site.*

Condition 4 of the existing planning permission (20/00275/FULSL) states:

*In the event that any wind turbine fails to produce electricity supplied to a local grid for a continuous period of six months not due to it being under repair or replacement, then it shall be deemed to have ceased to be required and, unless otherwise agreed in writing with the Planning Authority, the wind turbine and its ancillary equipment shall be dismantled and removed from the site within the following six months and the ground fully reinstated to the specification and satisfaction of the Planning Authority.*

**Reason:** *In order to clarify the terms of permission and retain effective control over the development.*

Condition 13 of the existing planning permission (20/00275/FULSL) states:

*Within twelve months of the date of electricity first being sold to the grid network, an indicative scheme for the ultimate reinstatement of the site, including the removal of all wind turbines and ground reinstatement, shall be submitted for the prior written approval of the Planning Authority in consultation with Scottish Natural Heritage and the Scottish Environment Protection Agency. Such scheme will be reviewed and amended as necessary taking into account scheme operation and monitoring at least twelve months prior to actual decommissioning and reinstatement works.*

**Reason:** *In order to clarify the terms of permission and to ensure restoration of the site.*

Condition 19 of the existing planning permission (20/00275/FULSL) states:

*The Wind Farm Operator shall log wind speed and wind direction data continually and shall retain the data which has been obtained for a period of no less than the previous 12 months. The data shall include the average wind speed in metres per second for each 10 minute period. The measuring periods shall be set to commence on the hour or in 10 minute increments thereafter. The wind speed data shall be made available to the Planning Authority on request. The data shall be*

*provided on a Microsoft Excel spreadsheet in electronic format. In the case where the wind speed is measured at a height other than 10 metres, the data shall be supplemented by adjusted values which allow for wind shear, normalised to 10 metre height. Details of the wind shear calculation shall be provided.*

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

Condition 20 of the existing planning permission (20/00275/FULSL) states:

*At Wind Speeds not exceeding 12 metres/second, as measured or calculated at a height of 10 metres above ground level (at the location shown on Figure 2) the Wind Turbine Noise Level at any dwelling or other noise sensitive premises, other than at Glen Vic Askill, shall not exceed:-*

- a) during Night Hours, 38 dB LA90,10min, or the Night Hours LA90,10min Background Noise Level plus 5 dB(A), whichever is the greater;*
- b) during Quiet Waking Hours, 35 dB LA90,10min or the Quiet Waking Hours LA90,10min Background Noise Level plus 5 dB(A), whichever is the greater.*

*Providing that this condition shall only apply to dwellings or other Noise Sensitive Premises existing at the date of this Planning Permission.*

*At Wind Speeds not exceeding 12 metres/second, as measured or calculated at a height of 10 metres above ground level (at the location shown on Figure 2) the Wind Turbine Noise Level at any dwelling or other noise sensitive premises, at Glen Vic Askill, shall not exceed:-*

- (a) during Night Hours, 45 dB LA90,10min, or the Night Hours LA90,10min Background Noise Level plus 5 dB(A), whichever is the greater;*
- (b) during Quiet Waking Hours, 45 dB LA90,10min or the Quiet Waking Hours LA90,10min Background Noise Level plus 5 dB(A), whichever is the greater.*

*Providing that this condition shall only apply to dwellings or other Noise Sensitive Premises existing at the date of this Planning Permission.*

*At the request of the Planning Authority, following a valid complaint to the Planning Authority relating to noise emissions from the wind turbines, the Wind Farm Operator shall measure, at its own expense, the level of noise emissions from the wind turbines. The measurement and calculation of noise levels shall be undertaken in accordance with "The Assessment and Rating of Noise from Wind Farms", September 1996, ESTU report number ETSU-R-97 having regard to paragraphs 1-3 and 5-11 inclusive, of The Schedule, pages 95 to 97; and Supplementary Guidance Notes to the Planning Obligation, pages 99 to 109. In comparing measured Wind Turbine Noise Levels with Background Noise Levels, regard shall be had to the prevailing Background Noise Levels as measured at specified properties and shown by the best fit curves in the Environmental Statement submitted with this planning application. In the event of a complaint from a property other than one of the specified properties in the Environmental Statement, the measured Wind Turbine Noise Levels at that other property shall be compared to the prevailing Background Noise Levels at the specified property which is most likely to have similar background noise levels.*

*"Wind Turbine Noise Level" means the rated noise level due to the combined effect of all the Wind Turbines, excluding existing background noise level but including any tonal penalty incurred under the methodology described in ETSU-R -97, pages 99 - 109.*

*"Background Noise Level" means the ambient noise level already present within the environment (in the absence of noise generated by the development) as measured and correlated with Wind Speeds.*

*"Wind Speeds" means wind speeds measured or calculated at a height of 10 metres above ground level on the site at a specified Ordnance Survey grid reference agreed with the Planning Authority.*

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

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

*"Noise Sensitive Premises" means existing premises, the occupants of which could be exposed to noise from the wind farm and includes hospitals, residential homes, nursing homes, etc.*

*Should the noise levels be exceeded, the Wind Farm Operator shall take immediate steps to ensure that noise emissions from the Wind Farm are reduced to the aforementioned noise levels or less, to the written satisfaction of the Planning Authority.*

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

- 3.2 Ben Aketil Wind Farm was approved 2006 and has satisfied the suspensive planning conditions set out under the original planning permission. Electricity was first exported to the national grid on a commercial basis on 18<sup>th</sup> October 2007. The existing permission is due to expire on 18<sup>th</sup> October 2033. Ben Aketil Extension Wind Farm, which included 2 additional wind turbines (ref:09/00115/FULSL) was approved in 2010. The applicant is also seeking a permission for and extension of operational life for the Ben Aketil Extension. This is subject to a separate report to this committee under reference 20/04369/S42.
- 3.3 As noted within the applicant's Planning Statement the applicant does not propose any physical changes to the wind farm, and only seeks to extend the operational life of the existing Ben Aketil Wind Farm until 1<sup>st</sup> November 2040 (an additional 7 years). Additionally, the applicant has also requested that The Highland Council undertake a full review all the extant planning conditions and amend or remove any condition in order to update the planning permission to reflect best practice today, if appropriate.
- 3.4 Following the operational life of the development coming to an end, the site will be restored in accordance with the relevant planning conditions. This will provide an opportunity to enhance biodiversity through the site. The restoration will require to be in line with best practice at that time.
- 3.5 Ben Aketil Wind Farm has a generating capacity of 23 MW. It comprises of the following main elements:
- 10 wind turbines (each 2.3MW and hub height of 64m, rotor diameter of 71m and blade tip height of 99.5m).
  - Concrete hard standing for each turbine;
  - Access tracks (approximately 3.5km in length);
  - Substation; and
  - Buried cabling

- 3.6 Pre Application Consultation: No formal pre-application consultation undertaken. The applicant did however discuss procedure with the Planning Authority prior to submission.
- 3.7 The application was supported by the following information:
- 02/00275/FULSL Decision Notice
  - Ecological Report
  - Environmental Report
  - Environmental Report – Operational Noise Data
  - Planning Statement
  - Engineers Report
  - Section 75 Agreement (2006)
- 3.8 There have been no variations to the application following validation.

#### **4. SITE DESCRIPTION**

- 4.1 The site is located on an area of land approximately 4.9km east of Dunvegan, with the closest turbine approximately 5.6km from Dunvegan on the Isle of Skye. However, the wider site is partly located to the edge of Upper Feorlig Settlement Development Area and the north-east of the site is located on the western edge of Edinbane Settlement Development Area as defined within the West Highland and Islands Local Development Plan (2019).
- 4.2 The site contains two consented wind farms the original Ben Aketil one that this application refers to (ref. 02/00275/FULSL) that consists of 10 wind turbines and the adjacent Ben Aketil Extension to the original wind farm located to the north west of these wind turbines (ref. 09/00115/FULSL), consisting of 2 turbines. The extension continues on from the existing diagonal curved line of turbines running from south east to north west.
- 4.3 The site is accessed via an access track from the A850 to the north of the site. The access track is approximately 3.5km in length. The nearest residential properties to turbines are at Upper Glen, approximately 2.7km to the north.
- 4.4 The site is not covered by any statutory natural heritage or landscape designations.

#### **5. PLANNING HISTORY**

- |     |   |                       |                       |
|-----|---|-----------------------|-----------------------|
| 5.1 | 02/00275/FULSL Construction of wind farm comprising erection of 10 wind turbines, electricity sub station and access tracks (as amended)                                    | Permission<br>Granted | 07.09.2006            |
| 5.2 | 06/00088/FULSL Formation of Borrow Pit to Provide Rock for Use in Construction of Proposed Ben Aketil Wind Farm   | 03.10.2006            | Permission<br>Granted |
| 5.3 | 09/00115/FULSL Wind farm and ancillaries including two wind turbines and associated crane hardstandings, new access track, new borrow pit, laying cables, re-open temporary | 04.02.2010            | Permission<br>Granted |

construction compound area. Turbines to be identical to existing 10 turbines at Ben Aketil Wind Farm.

- |     |   |            |                        |
|-----|---|------------|------------------------|
| 5.4 | 16/01793/SCOP Proposed wind farm at Gleann Eoghainn, Upper Feorlig, Isle of Skye.   | 21.06.2016 | Scoping Opinion Issued |
| 5.5 | 20/04369/S42 Ben Aketil Extension Wind Farm - Application to carry out development otherwise than in accordance with conditions 2, 16, 19, 20 and 21 attached to planning permission reference number: 09/00115/FULSL |            | Pending Consideration  |

## 6. PUBLIC PARTICIPATION

- 6.1 Advertised: Schedule 3 Development / Unknown Neighbour

Date Advertised: 20.11.2020

Representation deadline: 04.12.2020

Timeous representations: 0

Late representations: 0

## 7. CONSULTATIONS

- 7.1 **Dunvegan Community Council** did not respond to the consultation on the application.

- 7.2 **Skeabost and District Community Council** did not respond to the consultation non the application.

- 7.3 **Access Officer** does not object to this application.

- 7.4 **Environmental Health** do not object to the application following submission of detailed noise assessments and an appropriate condition being attached to any consent which limits noise levels to no more than 2dB above the predicted levels are set out in tables 6.8 and 6.9 of the applicant's operational noise report.

The assessments considered cumulative noise from other existing and proposed developments. The report also refers to previous background noise assessment which have been updated in line with the guidance.

The noise assessment has identified what is considered to be an appropriate cumulative noise limit for all turbine developments in the area and from that has apportioned relevant limits that could be applied to Ben Aketil and Ben Aketil extension. As some locations this has resulted in proposed limit which are well in excess of the predicted levels.

It is therefore the reasoning for the Environmental Health Officers recommendation to adopt a 2dB margin over the predicted levels for Ben Aketil and Ben Aketil extension and apply that as a single limit to both developments.

- 7.5 **Flood Risk Management Team** do not object to the application.

- 7.6 **Transport Planning** do not object to the application.
- 7.7 **Highlands and Islands Airports Limited (HIAL)** do not object to the application. It notes it is outwith the safeguarding area for HIAL airports.
- 7.8 **Historic Environment Scotland** do not object to the application and are content that the proposal does not raise any issues of national interest.
- 7.9 **MOD** did not respond to the consultation on the application.
- 7.10 **NatureScot** do not object the application. It notes that the post-construction monitoring of white-tailed eagle has recorded significantly increased flight activity in the area and little or no displacement of white-tailed eagles from the vicinity of the wind farm. It therefore considers that the collision risk for this species will be higher than when the wind farm was commissioned.
- To minimise the risk to white-tailed eagle it recommends that measures are put in place to prevent eagles being attracted to carrion near the wind farm, ideally by fencing off the area to exclude deer and livestock. It requests a condition to secure a management plan to address these matters..
- It confirms that all other commitments and conditions not specifically modified by this application should be carried forward.
- 7.11 **Scottish Environment Protection Agency (SEPA)** do not object to the application. It notes the applicant's proposed wording in relation to Conditions 3 (Partial Decommissioning) and Condition 4 (Full Decommissioning at End of Operational Life) but considers that this requires modification to ensure that it is related to best practice at the time of preparation of the plans. They request that this requirement is captured in any proposed condition attached to the permission.
- 7.12 **Transport Scotland** do not object to the application.

## 8. **DEVELOPMENT PLAN POLICY**

The following policies are relevant to the assessment of the application.

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

- 28 - Sustainable Design
- 29 - Design Quality and Place-making
- 30 - Physical Constraints
- 31 - Developer Contributions
- 55 - Peat and Soils
- 57 - Natural, Built and Cultural Heritage
- 58 - Protected Species
- 59 - Other important Species
- 60 - Other Importance Habitats
- 61 – Landscape
- 67 - Renewable Energy Developments
- 72 - Pollution
- 77 - Public Access

## 8.2 **West Highlands and Islands Local Development Plan (2019)**

There are no site-specific policies covering the site, therefore the application requires to be assessed against the general policies of the Highland-wide Local Development Plan referred to above. However, the West Highland and Islands Local Development Plan identifies Special Landscape Areas within the plan area.

## 8.3 **Highland Council Supplementary Guidance**

8.4 The Onshore Wind Energy Supplementary Guidance 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 document is a material consideration in the determination of planning applications following its adoption as part of the Development Plan in November 2016.

8.5 The document also contains the Landscape Sensitivity Appraisals. The application site does not currently sit within an area covered by an adopted sensitivity appraisal.

8.6 The following Supplementary Guidance forms a statutory part of the Development Plan and is considered pertinent to the determination of this application:

- Developer Contributions (March 2013)
- Flood Risk and Drainage Impact Assessment (Jan 2013)
- Green Networks (Jan 2013)
- Highland Historic Environment Strategy (Jan 2013)
- Highland's Statutorily Protected Species (March 2013)
- Highland Renewable Energy Strategy and Planning Guidelines (May 2006)
- Onshore Wind Energy: Supplementary Guidance (Nov 2016);
- Standards for Archaeological Work (March 2012)

## 9. **OTHER MATERIAL POLICY CONSIDERATIONS**

9.1 The Highland-wide Local Development Plan is currently under review and is at Main Issues Report Stage. It is anticipated the Proposed Plan will be published following publication of secondary legislation and National Planning Framework 4.

9.2 In addition to the above, the Council has further advice on delivery of major developments in a number of documents. This includes Construction Environmental Management Process for Large Scale Projects and The Highland Council Visualisation Standards for Wind Energy Developments.

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

9.4 Scottish Planning Policy (SPP) advances principal policies on Sustainability and Placemaking, and subject policies on A Successful, Sustainable Place; A Low Carbon Place; A Natural, Resilient Place; and A Connected Place. It also highlights that the Development Plan continues to be the starting point of decision making on planning applications. The content of the SPP is a material consideration that carries significant weight, but not more than the Development Plan, although it is for the decision maker to determine the appropriate weight to be afforded to it in each case.



- 9.5 SPP sets out continued support for onshore wind. It requires Planning Authorities to progress, as part of the Development Plan process, a spatial framework identifying areas that are most likely to be most appropriate for onshore wind farms as a guide for developers and communities. It also lists likely considerations to be taken into account relative to the scale of the proposal and area characteristics (Para. 169 of SPP).
- 9.6 Paragraph 170 of SPP sets out that areas identified for wind farms should be suitable for use in perpetuity. This means that even though the consent is time limited the use of the site for a wind farm must be considered as, to all intents and purposes, a permanent one. The implication of this is that operational effects should be considered as permanent, and their magnitude should not be diminished on the basis that the specific proposal will be subject to a time limited consent.
- 9.7 Paragraph 174 of SPP sets out that proposals to repower existing wind farms which are already in suitable sites can help to maintain or enhance installed capacity, under pinning renewable energy targets. It further highlights that the current use of a wind farm site will be a material consideration in any repowering proposal.
- 9.8 National Policy is currently under review. Following completion of the work on National Planning Framework 4 (NPF4) and adoption by the Scottish Ministers, it will become a statutory part of the Development Plan. In November 2020, The Scottish Government published a position statement in relation to NPF4. The position statement clearly sets out that the current NPF3 and SPP remain in place until NPF4 is adopted by Ministers. It goes on to set out that the Position Statement provides an idea of the direction of travel in the preparation of the NPF4, and states that it *“is not, in itself, a document setting out policy. Statements in this Position Statement as to what the content of a revised National Planning Framework will contain should be read in that context.”* It is considered that the document can be afforded limited weight in the decision making process. In relation to this specific application the Position Statement sets out that NPF4 will strengthen support for re-powering and expanding existing wind farms. However, it is not clear how it will strengthen support and whether, if at all, it will suggest less weight should be given to environmental considerations.
- 9.9 **Other Relevant National Guidance and Policy:**
- National Planning Framework for Scotland 3;
  - Scottish Energy Strategy (Dec 2017);
  - PAN 56 – Planning and Noise;
  - PAN 58 – Environmental Impact Assessment;
  - PAN 60 – Planning for Natural Heritage;
  - 2020 Routemap for Renewable Energy;
  - Onshore Wind Energy (Statement) (Dec 2017);
  - Onshore Wind Turbines;
  - SNH Siting and Designing wind farms in the landscape: and
  - Wind Farm developments on Peat Lands

## **10. PLANNING APPRAISAL**

- 10.1 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**

- 10.2 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**

- 10.3 The principle of the development has been established. This is an application to modify the requirements of the conditions on an existing permission. In order to address the determining issues therefore, the Council must consider the extent to which the proposal, as amended, continues to comply with development plan policy and take into consideration any other material considerations.

- 10.4 The key considerations in this case are:

- a) compliance with the development plan and other planning policy
- b) Modification of Condition 1, 4, 13, 19 and 20; and
- c) any other material considerations.

### **Development plan/other planning policy**

- 10.5 Development Plan Policy has changed since the time of the determination of the original application. The Development Plan now comprises the adopted Highland-wide Development Plan (HwLDP), the West Highlands and Islands Local Development Plan and all statutorily adopted supplementary guidance. There are no site specific allocations for this site or policies related to this type of development within the development plans. The West Highlands and Islands Local Development Plan broadly sets out ongoing support for renewable projects that will release benefits from the energy sector.

- 10.6 The principal HwLDP policy on which the application needs to be determined is Policy 67 – Renewable Energy and the associated Onshore Wind Energy Supplementary Guidance. The other HwLDP policies listed at 8.1 of this report are also relevant and the application must be assessed against all these matters and considered in the round. Maximising the potential of a renewable energy development is supported in principle by Policy 67. Having said that, the Development Plan also supports the protection and preservation of landscape designations and landscape character, visual amenity, individual and community amenity, air safety, telecommunications and features of historic and cultural importance. As the wind farm is existing and the principle change is an extension to the operation time of the wind farm, it is unlikely to have a significant effect on the landscape character, key views, gateways or key routes.

- 10.7 The Onshore Wind Energy Supplementary Guidance was adopted in November 2016 (with addendum, December 2017). This provides both technical and locational guidance for wind energy development. As planning permission for a

development of this kind in this location exists and is operational, the locational guidance is not considered to apply. The technical guidance supports the key criteria set out within Policy 67 of the HwLDP.

- 10.8 Policy 67 highlights that the Council will consider the contribution of a project towards renewable energy targets, positive and negative contribution of the project towards renewable energy targets, positive and negative effects on the local and national economy and other material considerations including making effective use of existing and proposed infrastructure and facilities. In that context the Council will support proposals where it is satisfied they are located, sited and designed so that they will not have a significant detrimental impact either individually, or cumulatively with other developments. If the Council is satisfied on these matters, then an extension of the operational period for this wind farm will accord with the provisions of the Development Plan.
- 10.9 National planning policy remains supportive of onshore wind energy development with the framework for assessing wind farm proposals set out in Scottish Planning Policy (SPP). 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. The time limit on a wind farm does not negate the need to ensure the wind farm is sited and designed to ensure impacts are minimised. In determining the original application, it was considered that impacts had been minimised or mitigated. Consideration of any increase in the length of the operational period of any permission that may be granted should be on the basis that the turbines continue to operate efficiently and effectively for the duration of the permission and that any turbines which becomes redundant within the permission period will be appropriately decommissioned and do not raise any other concerns.
- 10.10 While the turbines are not being replaced, the application seeks a further 7 years of operation, therefore it can be considered that the application is a repowering application under the terms of paragraph 174 of SPP. Therefore, consideration requires to be given to whether the impacts of the existing wind farm have been shown to be capable of mitigation.
- 10.11 The key issue therefore is whether the amendments of the conditions would result in the proposal being incompatible with the Development Plan or national planning policy. If the Council is satisfied that there will be no significant adverse impact from as set out within this submission, then the application can be supported.

#### **Modification of Condition 1 (Operational Life of the Development)**

- 10.12 The application seeks an extended operational period for the wind farm. This has been the result of the developer undertaking an assessment of the existing wind farm primarily looking at the extension of its life. This confirmed that the wind farm would be viable for an additional 7 years subject to a programme of works for the renewal, refurbishment and repair of turbine components. The developer has confirmed within the Environmental Report that the life extension of the wind farm would continue to work within its current parameters for a further 7 years with low risk of component failure.
- 10.13 Temporary planning permission for wind farm developments across Scotland have historically been made in line with turbine warranty. These time limited decisions also allow for the decommissioning and restoration of sites earlier, should the turbines suffer serious sustained technical failures within the operational period of

the consent. The Council is satisfied that there is no reason that turbines could not have a useful extended life after a manufacturer's warranty expires. However, it will be important to ensure that any approval for an extended period of planning permission has sufficient safeguards to ensure that:

- the turbines continue to operate effectively;
- all mitigation is sustained for the full operational life of the wind farm; and
- the provisions for turbine failures and final removal are continued.

10.14 The applicant has noted that there is duplication between Condition 1, 4 and 13 in respect of the decommissioning and restoration of the wind farm. However, it is standard that the Planning Authority would refer to the end of the operational period, for the decommission and restoration within the planning conditions. Although the condition wording will be revisited to ensure the wording is inline with current good practice, the principle of the conditions remains appropriate.

#### **Modification of Condition 4 (Decommissioning of Turbines that Fail to Produce Electricity)**

10.15 The application seeks to extend the time period for decommissioning of a turbine which fails to supply electricity to the national grid on a commercial basis from 6 months to 12 months. Given there may be extenuating circumstances that need to be overcome in procurement of turbine components or if the shut down of the turbine is outwith the control of the wind farm operator (for example an issue with the grid), this modification is considered acceptable.

#### **Modification of Condition 13 (Decommissioning and Restoration)**

10.16 The current condition required the applicant to submit an indicative reinstatement scheme for approval with a submission of a finalised decommissioning and reinstatement scheme within 12 months of the wind farm becoming operational, this is prior to the actual decommissioning and reinstatement works. SEPA have suggested that an interim review of the document should be undertaken at least 3 years prior to the end of the consent period (1<sup>st</sup> November 2037) and be based on best practice and the regulatory framework current at the time of submission. The production of an Interim Decommissioning and Restoration Plan is standard practice and an early review of this, as proposed by SEPA is considered appropriate given the time it may take to review the plan by the Council and its partners as well as the procurement process which the wind farm operator would likely need to follow prior to implementation. This is also considered beneficial as it will make the production and review of the final Decommissioning and Restoration plan more efficient for both the wind farm operator and the Planning Authority.

10.17 The applicant proposed that particular decommissioning methods be included within the condition. However, SEPA have noted that although they currently support the removal of the wind turbine foundation to a depth of at least 1 metre below the finished ground, this should not be included within the planning condition as it may not be in accordance with best practice and regulatory framework at that time. This is agreed.

## **Modification of Conditions 19 and 20 (Noise)**

- 10.18 Condition 19 refers to the wind speed data being made available to the Planning Authority. While Condition 20 refers to wind speed and the noise impact.
- 10.19 The applicant has submitted a detailed noise assessment which considers cumulative noise from other existing and proposed developments. The report also refers to previous background noise assessment which have been updated in line with current guidelines.
- 10.20 The noise assessment identified what it considers to be an appropriate cumulative noise limit for all turbine development in this area and from that has apportioned relevant limits that could be applied to Ben Aketil and Ben Aketil extension. At some locations this has resulted in the proposed limits which are well in excess of the predicted levels.
- 10.21 The Environmental Health Officer (EHO) has recommended that a 2dB margin over the predicted levels for Ben Aketil and Ben Aketil extension is applied as a single limit for both applications. The EHO is confident that applying these limits will make little difference and that the controlling properties are at Feorlig where the applicant's proposed limit is only 3dB above the predicted level. This will clarify the actual limits at each noise sensitive location.
- 10.22 The EHO noted that where this might result in low noise limits it is necessary to consider proxy of monitoring locations. Where predicted levels are well below levels of existing wind farms, it may not be necessary to implement a noise limit at all for this application or the extension. The EHO has no objection to this application subject to an appropriately worded condition being attached to any consent which limits noise levels to no more than 2dB above predicted levels as per tables 6.8 and 6.9 of the applicant's operational noise report.
- 10.23 As noted above in section 10.18 – 10.22 the changes to modify Conditions 19 and 20 in respect of the wind speed data and noise levels are not considered to have a significant impact on the amenity of any noise sensitive receptors, however some monitoring may be required. Noise Assessments have changed significantly since planning was granted and previously noise conditions were set at higher limits than were necessary which has led to problems for subsequent developments. Given that this is an existing wind farm and there is no record of noise problems the Council is satisfied that the proposed limits are reasonable.

## **Other Material Considerations**

- 10.24 NatureScot did not object to the application, however it noted that the post-construction monitoring of white-tailed eagle has recorded a significant increase in flight activity in the area and little or no displacement from the vicinity of the wind farm. Subsequently the collision risk for this species will be higher than when the wind farm was first commissioned.
- 10.25 In order to minimise the risk to white-tailed eagle NatureScot have recommended that measures should be put in place to prevent eagles being attracted to carrion near the wind farm, ideally by fencing off the area to exclude deer and livestock. If

fencing is not practical then the area between the turbines and out to 500 metres around them should be checked at least weekly to remove any carcasses from the area.

- 10.26 NatureScot also recommend that the vantage point survey programme is extended beyond the planned 2022 end date to monitor changes in flight activity and allow further mitigation measures to be identified if necessary in future as required by condition 17 of planning permission 02/00275/FULSL. NatureScot also confirmed that any other commitments and conditions not specifically relaxed by this application should be carried forward in the revised planning permission.
- 10.27 The proposal did not raise any other material planning considerations beyond those assessed when the original permission was determined.
- 10.28 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 ensure the conditions are suitable to regulate the proposed development. All of the conditions have been reviewed given the scheme is now operational. The conditions have been reworded to reflect the operational status of the scheme.
- 10.29 All suspensive planning conditions as previously applied have been satisfied, some of these require ongoing application of mitigation or are operational requirements. As this is the case these require to remain in force.
- 10.30 The original application was supported by an Environmental Statement which is applicable to the current application. In this regard, given that the existing development is supported by an Environment 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.
- 10.31 There are no other material considerations.

#### **Non-material considerations**

- 10.32 The development provides community benefit provision in line with corporate policies of the Council and Scottish Planning Policy. This currently applies for the 26 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**

- 10.33 The consented scheme is subject to a legal agreement under Section 75 of the Act to secure a financial guarantee for the proposed development. If Members are minded to grant this application, the Section 75 agreement will be required to be modified to reflect the terms of this permission. The applicant will be required to submit an application for modification of the agreement.

## **11. CONCLUSION**

- 11.1 The Council is broadly supportive of renewable energy projects in line with national policy. The impact of this wind farm has been deemed to be acceptable in this location and the development is operational. There have been no objections raised in respect of this amendment to the application from third parties or statutory consultees.
- 11.2 Any permission granted would require the amended conditions to remain in place to ensure mitigation continues to be secured and ensure that the operation life of the wind farm is clearly set out. The conditions will also ensure the relevant noise levels are adhered to and the decommissioning of the wind farm is secured at the end of the operational life of the wind farm.
- 11.3 Any permission granted would require the amended conditions to remain in place to ensure mitigation continues to be secured and ensure that the operation life of the wind farm is clearly set out. The conditions will also ensure the relevant noise levels are adhered to and the decommissioning of the wind farm is secured at the end of the operational life of the wind farm.
- 11.4 Subject to appropriate planning conditions being applied the extension in time is broadly acceptable, with the further modifications to ensure the timescale for decommissioning and restoration of the site is clearly defined and to secure appropriate cumulative noise limits.
- 11.5 It is considered that sufficient safeguards are in place through the conditions which would remain in force on the permission to ensure that should the turbines fall into disrepair or fail, remedial measures can be put in place. Furthermore, a modified legal agreement will be completed to secure a financial bond for the decommissioning and restoration of the site.
- 11.6 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.

## **12. IMPLICATIONS**

- 12.1 Resource: Not applicable.
- 12.2 Legal: Not applicable.
- 12.3 Community (Equality, Poverty and Rural): Not applicable.
- 12.4 Climate Change/Carbon Clever: The impact on climate change of the result of the construction of the wind farm would have been offset by the renewable energy produced by the development in the last 13 years. The extension in operational period will allow the continued production of renewable energy on this site for an extended period.
- 12.5 Risk: Not applicable.
- 12.6 Gaelic: Not applicable.

### 13. RECOMMENDATION

**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. The development shall be undertaken in accordance with the planning permission reference 02/00275/FULSL, approved plans, the original Environmental Statement and the Environmental Statement (2020) except in so far as amended by the terms of this consent or as subsequently agreed in writing by the Planning Authority in consultation with NatureScot and Scottish Environmental Protection Agency.

**Reason:** To ensure the development is carried out in accordance with the submitted documentation.

2. The Planning Permission is granted for an operational period of up to 33 years from the date that electricity was first sold to the national grid (18<sup>th</sup> October 2007). At the end of the operational period decommissioning and restoration shall be completed within 2 years of cessation date (27 August 2040).

**Reason:** The application is for a temporary period of 33 years.

3. The Wind Farm Operator shall, at all times, record information regarding the monthly supply of electricity to the national grid from the site as a whole and electricity generated by each individual turbine within the development and retain the information for a period of at least 12 months. The information shall be made available to the Planning Authority within one month of any request by them. In the event that:

- i. any wind turbine fails to supply electricity on a commercial basis to the grid for a continuous period of 12 months, then unless otherwise agreed, 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 12 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.

Paragraph (i) and (ii) shall not apply if such outages are out with the operator's control or as a consequence of any emergency or requirement of National Grid. In these instances the planning authority shall be informed of the turbine shutdowns, reasons for the turbine shut downs and timescales for the outages within 5 working days of the turbines being switched off.

All decommissioning and reinstatement work required by this condition shall be carried out in accordance with the approved detailed Decommissioning and Reinstatement Plan (DRP), or, should the detailed DRP not have been approved at that stage, other decommissioning and reinstatement measures, based upon the principles of the approved draft DRP, as may be specified in writing by the Planning Authority.

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

4. No further development or works on the site, inclusive of decommissioning and any maintenance that requires provision of new or improved tracks, or replacement of any turbine components (defined as towers, blades or nacelles) until 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 local 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). It will also require the submission of an appropriate financial guarantee, bond or alternative form of security acceptable to the planning authority in respect of the risk of any road reconstruction works.

**Reason:** To ensure that the road network is appropriately safeguarded from wear and tear during maintenance, decommissioning and restoration of the site.

5. Prior to any further development or works on the site, inclusive of decommissioning and any maintenance that requires provision of new or improved tracks, or replacement of any turbine components (defined as towers, blades or nacelles), a Construction Traffic Management Plan shall be submitted to and agreed in writing by the Planning Authority. The Construction Traffic Management Plan shall include proposals for construction vehicle routing, the location and design of accesses from the public highway onto the site, management of traffic at junctions to and crossings of the public highway and other public rights of way, the scheduling and timing of movements, details of escorts for abnormal loads, temporary warning signs, temporary removal or replacement of highway infrastructure and street furniture, off-site road works and banksman details etc. The approved Construction Traffic Management Plan shall be implemented as approved in writing by the Planning Authority. For the avoidance of any doubt this will include details to advise the public including road users living along the access route of the expected abnormal loads associated with the delivery of turbine parts.

**Reason:** In order to protect highway safety and the amenity of other users of the public highway and rights of way.

6. Prior to any further development or works on the site, inclusive of decommissioning and any maintenance that requires provision of new or improved tracks, or replacement of any turbine components (defined as towers, blades or nacelles), a Construction and Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority in consultation with SNH, SEPA and other Council Services. Construction of the development shall proceed in accordance with the approved CEMP, unless otherwise agreed in writing by the Planning Authority. The CEMP should include information on the following matters:
- Environmental Policy - Statement of responsibility for all environmental features, safeguards and mitigation.
  - Appointment and scope of work for an Ecological Clerk of Works (ECoW) who shall have responsibility for monitoring compliance with the provisions of the approved CEMP and who shall report all breaches of the approved CEMP to the Planning Authority.
  - Details of construction works, the construction methods and surface treatment of all hard surfaces and tracks.
  - Details of temporary site compounds for storage of materials and machinery (including areas designated for car parking).
  - Details of the timing of works and methods of working for cable trenches and foundation works.
  - Details of the timing of works and construction of the substation/ control buildings and anemometry masts.
  - Details of the bridges and culverts for all new water crossings.
  - Pollution control arrangements, including protection of water courses and ground water and soils, bunding of fuel storage areas, and sewage disposal.
  - Dust management.
  - Cleaning of site entrances, site tracks and the adjacent public highway and the sheeting of all HGVs taking spoil or construction materials to / from the site to prevent spillage or deposit of any materials on the highway.
  - Disposal arrangements of surplus materials.
  - Post construction restoration / reinstatement of the temporary working areas.
  - Construction noise management plan (including identification of access routes, locations of materials lay-down areas, details of equipment to be employed, operations to be carried out, mitigation measures and a scheme for the monitoring of noise in the event of complaints).

**Reason:** To protect highway safety, amenity and control pollution of air, land and water.

7. Prior to any further development or works on the site, inclusive of decommissioning and any maintenance that requires provision of new or improved tracks, or replacement of any turbine components (defined as towers, blades or nacelles), survey work and all necessary mitigation shall be undertaken in respect of the interests of protected species within and adjacent to the application site as agreed in writing with the Planning Authority in respect of all construction and site restoration associated with this project. The earlier noted Ecological Clerk of Works shall oversee the construction and decommissioning phase of the development and that that individual shall be given the power to stop construction works if necessary to safeguard protected species and their habitats.

**Reason:** To protect the interests of European and other Protected Species which prevail within the area of the proposed construction works.

8. 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 (other than health and safety signage) unless otherwise approved in advance in writing by the planning authority.

**Reason:** To in the interests of the visual amenity of the area and compliance with Town and Country Planning (control of advertisements) (Scotland) regulations 1984.

9. Prior to any further development or works on the site and / or any maintenance that requires provision of replacement of any turbine components (defined as towers, blades or nacelles) details of the proposed replacement turbine components shall be submitted to, and approved in writing by, the planning authority. These details shall include:
- i. The make, model, design, of the replacement turbine components to be used; and
  - ii. The external colour and/or finish of the replacement turbine components to be used 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 discolouration, until such time as the wind farm is decommissioned.

**Reason:** To ensure that only the turbines as approved are used in the development and are acceptable in terms of visual, landscape, and environmental impact considerations.

10. Prior to any further development or works on the site and / or any maintenance that requires the replacement of the control building, and or ancillary infrastructure until final details of the location, layout, external appearance, dimensions and surface materials of all buildings, compounds, parking areas, as well as any external lighting (excluding aviation lighting), fencing, walls, paths and any other ancillary elements of the development, have been submitted to, and approved in writing by, the planning authority. Thereafter, development shall progress in accordance with these approved details.

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

11. Details for ornithological monitoring, including arrangements for submitting the results of monitoring, based on the proposals contained within the original Environmental Statement (02/00275/FULSL), but with the addition of timed vantage point surveys for raptors, specifically white-tailed eagle in years 1, 3, then every 5 years, shall be submitted to and require the approval in writing of the Planning Authority in consultation with NatureScot. The proposals thereby approved shall be implemented thereafter to the satisfaction of the Planning Authority. In the event that the vantage point surveys indicated that significant adverse impacts on raptors

are occurring then an appropriate scheme of mitigation shall be submitted to and require the approval in writing of the Planning Authority in consultation with NatureScot.

**Reason:** In the interests of nature conservation.

12. Within 3 months of the date of this Planning Permission a Deer, Livestock and Carrion Management Plan shall be submitted for the written approval of the Planning Authority in consultation with NatureScot. Thereafter the approved plan shall be implemented to the satisfaction of the Planning Authority and continue in force until the development ceases to operate.

**Reason:** In the interests of nature conservation

13. Within 3 months of this consent an Interim Decommissioning and Restoration Plan (IDRP) for the site should be submitted to, and approved in writing by, the Planning Authority in consultation with SEPA. Thereafter:

- i. not later than 3 years prior to the decommissioning of the Development, the IDRP shall be reviewed by the Developer, to ensure that the IDRP reflects best practice in decommissioning prevailing at the time and ensures that site specific conditions, identified during construction of the site, and subsequent operation and monitoring of the Development are given due consideration. A copy shall be submitted to the Planning Authority for its written approval, in consultation with SNH and SEPA; and
- ii not later than 12 months prior to the decommissioning of the Development, a detailed Decommissioning and Restoration Plan (DRP), based upon the principles of the approved interim plan, shall be submitted to, and approved in writing by, the Planning Authority, in consultation with SNH and SEPA. The IDRP and subsequent DRP shall include, unless otherwise agreed in writing with the Planning Authority and in accordance with legislative requirements and published best practice at time of decommissioning details about the removal of all elements of the Development, relevant access tracks and all cabling, including where necessary details of:
  - a) site waste management plan (dealing with all aspects of waste produced during the decommissioning, restoration and aftercare phases);
  - b) details of the formation of the construction compound, welfare facilities, any areas of hardstanding, turning areas, internal access tracks, car parking, material stockpiles, oil storage, lighting columns, and any construction compound boundary fencing;
  - c) a dust management plan;
  - d) details of measures to be taken to prevent loose or deleterious material being deposited on the local road network, including wheel cleaning and lorry sheeting facilities, and measures to clean the site entrances and the adjacent local road network;
  - e) a pollution prevention and control method statement, including arrangements for the storage and management of oil and fuel on the site;

- f) details of measures for soil storage and management;
- g) a surface water and groundwater management and treatment plan, including details of the separation of clean and dirty water drains, and location of settlement lagoons for silt laden water;
- h) details of measures for sewage disposal and treatment;
- i) temporary site illumination;
- j) the construction of any temporary access into the site and the creation and maintenance of associated visibility splays;
- k) details of watercourse crossings;
- l) a species protection plan based on surveys for protected species (including birds) carried out no longer than eighteen months prior to submission of the plan and
- m) details of measures to protect cultural heritage assets and archaeological remains.
- n) plan to address any traffic impact issues during the decommissioning period.

The DRP shall be implemented as approved. In the event that the Final DPR is not approved by The Highland Council in advance of the decommissioning, unless otherwise agreed by the Planning Authority the Interim IDRPs shall be implemented.

**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.

14. The rating level of noise imissions from the combined effects of the operational wind turbines at Ben Aketil (Planning Application Ref: 02/00275/FULCA) and Ben Aketil Extension (Planning Application Ref: 09/00115/FULSL) (including the application of any tonal penalty), when determined in accordance with the attached Guidance Notes, shall not exceed the values for the relevant integer wind speeds set out in or derived from Table 1 attached to these conditions. Furthermore
- (A) Where there is more than one dwelling at a location specified in Table 1 attached to this condition, the noise limits set for that location shall apply to all dwellings at that location. In the event of a noise complaint relating to a dwelling which is not identified by name or location in the Table attached to these conditions, the applicant shall submit to the Planning Authority, for written approval, proposed noise limits to be adopted at the complainant's dwelling for compliance checking purposes. The submission of the proposed noise limits to the Planning Authority shall include a written justification of the choice of limits. The rating level of noise imissions 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.
  - (B) No electricity shall be exported on a commercial basis to the grid until the Company 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) There shall be no Commencement of Development until a Noise Measurement and Mitigation Scheme has been submitted to, and approved in writing by, the planning authority. The scheme shall include:
- A framework for the measurement and calculation of the rating level of noise immissions from the wind farm (including the identification of any tonal component) to be undertaken in the event of a complaint in accordance with ETSU-R-97 and its associated Good Practice Guide and Supplementary Guidance Notes.
  - A framework for implementing any required curtailment measures, where necessary to ensure the values in Table 1 are met and not exceeded.
- (D) Within 21 days from receipt of a written request of the planning authority, following a complaint to it from an occupant of a dwelling alleging noise disturbance at that dwelling, the Company shall, at its expense, employ an independent consultant approved by the planning authority to assess the rating level of noise immissions from the wind farm at the complainant's property in accordance with the approved Noise Measurement and Mitigation Scheme. 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 Local Planning Authority, the noise giving rise to the complaint contains or is likely to contain a tonal component. Within 14 days of receipt of a written request from the planning authority, the Company shall provide the planning authority with the information relevant to the complaint logged in accordance with paragraph (G) of this condition.

The independent consultant's assessment must be undertaken in accordance with the approved Noise Measurement and Mitigation Scheme and must relate to the range of conditions 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 and such other conditions as the independent consultant considers necessary to fully assess the noise at the complainant's property.

- (E) The Company 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. 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.

- (F) Where a further assessment of the rating level of noise immissions from the wind farm is required to assess the complaint, the Company 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.
- (G) Within one week of the planning authority receiving an assessment which identifies that the wind farm noise levels are exceeding any of the limits in Table 1 attached to this condition, the Company will implement mitigation measures in accordance with the approved Noise Measurement and Mitigation Scheme.
- (H) The Company 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 Company 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.

Note: For the purposes of this condition, a “dwelling” is a building within Use Class 9 of the Use Classes Order which lawfully exists or had planning permission at the date of this consent.

**Table 1 - Noise Limits in dB LA90**

Location (easting, northing grid coordinates)	Standardised wind speed at 10 metres height (m/s) within the site averaged over 10-minute periods											
	1	2	3	4	5	6	7	8	9	10	11	12
LA90 Decibel Levels												
Upperglen (131978, 851178)				18	21	26	29	31	32	32	32	32
Coishletter Woodland (133696, 851068)				15	18	23	25	27	29	29	29	29
Blackhill (134519, 850404)				15	17	23	25	27	28	28	28	28
Glen Vic Askill (135979, 844311)				10	13	18	21	23	24	24	24	24
9 Balmeanach (133132, 843734)				13	16	21	24	26	27	27	27	27
Allt Ruairidh (132485, 843549)				14	17	22	24	26	28	28	28	28
2 Balmeanach (131318, 843153)				13	15	21	23	25	26	26	26	26

North of 1 Balmeanach (130944, 843272)				13	15	21	21	25	26	26	26	26
1 Caroy Struan (130338, 843921)				13	16	21	24	26	27	27	27	27
12 Feorlig (129987, 845192)				20	23	28	31	33	34	34	34	34
Upper Feorlig (129940, 845118)				20	23	28	31	34	34	34	34	34
11 Upper Feorlig (129895, 844969)				20	23	28	31	34	34	34	34	34
1 Roskhill (128254, 845221)				13	15	21	23	25	26	26	26	26
Roskhill Cottage (127638, 845505)				12	15	20	22	24	26	26	26	26
Horneval (127534, 848009)				14	16	22	24	26	27	27	27	27

**Note to Table 1:** The wind speed standardised to 10 metres height within the Site refers to wind speed at 10 metres height derived in accordance with the method given in the attached Guidance Notes.

### Guidance Notes for Noise Condition

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  $L_{A90,10\text{-minute}}$  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 BS4142: 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 Company 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  $L_{A90,10\text{-minute}}$  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 Company shall continuously log arithmetic mean wind speed in metres per second and wind direction in degrees from north 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, such as direct measurement at a height of 10 metres, this wind speed, averaged across all operating wind turbines, and corrected to be representative of wind speeds measured at a height of 10m, shall be used as the basis for the analysis. It is this 10 metre height wind speed data, which is correlated with the noise measurements determined as valid in accordance with 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 should be made so as to provide not less than 20 valid data points as defined in Note 2 paragraph (b).

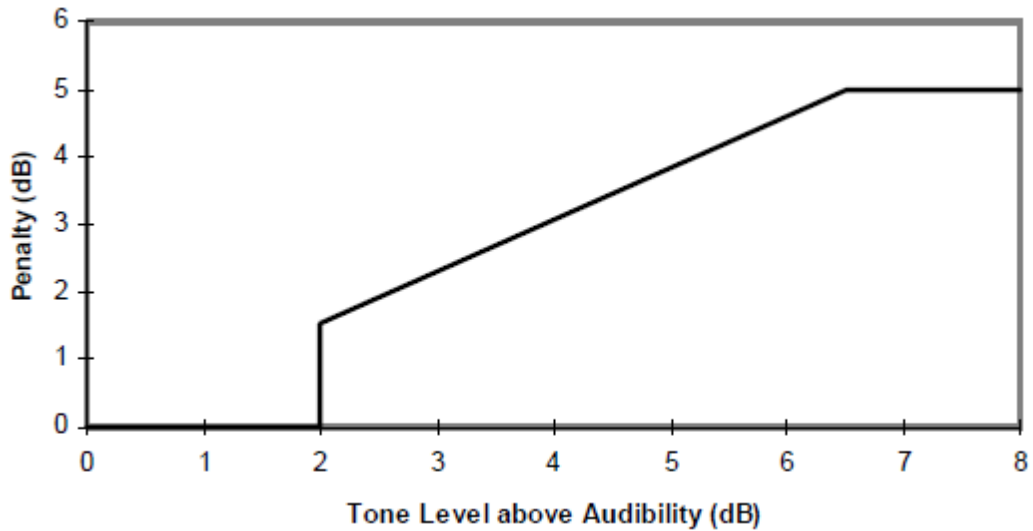
b) Valid data points are those measured in the conditions specified in the agreed written protocol under paragraph (d) of the noise condition, but excluding any periods of rainfall measured in the vicinity of the sound level meter. Rainfall shall be assessed by use of a rain gauge that shall log the 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  $L_{A90,10\text{-minute}}$  noise measurements and corresponding values of the 10- minute 10- 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 10- metre height 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  $L_{A90,10\text{-minute}}$  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 Company 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:
  - i. Repeating the steps in Guidance Note 2, with the wind farm switched off, and determining the background noise ( $L_3$ ) 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.
  - ii. The wind farm noise ( $L_1$ ) at this speed shall then be calculated as follows where  $L_2$  is the measured level with turbines running but without the addition of any tonal penalty:

$$L_1 = 10 \log \left[ 10^{L_2/10} - 10^{L_3/10} \right]$$

- iii. The rating level shall be re-calculated by adding 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.
- iv. If the rating level after adjustment for background noise contribution and adjustment for tonal penalty (if required in accordance with note (iii) 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 Table 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:** In the interest of amenity.

15. Within three months of the date of this Planning Permission an updated Schedule of Mitigation shall be submitted to and approved in writing by the Planning Authority in consultation with NatureScot and SEPA. The document shall include provision for :
- a) An updated Schedule of Mitigation (SM) including all mitigation identified in the Environmental Impact Assessment Report and any additional mitigation otherwise included as conditions on this planning permission;
  - b) A timetable for the implementation of each element of mitigation;
  - c) Processes to control / action changes from the agreed Schedule of Mitigation.

Thereafter all mitigation identified in the approved document shall be implemented in full in accordance with the timescales included in the schedule of mitigation.

**Reason:** to ensure the delivery of required mitigation to ensure the impacts of the proposed development on the receiving environment are managed.

## **REASON FOR DECISION**

## **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**

### **Accordance with Approved Plans and 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.

### **Scottish Water**

You are advised that a supply and connection to Scottish Water infrastructure is dependent on sufficient spare capacity at the time of the application for connection to Scottish Water. The granting of planning permission does not guarantee a connection. Any enquiries with regards to sewerage connection and/or water supply should be directed to Scottish Water on 0845 601 8855.

### **Septic Tanks and Soakaways**

Where a private foul drainage solution is proposed, you will require separate consent from the Scottish Environment Protection Agency (SEPA). Planning permission does not guarantee that approval will be given by SEPA and as such you are advised to contact them direct to discuss the matter (01349 862021).

### **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](http://www.highland.gov.uk/info/20005/roads_and_pavements/101/permits_for_working_on_public_roads/2)

### **Mud and 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](mailto: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](http://www.snh.gov.uk/protecting-scotlands-nature/protected-species)

Designation: Acting Head of Development Management – Highland  
Author: Claire Farmer – Planner, Strategic Projects Team  
Background Papers: Documents referred to in report and in case file.  
Relevant Plans: Plan 1 - 14299-002 REV 1 Location Plan  
Plan 2 - 14299-008 Site Layout Plan

**PLANNING PERMISSION  
SUBJECT TO CONDITIONS**

Grid Reference	Easting: 132738 Northing: 846404
Reference No	02/00275/FULSL

**THE HIGHLAND COUNCIL  
TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**

To: **RDC Scotland Limited  
Tower Mains Studios  
18D Liberton Brae  
EDINBURGH EH16 6AE**

With reference to your application received on **30 August 2002** for planning permission under the above-mentioned Act for the following development, viz:-

**Construction of wind farm comprising erection of 10 wind turbines, electricity sub station and access tracks (as amended) at Ben Aketil, Feorlig, Dunvegan, Isle Of Skye**

The Highland Council in exercise of its powers under the above-mentioned Act and Order hereby grant planning permission for the said development in accordance with the plan(s) docketted as relative hereto and the particulars given in the application, subject to the following standard condition:-

In terms of Sections 58 & 59 of the Town and Country Planning (Scotland) Act 1997, this approval is granted subject to the condition that the development to which it relates must be begun not later than the expiration of five years beginning with the date of this permission

and also to the following condition(s), viz:-

1. The permission hereby granted shall endure for a period of twenty-six years from the date that electricity is first sold to the grid network, such date to be notified in writing to the Planning Authority within three months of this time. At the end of this period, unless with the express approval in writing of the Planning Authority, all wind turbines, buildings and ancillary equipment, shall be dismantled and removed from the site, and the ground fully reinstated to the satisfaction of the Planning Authority in accordance with the relevant conditions listed below.
2. Except as otherwise provided for and amended by the terms of this approval, the operator shall construct and operate the development in accordance with the provisions of the application, the Environmental Statement (as revised by the Supplementary Information to the Environmental Statement) and the submitted plans.
3. The project shall be wholly constructed and commissioned within one construction period in accordance with this approval, unless otherwise approved in writing by the Planning Authority.
4. In the event that any wind turbine fails to produce electricity supplied to a local grid for a continuous period of six months not due to it being under repair or replacement, then it shall be deemed to have ceased to be required and, unless otherwise agreed in writing with the Planning Authority, the wind turbine and its ancillary equipment shall be dismantled and removed from the site within the following six months and the ground fully reinstated to the specification and satisfaction of the Planning Authority.

/To be continued

Dated 7th September 2006

**[Redacted Signature]**  
Head of Planning and Building Standards

Grid Reference	Easting: 132738 Northing: 846404
Reference No	02/00275/FULSL

5. This permission shall be for a maximum of 10 turbines and 1 anemometer mast, to be sited as shown on the revised site layout in the Supplementary Environmental Statement, Figure 084/VL/1a. The prior written approval of the Planning Authority in consultation with Scottish Natural Heritage and the Scottish Environment Protection Agency shall be required for the siting of any wind turbine or access track more than 50 metres from the approved location, any such submission by the developer to include a revised site layout for the location of all turbines and access roads.
6. Prior to the commencement of development, the final specification of the wind turbine details shall be submitted for the prior approval in writing of the Planning Authority, including the make, model, design, power rating and sound power levels. The noise assessment shall be updated as necessary to reflect the turbine specification chosen. For the avoidance of doubt, wind turbines on this site shall not exceed 65 metres above existing ground level in hub height and 100.5 metres above existing ground level in overall height.
7. Prior to the commencement of development, details, including means of access, fencing, design, materials and colours/external finishes, of all ancillary elements to the development, including the overhead electricity line within the site to the grid sub-station, shall be submitted for the prior written approval of the Planning Authority.
8. The wind turbine blades shall all rotate in the same direction – that is, clockwise or anti-clockwise.
9. The wind turbines shall be finished in a non-reflective semi-matt pale grey colour, and that colour shall not be altered thereafter unless previously agreed in writing by the Planning Authority.
10. The site shall not be permanently illuminated by lighting without the prior written approval of the Planning Authority which, if the lighting is required by law, shall not unreasonably be withheld.
11. No symbols, signs, logos or other lettering shall be displayed on any part of the wind turbines nor any other buildings or structures without the prior written approval of the Planning Authority.
12. All cables between the wind turbines and the site electricity sub-station shall be laid underground and the ground thereafter reinstated to the satisfaction of the Planning Authority.
13. Within twelve months of the date of electricity first being sold to the grid network, an indicative scheme for the ultimate reinstatement of the site, including the removal of all wind turbines and ground reinstatement, shall be submitted for the prior written approval of the Planning Authority in consultation with Scottish Natural Heritage and the Scottish Environment Protection Agency. Such scheme will be reviewed and amended as necessary taking into account scheme operation and monitoring at least twelve months prior to actual decommissioning and reinstatement works.

/To be continued

Dated 7th September 2006

  
Head of Planning and Building Standards



Grid Reference	Easting: 132738 Northing: 846404
Reference No	02/00275/FULSL

14. Prior to the commencement of development, the applicants shall submit a construction method statement for the prior written approval of the Planning Authority in consultation with Scottish Natural Heritage and the Scottish Environment Protection Agency. This statement shall detail contractor arrangements for the following:
- (i) the excavation and make-up of internal access tracks and hardstanding, including measures to address silt-laden run-off from temporary and permanent access tracks, soil storage and other engineering operations;
  - (ii) measures to prevent entry of cement materials to watercourses;
  - (iii) the source of all fill and bulk materials;
  - (iv) identification of waste streams arising from the works, such as peat, spoil and other excavated material, and the means of dealing with these;
  - (v) construction arrangements for turbine foundations including concrete batching and dewatering arrangements to treat potentially sediment-laden water;
  - (vi) cable laying within the site;
  - (vii) construction management operations including site lighting, temporary servicing for workers, vehicle storage and other storage arrangements;
  - (viii) associated vehicle movements and routing for different phases of construction;
  - (ix) proposals for phasing of operations, including the provision of information on the construction timetable which takes into account the implications of times of the year when high rainfall is more likely;
  - (x) construction works compound including its eventual removal and satisfactory reinstatement;
  - (xi) reinstatement of ground post-construction, including re-vegetation of access track edges and hardstanding areas, together with measures to monitor its success;
  - (xii) arrangements for fuel storage and fuelling, the storage and handling of oils and lubricants, and the handling of cement materials all to prevent any entry to watercourses with contingency plans in the event of spillage;
  - (xiii) surface water drainage arrangements, to comply with "Sustainable Drainage Systems" (SuDS) principles and to prevent erosion, sedimentation or discolouration of water, together with monitoring proposals and contingency plans;
  - (xiv) measures to protect private water supplies;
  - (xv) measures to address silt-laden run-off from access tracks and other engineering operations;
  - (xvi) provision of welfare facilities on site during construction and the means of disposal of sewage effluent;
  - (xvii) mechanisms to ensure that sub-contractors and all other parties on the site are managed and aware of issues and provisions relating to pollution, including emergency procedures;
  - (xviii) arrangements for the prevention of mud and debris being deposited on the road surface by construction vehicles.

/To be continued

Dated 7th September 2006

  
Head of Planning and Building Standards

Grid Reference	Easting: 132738 Northing: 846404
Reference No	02/00275/FULSL

15. Prior to the commencement of development, a Peat Slide Assessment and Mitigation Statement shall be prepared and submitted to the Planning Authority for prior written approval in consultation with Scottish Natural Heritage, Scottish Environment Protection Agency and the Health and Safety Executive. This should include a detailed survey of peat depths and slopes and the presence of any sub-peat water flows, reservoirs of wet peat and water, evidence of past slips, sink holes, peat channels and drainage features. Based on this, best practice and any mitigation measures, including any micro-siting amendments to the location of turbine bases and access tracks (upon production of a revised site layout plan to the Planning Authority to show the proposed variations), shall be set out in the Statement for approval. This Statement shall also include proposals for the safe temporary storage of peat until such times as it is used for restoration of the shoulders of roads and tracks, around turbine bases and for other post-construction restoration, with any surplus peat thereafter being removed from the site. The Statement shall also include a rapid reaction strategy for dealing with the consequences of a slide event.
16. Unless otherwise approved in writing by the Planning Authority in consultation with Scottish Natural Heritage, the wind farm shall be constructed outwith the bird breeding season.
17. Prior to the wind farm becoming operational, detailed proposals for ornithological monitoring, including arrangements for submitting the results of monitoring, based on the proposals contained in the Environmental Statement but with the addition of timed vantage point surveys for raptors, specifically golden eagle, in years 1-3, 5 and 10, shall be submitted to and require the approval in writing of the Planning Authority in consultation with Scottish Natural Heritage. The proposals thereby approved shall be implemented thereafter to the satisfaction of the Planning Authority. In the event that the vantage point surveys indicate that significant adverse impacts on raptors are occurring then an appropriate scheme of mitigation shall be submitted to and require the approval in writing of the Planning Authority in consultation with Scottish Natural Heritage.
18. Prior to the commencement of development, arrangements for an archaeological watching brief to be carried out on site clearance and excavation works shall be submitted to and require the approval in writing of the Planning Authority. This shall be prepared in accordance with a Specification obtained in advance from the Council Archaeology Unit. No site clearance or excavation works shall take place until that approval has been given and all such works shall thereafter be implemented in accordance with the approved arrangements.
19. The Wind Farm Operator shall log wind speed and wind direction data continually and shall retain the data which has been obtained for a period of no less than the previous 12 months. The data shall include the average wind speed in metres per second for each 10 minute period. The measuring periods shall be set to commence on the hour or in 10 minute increments thereafter. The wind speed data shall be made available to the Planning Authority on request. The data shall be provided on a Microsoft Excel spreadsheet in electronic format. In the case where the wind speed is measured at a height other than 10 metres, the data shall be supplemented by adjusted values which allow for wind shear, normalised to 10 metre height. Details of the wind shear calculation shall be provided.

/To be continued

Dated 7th September 2006

.....  
Head of Planning and Building Standards

Grid Reference	<b>Easting: 132738</b> <b>Northing: 846404</b>
Reference No	<b>02/00275/FULSL</b>

20. At Wind Speeds not exceeding 12 metres/second, as measured or calculated at a height of 10 metres above ground level (at the location shown on Figure 2) the Wind Turbine Noise Level at any dwelling or other noise sensitive premises, other than at Glen Vic Askill, shall not exceed:-

(a) during Night Hours, 38 dB LA90,10min, or the Night Hours LA90,10min Background Noise Level plus 5 dB(A), whichever is the greater;

(b) during Quiet Waking Hours, 35 dB LA90,10min or the Quiet Waking Hours LA90,10min Background Noise Level plus 5 dB(A), whichever is the greater.

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

At Wind Speeds not exceeding 12 metres/second, as measured or calculated at a height of 10 metres above ground level (at the location shown on Figure 2) the Wind Turbine Noise Level at any dwelling or other noise sensitive premises, at Glen Vic Askill, shall not exceed:-

(a) during Night Hours, 45 dB LA90,10min, or the Night Hours LA90,10min Background Noise Level plus 5 dB(A), whichever is the greater;

(b) during Quiet Waking Hours, 45 dB LA90,10min or the Quiet Waking Hours LA90,10min Background Noise Level plus 5 dB(A), whichever is the greater.

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

At the request of the Planning Authority, following a valid complaint to the Planning Authority relating to noise emissions from the wind turbines, the Wind Farm Operator shall measure, at its own expense, the level of noise emissions from the wind turbines. The measurement and calculation of noise levels shall be undertaken in accordance with "The Assessment and Rating of Noise from Wind Farms", September 1996, ESTU report number ETSU-R-97 having regard to paragraphs 1-3 and 5-11 inclusive, of The Schedule, pages 95 to 97; and Supplementary Guidance Notes to the Planning Obligation, pages 99 to 109. In comparing measured Wind Turbine Noise Levels with Background Noise Levels, regard shall be had to the prevailing Background Noise Levels as measured at specified properties and shown by the best fit curves in the Environmental Statement submitted with this planning application. In the event of a complaint from a property other than one of the specified properties in the Environmental Statement, the measured Wind Turbine Noise Levels at that other property shall be compared to the prevailing Background Noise Levels at the specified property which is most likely to have similar background noise levels.

/To be continued

Dated 7th September 2006

Head of Planning and Building Standards

Grid Reference	Easting: 132738 Northing: 846404
Reference No	02/00275/FULSL

"Wind Turbine Noise Level" means the rated noise level due to the combined effect of all the Wind Turbines, excluding existing background noise level but including any tonal penalty incurred under the methodology described in ETSU-R-97, pages 99 - 109.

"Background Noise Level" means the ambient noise level already present within the environment (in the absence of noise generated by the development) as measured and correlated with Wind Speeds.

"Wind Speeds" means wind speeds measured or calculated at a height of 10 metres above ground level on the site at a specified Ordnance Survey grid reference agreed with the Planning Authority.

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

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

"Noise Sensitive Premises" means existing premises, the occupants of which could be exposed to noise from the wind farm and includes hospitals, residential homes, nursing homes, etc.

Should the noise levels be exceeded, the Wind Farm Operator shall take immediate steps to ensure that noise emissions from the Wind Farm are reduced to the aforementioned noise levels or less, to the written satisfaction of the Planning Authority.

21. Access to the site by heavy goods vehicles shall be restricted to 07.00 to 19.00 on Mondays to Fridays and from 07.00 to 12.00 on Saturdays with no such access on Sundays. Unless agreed in writing by the Planning Authority in advance, any construction activity involving audible noise from cutting, hammering and welding shall be subject to the foregoing hours.
22. The developer shall undertake all works within the terms of "Guidelines for Preventing Pollution from Civil Engineering Contracts" published by the Scottish Environmental Protection Agency and shall ensure that there are safeguards against pollution of groundwater or any watercourse from all construction activities and ongoing operational activities. In particular all containment and contingency measures in relation to disposal of any foul drainage, oil storage and management, gearbox oil change arrangements and any other necessary pollution avoidance arrangements shall be detailed and require the prior written approval of the Planning Authority in consultation with the Scottish Environment Protection Agency and Scottish Natural Heritage.
23. Prior to the commencement of construction of the control building, details of the proposed arrangements for the disposal of any foul drainage from the building shall be submitted to and require the approval in writing of the Planning Authority in consultation with the Scottish Environment Protection Agency.

/To be continued

Dated 7th September 2006

  
Head of Planning and Building Standards

Grid Reference	Easting: 132738 Northing: 846404
Reference No	02/00275/FULSL

24. The new junction at the proposed site access will require road construction consent and shall be designed to comply with the Council's 'Road Guidelines for New Developments.'
25. A visibility splay of 4.5m x 180m in either direction shall be provided at the proposed site access to the satisfaction of the Planning Authority in consultation with the roads Authority. Once the access is constructed, the visibility shall thereafter be maintained at all times by the applicant for the duration of this planning permission.
26. There shall be provided in the curtilage of the site an adequate and unobstructed turning area.
27. Prior to the commencement of development, a road assessment to identify the capacity of the public road network from Dunvegan pier, or alternative landing dock, to the site for the movement of abnormal loads, to include any improvement and modification measures necessary to accommodate the transport of abnormal loads, shall be submitted to and require the approval in writing of the Planning Authority in consultation with the Roads Authority.
28. Prior to the commencement of delivery of abnormal loads along the public road network, all the necessary and approved improvements and modifications to such parts of the network in order to accommodate the transport of abnormal loads shall have been implemented to the satisfaction of the Planning Authority in consultation with the Roads Authority.
29. Prior to the commencement of delivery of abnormal loads along the public road network, a detailed programme for the movement of abnormal loads, to include a contingency plan in the event of the public road network becoming blocked by a vehicle carrying an abnormal load, shall be submitted to and require the approval in writing of the Planning Authority in consultation with the Roads Authority.
30. Prior to the commencement of development, the applicant shall provide the Ministry of Defence (Defence Estates - Safeguarding) with the following information; a copy to be submitted to the Planning Authority -
  - proposed date of commencement of the construction;
  - estimated date of completion of the construction;
  - height above ground level of the tallest structure;
  - maximum extension height of any construction equipment;
  - position of the turbines in latitude and longitude plus eastings and northings;
  - confirmation that the site will not be lit during operation.

/To be continued

Dated 7th September 2006

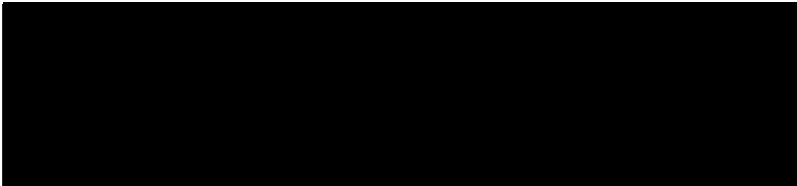
Head of Planning and Building Standards

Grid Reference	<b>Easting: 132738 Northing: 846404</b>
Reference No	<b>02/00275/FULSL</b>

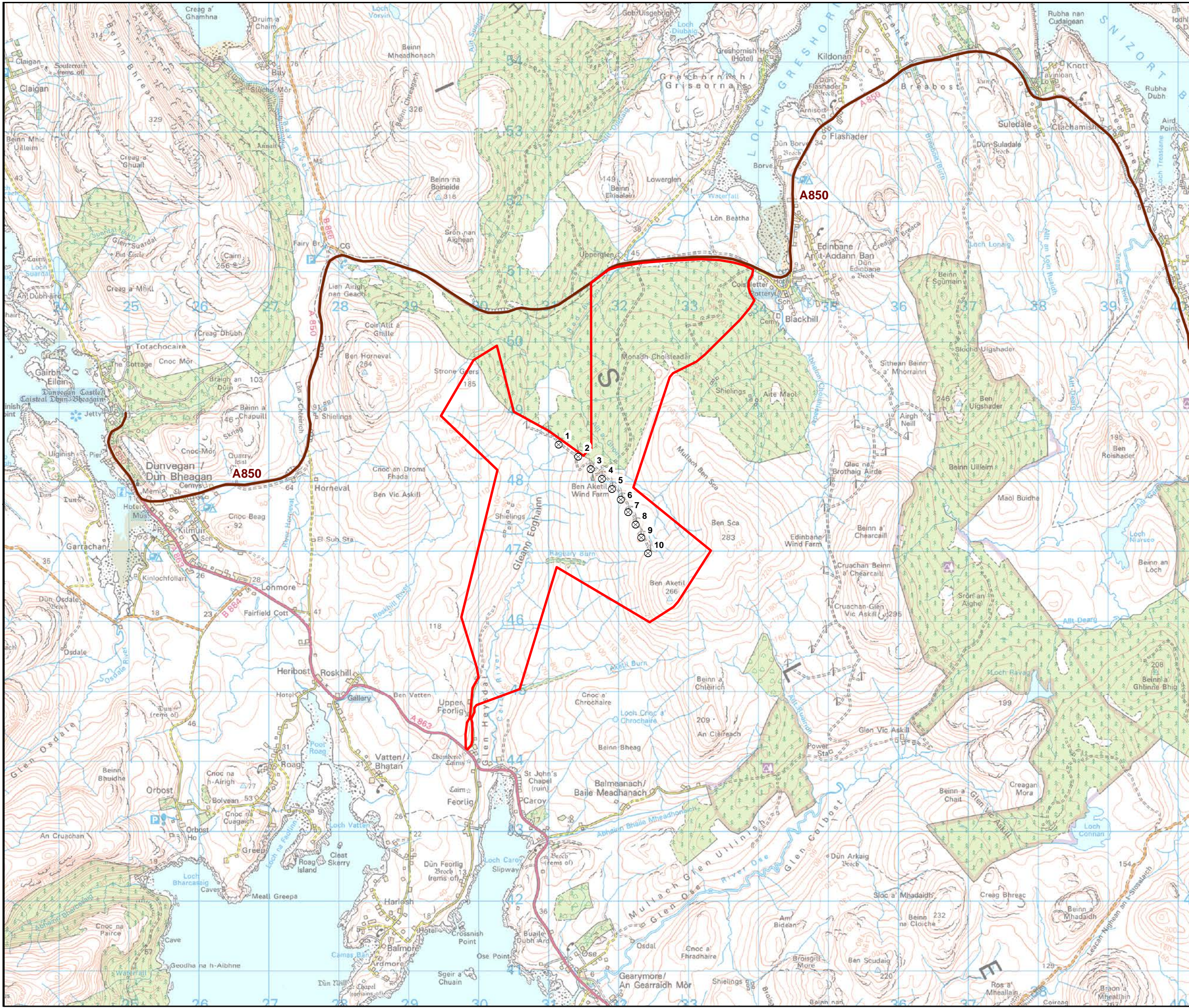
**REASONS**

- 1-2 In order to clarify the terms of permission and to ensure restoration of the site.
- 3-6 In order to clarify the terms of permission and retain effective control over the development.
- 7 In order to ensure a high standard of design in the interest of visual amenity.
- 8-12 In the interest of visual amenity.
- 13 In order to clarify the terms of permission and to ensure restoration of the site.
- 14-15 In order to ensure satisfactory construction arrangements and any necessary mitigation.
- 16-17 In order to safeguard the conservation interest of the site.
- 18 In order to protect any features of archaeological importance.
- 19-21 In order to control noise in the interest of amenity.
- 22-23 In order to prevent pollution of groundwater or any watercourse.
- 24-26 In the interest of road safety.
- 27-29 In order to minimise the impact of construction of the development on the public road network and its users.
- 30 In order to ensure the safety of low flying military aircraft.

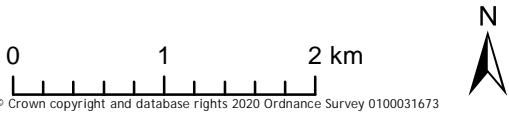
Dated 7th September 2006



Head of Planning and Building Standards



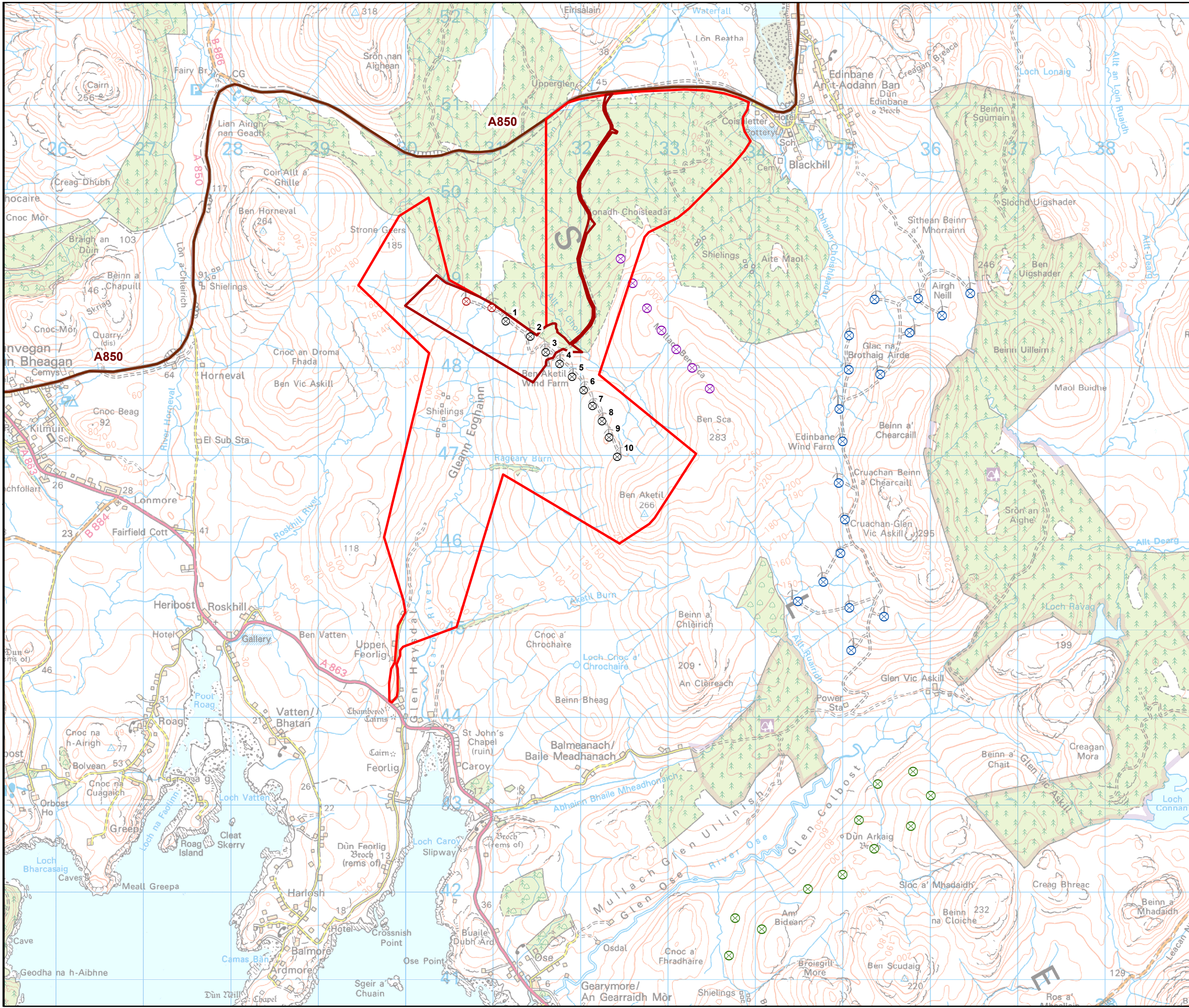
- Legend**
- Application Boundary Relating to
  - Planning Permission 02/0275/FULSL
  - Turbine Locations
  - A850



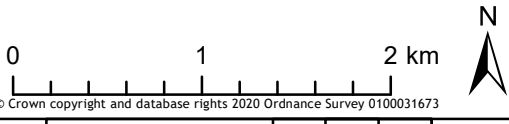
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R1	SECOND ISSUE	JR	JMc	JMc	16/10/2020
R0	FIRST ISSUE	JR	JMc	JMc	14/10/2020
REV.	DETAILS	DRAWN	CHK'D	APP'D	DATE

Project Ben Aketil Wind Farm Life Extension  
 Client Falck Renewables Wind Ltd  
 Title Site Plan (10 Turbines)  
 Figure No. Attachment 1  
 Scale 1:50,000 @A3  
 Doc. Ref. 14299-002



- ### Legend
- Application Boundary Relating to 02/00275/FULSL
  - Application Boundary Relating to 09/00115/FULSL
  - 02/00275/FULSL Turbine Locations
  - 09/00115/FULSL Turbine Locations
  - Ben Sca (Proposed) Turbine Locations
  - Edinbane (Operational) Turbine Locations
  - Glen Ullinish (Consented) Turbine Locations
  - A850



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RO	FIRST ISSUE	JR	JMc	JMc	02/11/2020
REV.	DETAILS	DRAWN	CHK'D	APP'D	DATE

**Project** Ben Aketil Wind Farm Life Extension

**Client** Ben Aketil Wind Energy Ltd

**Title** Cumulative Plan (10 Turbines)

**Figure No.** 1

**Scale** 1:40,000 @A3

**Doc. Ref.** 14299-008

**Falck Renewables**  
PURE POWER TO GROW

**tnei DAVID BELL PLANNING**  
CHARTERED TOWN PLANNERS